

Notice

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Tax Type: Cigarette and Tobacco Products
Brief Description: Sale of Cigarette and Tobacco Products to Retailers and Individuals on Indian Reservations and Lands
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**KANSAS DEPARTMENT OF REVENUE
OFFICE OF THE SECRETARY**

NOTICE 00-07

To: Cigarette and Tobacco Products Wholesalers

From: Kansas Department of Revenue

Subject: Sale of Cigarette and Tobacco Products to Retailers and Individuals on Indian Reservations and Lands

Date: July 25, 2000

Questions have arisen as to whether the sale of cigarettes and tobacco products to retailers and individuals on Indian reservations and lands are subject to Kansas cigarette and tobacco products tax.

K.S.A. 79-3310 provides as follows: "There is hereby imposed a tax upon all cigarettes sold, distributed or given away within the state of Kansas. . . Such tax shall be collected and paid only once and shall be paid by the wholesale dealer first receiving the cigarettes as herein provided..."

Under the Cigarette and Tobacco Products Tax Act, the legal incidence of cigarette and tobacco products tax, i.e. the responsibility for payment of the tax to the department, falls upon wholesalers first receiving the cigarettes and/or tobacco products. There is an exemption for cigarettes and tobacco products sold and shipped to another state, see K.S.A. 79-3311.

There is, however, an exception to the exemption at K.S.A. 79-3321(h)(2) which reads as follows: "It shall be unlawful for any person . . . To wholesale cigarettes to any person . . . who is . . . exempt from state licensing under applicable state or federal laws or court decisions including any such person operating as a retail dealer upon land allotted to or held in trust for an Indian tribe recognized by the United States bureau of Indian affairs."

Moreover, Indian reservations and lands are not "states," and any delivery to a retailer or individual located on Indian reservations or lands are not eligible for the export exemption.

As such, there is no exemption under Kansas law for sales of cigarettes and tobacco products to any retailer or individual on an Indian reservation or land. Likewise, there is no exemption from cigarette and tobacco products tax on sales of cigarettes and tobacco products to Indian tribes, their agents or tribal members who are retailers of cigarettes and tobacco products.

Therefore, beginning September 1, 2000, if you have not been remitting cigarette and/or tobacco products tax on sales and deliveries to retailers or individuals on an Indian reservations or lands, you should begin immediately to remit said taxes on all sales from the date of this Notice. If you agree to sell cigarette and/or tobacco products to retailers or individuals on an Indian reservations or lands, you should remit cigarette and/or tobacco products tax on such sales and deliveries on all sales from the date of this Notice.

To the extent that any prior notice, opinion or guide contradicts this Notice, the same are hereby repealed and are of no effect.

Karla Pierce
Secretary of Revenue

Date Composed: 08/01/2000 Date Modified: 10/09/2001

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