

New Mexico Taxation & Revenue Department  
Audit & Compliance Division

# **New Mexico Tobacco Taxation**

Prepared for :  
TSROC Meeting  
August 28, 2013  
UNM Cancer Center

# Cigarette Tax Statutes

- Sections 7-12-1 to 7-12-19 NMSA 1978 Cigarette Tax Act

Defines cigarettes

Excise tax rates for each cigarette

- Lots of 25 = \$.083
- Lots of 10 = \$.166
- Lots of 5 = \$.332

Exemptions

- Governments
- Tribes

Licensing

- Distributors
- Manufacturers

# Tobacco Tax Statutes

- Sections 7-12-1 to 7-12-19 NMSA 1978 Cigarette Tax Act (continued)

## Inspection of Records

- Retention requirements
- Information requirements

## Tax Distribution Rates

- Recreational fund
- Cigarette tax fund

## Reporting Cigarette Sales

- Reported monthly by distributors
- PACT Act for internet sales

## Seizure of Contraband

- MSA Non-compliant
- Unstamped
- Incorrectly stamped

## Civil/Criminal Penalties

- Progressively higher
- Dependent upon volume

# Tobacco Tax Statutes

- Sections 7-12A-1 to 7-12A-10 NMSA 1978 Tobacco Products Tax

Excise Tax paid by the first purchaser

Twenty-five percent of product value

- Amount paid net any discounts
- Amount of the value of the product if on consignment
- Proceeds from the sale by the manufacturer (in New Mexico)
- Delivery and shipping charges

Exemptions

- Governments
- Tribes

Registration necessary to engage in business

# New Mexico Taxation & Revenue

## Department's Role

- Enforcement of statute by inspection, audit and seizure (Cigarettes Tax & Tobacco Tax)
- Work with Attorney General to ensure compliance with MSA through records, audit and seizure (Cigarette Tax)
- Work with State Fire Marshall to report any non-fire safe cigarette sales (Cigarette Tax)
- Work with Federal Tax and Trade Bureau to report any “Roll Your Own” manufacturing without a license (Cigarette Tax)
- Enforce all taxes due surrounding tobacco/cigarette sales during audits such as gross receipts and withholding (Tobacco Tax)
- Maintain tribal agreements for reciprocal taxation (Cigarette Tax)

# MSA Arbitration

## New Mexico Taxation & Revenue

- Two employees testified on behalf of the Department and New Mexico
- Cigarette tax enforcement efforts date to 1986
- The Department maintains close contact with Attorney General's Office, sharing registration and reporting information
- The Department maintains records of enforcement, audit and reporting
- Currently awaiting decision by arbitration board

# Thank You

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