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Tax official ready to halt cigarette sales by Indians to non-Indians

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ALBANY -- The state's top tax collector said the state is ready to quickly end tax-free cigarette sales by Indian retailers to non-Indian consumers.

New York State is awaiting the ruling of a federal appeals court on the long-simmering tobacco tax issue, said Thomas Mattox, who today was confirmed by the Senate to the state tax commissioner's post.

"We're prepared to enforce immediately," Mattox said after being unanimously backed by the Senate Finance Committee to the tax post.

Mattox said the agency is prepared to issue tax-free coupons to members of Indian tribes and collect the tax on non-Indians "as soon as we are able to do so by the courts."

Is he concerned about possible confrontations -- as occurred the last time the state tried to collect the tax in 1997?

"I don't have the expertise on that. I think that's really a question for law enforcement," Maddox said. "Our focus has been on the tax laws and our requirements under them, and we are prepared to enforce them."

Gov. Andrew M. Cuomo is counting on \$130 million in revenues by ending the tax-free Indian tobacco sales. The state wants to collect the tax "upstream" at the tobacco wholesale level so that the taxes already would have been paid to Albany by the time cigarettes reach Indian retailers.

The state wants to collect its \$4.35 per pack excise tax, which is not being charged to smokers who buy from Indian retailers.

The Senate Nation, whose private tobacco retailers are considered the nation's biggest Native American cigarette suppliers, is fighting the Cuomo effort in court and before the Legislature.

They argued the tax-free sales are protected by treaty rights, and that they will not be party to a tax collection effort by Albany.

Mattox is a former executive at Goldman Sachs & Co. and Chase Manhattan Bank.

The federal appeals court in Manhattan considering the challenge to the state's Indian tax collection law could issue its ruling in the coming weeks.

In the Senate Finance hearing, Mattox said his department is also considering a system used in other states that employs a special encryption system on cigarettes to reduce counterfeit cigarettes flowing into the high tobacco state.