



March 2011

To: Property Owners and Taxpayers in Cayuga and Seneca Counties

The Cayuga Indians' attempt to create an Indian reservation in Cayuga and Seneca Counties is undoubtedly one of the most serious issues facing property owners in our region. As your elected State representatives, we are doing everything possible - within our power and authority - to protect local property owners and taxpayers.

We are continuing our fight to force New York State to collect the sales tax on sales of goods sold by Native American businesses to non-Indians.

As you know, the first step in this process was to enact the law to require the collection of these taxes. Although our legislation was first signed into law in 2005, Governors Pataki, Spitzer and Paterson all refused to enforce the law. Since that time, the law has been amended twice in order to make the collection of these sales taxes easier and more efficient. For the first time in our State's history, we have a Governor who is willing to take on the issue and force the collection of these taxes.

During his recent State Senate confirmation process, Thomas Mattox, Governor Cuomo's newly appointed New York State Tax Commissioner, stated that his Department is ready to begin immediate enforcement of the collection of sales taxes on goods sold by Native Americans to non-Indians. Unfortunately, the Commissioner is forced to wait until current litigation in the federal courts is resolved. It is our hope that the courts will rule in our favor on this issue within the next few weeks. We will continue to hold the Commissioner accountable to his commitment to enforce the law and collect the sales taxes, projected at nearly \$130 million in 2011. Enclosed for your information and review is a copy of the news article stating Commissioner Mattox's position.

At our request, Governor Cuomo has agreed to meet with a delegation of elected officials from Seneca and Cayuga counties to discuss the Cayuga Indian land claim as it relates to the collection of sales taxes on goods sold to non-Indians. It is expected that the meeting will take place in Albany at a date that will be determined after the State budget is enacted. We have also scheduled a summit meeting with district attorneys, sheriffs and police personnel to discuss the appropriate procedures necessary for the enforcement of local and State laws as they pertain to the Cayuga Indians.

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Legislation has also been drafted and introduced in the New York State Senate and Assembly to clarify the definition of state tax laws and qualified reservation status as it pertains to the Cayugas. This will ensure that the Cayuga Indians cannot sell goods tax-free on land where they do not have sovereign control. We are also introducing legislation to re-establish the requirement that the Legislature must approve all Indian agreements with the State. This legislative authority was removed as a part of last year's New York City dominated Legislature and adopted as a part of the 2010-11 New York State budget.

As your elected New York State Senator and Assemblyman, we do not have any authority or control over the federal government nor do we have control over their functions or their agencies. As your State representatives, we do NOT have the authority to order the Federal Bureau of Investigation to investigate alleged illegal activity by the Cayugas. We do, however, understand and share your concern with the possible consequences should the Federal Bureau of Indian Affairs approve the Cayuga Indians' request for trust status. In our opinion, this will devastate the already fragile economies of Seneca and Cayuga Counties.

We implore you to continue, as we have, to ask our federal representatives for help in this battle. We will continue to do everything we can to support the property owners of Seneca and Cayuga counties and look forward to working with you on this critically important issue.

With best wishes.

Sincerely,



Michael F. Nozzolio
Senator, 54th District

MN/km



Brian M. Kolb
Assemblyman, 129th District

THE BUFFALO NEWS

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

By **Tom Precious**

NEWS ALBANY BUREAU

Published: March 8, 2011, 3:39 PM

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.