

TOBACCO TAXES

Oklahoma voters in 2004 approved SQ 713, which increased the excise tax on cigarettes and other tobacco products, while eliminating the state and local sales tax on these products.

The amount of the tax increase approved by SQ 713 differed for tribal and non-tribal retailers. For non-tribal retailers, the cigarette tax was increased by 80 cents per pack of cigarettes to \$1.03 per pack, with an offsetting elimination of twenty-five cents per pack in state and local sales taxes. For tribal retailers, the situation was more complicated, with retailers subject to one of six different rates depending on their geographic location and status of their compact with the state. The tribal tax rate ranges from a maximum of 85.75 cents per pack for a tribe that has negotiated a revised compact with the state, to a minimum of 5.75 cents for tribes under a "proximity exemption". Taxes were also increased on other tobacco products.

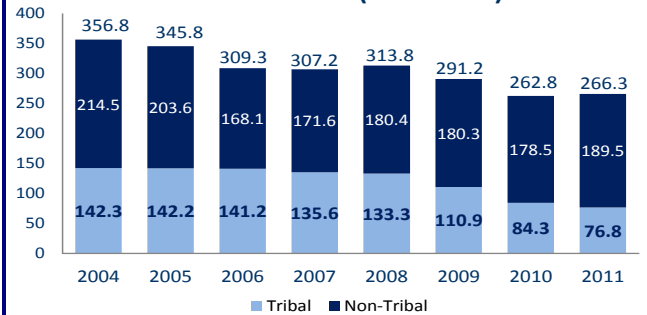
Eight health care projects were selected to receive a portion of new revenues generated by the tobacco tax increases, as follows:

- Oklahoma Health Care Authority for Medicaid provider payments and services for children with developmental disabilities (40.1 percent);
- Health Employee and Economy Improvement Act Fund to assist low-income employees buy into employer or public health insurance coverage—the Insure Oklahoma program (33.5 percent);
- Trauma Care Assistance Fund to support emergency trauma care (11.4 percent);
 - The share of revenue going to this Fund was decreased in to 10.4 percent in FY '11, with 0.9 percent now going to the Emergence Response System Fund;
- Comprehensive Cancer Center Debt Service Fund for bond payments on a new OU cancer center (4.7 percent);
- OSU College of Medicine Fund for telemedicine and indigent care (4.7 percent);
- Department of Mental Health and Substance Abuse Services for adolescent substance abuse centers and services (4.0 percent);

Revenue from Increased Cigarette and Tobacco Taxes, FY '05 - FY '11 (in millions)



Cigarette Stamps Sold, FY'04- FY '11; Tribal vs. Non-Tribal (in millions)



- Tobacco Prevention and Cessation Fund for anti-tobacco efforts (1.0 percent);
- Breast and Cervical Cancer Treatment Fund to fund Medicaid coverage of cancer treatment (0.7 percent).

Since passage of SQ 713, total cigarette sales have declined in Oklahoma. In FY '11, a total of 266.3 million cigarette stamps were sold, a 25.4 percent decrease compared to FY '04, the last full year under the old tax rate, but a slight increase over FY '10. Tribal sales have fallen sharply the past three years while non-tribal sales rose in FY '11 to their highest level since FY '05.

The tax increase, which took effect mid-way through FY '05 (Jan. 1, 2005), generated \$107.1 million in FY '06, the first full year under the new rates. Revenues rose for the next three years before declining slightly in FY '10 and then rising again in FY '11 to \$137.4 million.

When the tobacco tax increase was proposed, it was projected to generate \$104 million from non-tribal retailers and \$46 million from tribal retailers. In FY '11, net revenue collections from non-tribal retailers came in at \$111 million, slightly above the state's original projections. Tribal tax collections for health care projects totaled \$26.5 million in FY '10. This is below initial projections, but significantly above collections in the first years under the new law. In FY '06, tribal sales yielded only \$11.6 million.

Most of the initial shortfall in tribal tobacco tax collections was the result of a shift in sales to retailers selling cigarettes with the lowest 5.75 cent 'proximity exception' tax rate. As a result of various measures aimed at curtailing tribal retailers from purchasing and reselling cigarettes stamped with the lowest rate, its prevalence declined from over two-thirds of all tribal sales in FY '07 to just 6 percent in FY '11. The state negotiated a new "unity rate" of 51.5 cents per pack with several tribes which took effect in 2008 and accounted for 52 percent of tribal sales in FY '11. One-third of tribal sales in FY '11 took place under the highest compact rate of 85.75 cents per pack.