



Douglas A. Ducey
Governor

David Briant
Director

TRIBAL CONSULTATION ANNUAL REPORT **July 1, 2017 – June 30, 2018**

Agency Overview

With the mission of “Serving Taxpayers!” the Arizona Department of Revenue (ADOR) collects and remits nearly \$18 billion in tax revenues to the State and local governments, thereby funding many important services to the citizens of Arizona. These taxes include individual and corporate income tax, withholding tax, use tax, luxury tax, transaction privilege tax (TPT), and various other excise taxes. ADOR is also responsible for valuing certain properties for property tax purposes, and exercises general supervision over county assessors in administering property tax laws.

Some of the taxes collected by ADOR are located within tribal lands, specifically businesses not owned by a tribe, tribal enterprise, or an enrolled member of the tribe. These cross-jurisdictional issues span several tax types, creating both opportunities and challenges in fostering State-Tribe tax administration and enforcement. The Department is also charged with distributing a portion of TPT revenues derived from businesses located on tribal lands that are not owned by the tribe or tribal members to support post-secondary educational institutions on tribal lands. Furthermore, the Department collects and distributes, via Intergovernmental Agreements (IGAs), tribal tobacco tax to the Navajo Nation and San Carlos Apache.

Tribal Government Consultation Policy

ADOR recognizes the sovereignty of Tribal governments within Indian Country as those concepts are defined by federal law. (Indian Country includes all lands within Reservation boundaries. 18 U.S.C. § 1151.) ADOR supports the strengthening of Tribal capacity for self-government and determination. ADOR is committed to continuing cooperative and respectful relationships with Tribes and maintaining mutual respect for the concerns of the State and the Tribes regarding taxation of persons, property and activities on the Reservation.

ADOR will take the following steps and seek reciprocity from the Tribes to do the following:

- Assist Tribal Governments to develop sound tax policies by providing technical assistance, sharing data, conducting joint Tribal-State projects, and cooperatively resolving tax issues.
- Enter into Compacts, IGAs or Memoranda of Understanding (MOU) when considered mutually appropriate and beneficial by ADOR and an interested Tribal Government to advance cooperation on tax issues.

Tribal Consultation Activities

| Goal | Objective | Activity and Performance Measure |
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| Maximize tribal tobacco tax revenue received by the Navajo Nation | Advance ADOR tobacco tax collection, distribution, and compliance activities | Through process improvements within its tobacco tax unit and tribal consultation, ADOR collected and distributed nearly \$229,000 to the Navajo, helping fund vital tribal government operations. |
| Maximize tribal tobacco tax revenue received by the San Carlos Apache | Advance ADOR tobacco tax collection, distribution, and compliance activities | Through process improvements within its tobacco tax unit, ADOR collected and distributed approximately \$238,000 to the San Carlos Apache in FY 2018, an increase of 6% over the prior year. |
| Maximize collection of TPT revenues derived from taxable activities on tribal land to maximize the amount of TPT revenue ADOR can distribute by law to a tribal postsecondary educational institution (Diné College) | Improve taxpayer compliance and collections processes such that TPT revenue collections are maximized. | Through process improvements and enhanced customer outreach, ADOR increased TPT revenues from taxable activities from \$18.5 million in FY 2017 to \$21 million in FY 2018, a 13.4% increase. Diné College received \$1,750,000 from ADOR, the maximum amount of TPT revenue allowed by A.R.S. § 42-5031.01.C.1 |
| Maximize collection of TPT revenues derived from taxable activities on tribal land to maximize the amount of TPT revenue ADOR can distribute by law to a tribal postsecondary educational institution (Navajo Technical College) | Improve taxpayer compliance and collections processes such that TPT revenue collections are maximized. | Through process improvements and enhanced customer outreach, ADOR increased TPT revenues from taxable activities from \$18.5 million in FY 2017 to \$21 million in FY 2018, a 13.4% increase. Navajo Technical College received \$875,000 from ADOR, the maximum amount of TPT revenue allowed by A.R.S. § 42-5031.01.C.2 |
| Ensure any qualifying tribal postsecondary educational institutions receives State TPT collections derived from taxable activities on tribal land to support maintenance, renewal and capital expenses pursuant to A.R.S. § 42-5031.01.C.1 | Enter into a compact with The Tohono O’odham Nation (TON) and the Tohono O’odham Community College to allow the Community College to benefit from TPT collections on TON land. | ADOR worked with the Tohono O’odham Community College, and the Arizona Governor’s Office to draft and execute a compact in FY 2018. Pursuant to A.R.S. § 42-5031.01.C.2, ADOR distributed \$190,000 to Tohono O’odham Community College in FY 2018. |
| Incorporate tribal tax concerns into statewide discussions on tax policy issues | Invite Navajo Nation to provide keynote address to The 100th Arizona Tax Conference | In August 2017 the Nation delivered one of the best keynote addresses in recent Arizona Tax Conference memory, a speech concerning Navajo tax policy and how it is impacted by Arizona and neighboring states’ tax policies. |

| Goal | Objective | Activity and Performance Measure |
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| Enhance data sharing of cigarette sales on tribal lands to help ADOR ensure that \$100 million in Master Settlement Agreement payments from tobacco companies continue to be received by the State’s Medicaid program, which also benefits tribal members enrolled in the Arizona Health Care Cost Containment System (AHCCCS) | Enter into data-sharing agreements with tribes to share cigarette sales data. | ADOR successfully renewed an Assurance with the Fort McDowell Yavapai Nation concerning tribal cigarette sales. ADOR negotiated an Information Sharing Agreement with the Salt River Pima-Maricopa Indian Community for the exchange of tobacco tax information. The Agreement was signed in March 2018 by the SRPMIC President and Governor Doug Ducey. |
| Ensure Native American veterans that served in the U.S. military from 1993 to 2005 and were domiciled on tribal lands receive tax refunds for Arizona income tax improperly withheld. | Administer the Native American Tax Settlement program authorized by Laws 2016, Chapter 125, Sections 19-27. | Along with the Arizona Department of Veterans Services, ADOR created the application forms, communications and tax systems changes necessary to refund tax due to qualifying Native American veterans and began receiving applications in early 2017. During FY 2018 ADOR issued \$163,000 in refunds to more than 100 claimants. |

Identify the challenge(s) encountered by staff in providing services to tribes and/or tribal community members: Educating tribal leadership about the importance of entering into data-sharing agreements with ADOR concerning tobacco sales data, as the data is critical to safeguarding a \$100 million annual payment that helps fund Arizona’s Medicaid program. One of the main obstacles to making advances in this regard is that aside from some state services may not be available to tribal members enrolled in AHCCCS, there is no direct benefit to the tribes in sharing data with ADOR. To that end, ADOR is proposing a legislative change in the 2019 legislative session that would allow tribal governments to participate in the ADOR debt setoff program – a program that allows debts owed to government agencies to be paid back through an ADOR mechanism that intercepts individual income tax refunds from individuals that owe government agencies and re-directs the refund monies to payment of the government debts. State agencies, Arizona counties, cities, and higher education institutions can all participate in the ADOR debt offset program – only tribal governments are excluded. In order for tribal governments to benefit from the ADOR debt setoff program, the proposed legislation requires tribal cooperation with regard to sharing of tribal cigarette sales data. ADOR believes offering the debt setoff program as a means of obtaining tribal cooperation will accelerate cigarette data sharing and protect a major source of funding for Arizona’s Medicaid system.

Legislative changes that may have an impact on tribes and/or tribal community members: HB 2003 (coal mining; TPT; repeal) exempts the sale of coal from TPT and establishes a 0.5% county excise tax on the sale of coal mined or extracted within county boundaries. The bill does not become effective unless on or before December 31, 2022, the Navajo Nation approves the transfer of ownership of the Navajo generating station by a resolution and the Navajo Nation delivers the resolution to the Governor and ADOR Director.

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