

# 15-Year Chronology of NYS Tax Evasion/Enforcement Issue

- September 22, 1994 U.S. Supreme Court, in case of *Department of Taxation and Finance of New York et al. v. Milhelm Attea & Bros. Inc.*, rules unanimously that New York is entitled to collect taxes on Indian sales of cigarettes and motor fuel to non-Indians, stating that "Indian traders are not wholly immune from state regulation that is reasonably necessary to the assessment or collection of lawful state taxes." It goes on to say that states' interest in ensuring compliance with lawful taxes "outweighs tribes' modest interest in offering a tax exemption to customers who would ordinarily shop elsewhere."
- January 1995 George E. Pataki is sworn in as New York Governor, having promised leaders of New York Association of Convenience Stores during campaign that he will make it priority to end cigarette and motor fuel tax evasion on Indian lands in New York.
- August 1995 New York Association of Convenience Stores, National Association of Convenience Stores, MWS Enterprises Inc., and Sugar Creek Stores file action under Article 78 of Civil Practice Law and Rules of New York State challenging state Department of Taxation & Finance's refusal to enforce collection of applicable state taxes on tobacco and motor fuel sold by Native American retailers to non-Native American customers
- February 1996 State Tax Department adopts administrative regulations to facilitate collection of taxes on Indian sales of cigarettes and gasoline to non-Indians, giving tribes four months to either negotiate plans with state to start applying their own surcharge or face involuntary collection of taxes by the state.
- August 13, 1996 In *NYACS et al v. NYSDTF*, New York State Supreme Court Judge Joseph Harris rules in favor of NYACS et al, saying State must either enforce existing regulations requiring Native Americans to collect taxes on tobacco and gasoline sold to non-Native Americans, or suspend tobacco and fuel taxes statewide. "Failure to enforce the tax laws against some to whom they apply, to the detriment of others, is unconstitutional."
- March 1997 State Tax Commissioner Michael Urbach acknowledges in letter that cigarette tax evasion costs State of New York upwards of \$100 million per year in lost tax revenue.
- April 1997 Having successfully negotiated interim compacts with six of the nine tribes involved in the issue, Tax Department begins enforcing tax collection regulations, including intercepting shipments of untaxed gas and cigarettes bound for Indian stores.

- May 8, 1997 In NYACS et al v. NYSDTF, Appellate Division of State Supreme Court, Third Department, rules 3-2 to uphold Judge Harris's conclusion that State has obligation to enforce collection of taxes by Native American retailers. However, it says Judge Harris overstepped his bounds threatening to suspend taxes statewide if State didn't comply. "The only reasonable explanation for the pattern of non-enforcement is a discriminatory purpose which, even though intended as benign, is based upon the impermissible standard of race."
- May 1997 Protests erupt on several Indian reservations in upstate New York over tax enforcement initiative. Protesters burn tires and clash with police along state Thruway south of Buffalo and Interstate 81 near Syracuse. A number of injuries and arrests are reported.
- May 22, 1997 Fearing further violence, Governor Pataki, in Buffalo, announces a halt to tax enforcement initiative and suspension of Tax Department regulations on which it was based. He proposes legislation to exempt Indian sales to non-Indians from taxation.
- July 9, 1998 In NYACS et al v. NYSDTF, New York State Court of Appeals issues 6-0 ruling overturning Appellate Division based upon finding that non-enforcement of tax laws did *not* constitute race-based discrimination. However, also says the legality of State's non-enforcement policy as an equal-protection issue needs to be re-argued back in State Supreme Court, since State drastically altered circumstances of case in midstream by repealing its administrative regulations for enforcing collection of taxes.
- July 9, 1999 In NYACS et al v. NYSDTF, New York State Supreme Court Acting Judge Conrad Lang Jr. rules in favor of State, finding that Tax & Finance repealed the regulations "only after determining there was no practical manner for (their) enforcement, and only after sincere efforts to negotiate a settlement had been exhausted" and they proposed a legislative solution. Given these good-faith efforts, plus "the unique nature of Indian nations and the resulting complexities," the State's decision not to enforce tax law on Indian retailers was "eminently reasonable in all respects" and therefore legal.
- November 1999 Series of news articles appear about lobbying practices of Philip Morris USA at state Capitol. PM is portrayed as having lavished dinners, sports tickets and other gifts on legislators and top aides to Governor Pataki, and having secretly underwritten Pataki's trip to Hungary in 1995. This leads to an investigation of Philip Morris's lobbying records by Temporary State Commission on Lobbying, which levies steep fines against Philip Morris and suspends their chief Albany lobbyist from lobbying for three years. Scrambling to distance themselves from scandal, state officials seek ways to publicly show they're tough on Big Tobacco, such as increasing cigarette taxes.

- November 1999 Service Employees International Union Local 1199, which represents hospital and health care workers statewide, contributes \$76,000 each to the Republican Senate and Democratic Assembly campaign committees. Local 1199's shrewd leader, Dennis Rivera, maneuvers his way into unprecedented, face-to-face, one-on-one negotiations with Governor Pataki on pending Health Care Reform Act legislation, and urges big increase in cigarette taxes.
- December 1999 By vote of 52-0 in Senate and 98-37 in Assembly, state Legislature approves \$9 billion Health Care Reform Act of 2000, which renews and expands State's health care financing system for 3-year period. Major initiatives include stabilizing hospital reimbursement and extending Medicaid eligibility to 1 million uninsured New Yorkers through the "Family Health Plus" program. Major funding sources include New York's share of Tobacco Settlement and doubling state cigarette excise tax to \$1.11/pack.
- March 1, 2000 55-cent-per-pack increase in state cigarette excise tax takes effect. Rate is now \$1.11 per pack, highest in nation. Retailers are required to pay "floor stocks tax" on existing inventories. Law also grants wholesale distributors 2-cents-per-pack "handling fee" to be paid by retailers.
- June 2000 Tax collection figures show that first three months of cigarette tax increase have been disaster, causing 30% drop in taxable sales since March 1, costing State \$91 million in lost excise tax revenue.
- August 3, 2000 In *NYACS et al v. NYSDTF*, Appellate Division of State Supreme Court, Third Department, decides 5-0 to uphold Judge Lang's decision, saying State has discretion to treat different parties differently if it can show rational basis for doing so. "Our review of the record persuades us that there is indeed a rational basis for (the State's) indefinite forbearance...The statutes cannot effectively be enforced without the cooperation of the Indian tribes."
- August 2000 Governor Pataki signs bill passed by Legislature making it illegal for UPS, FedEx and other private carriers to ship or transport directly to consumers in New York State cigarettes ordered by mail, telephone, or the Internet.
- June 8, 2001 U.S. District Court Judge Loretta Preska strikes down New York State's law banning private-carrier delivery of Internet and mail-order cigarettes to New Yorkers, saying it violates commerce clause of U.S. Constitution.
- July 2, 2001 In *NYACS et al v. NYSDTF*, the New York State Court of Appeals denies *NYACS et al's* motion for leave to appeal.

September 2001 In wake of September 11 attacks, New York State Legislature passes, and Governor Pataki signs, the "Anti-Terrorism Act of 2001" defining terrorism as certain violent criminal acts intended to "coerce a civilian population" or "intimidate a unit of government" and establishing severe penalties.

November 16, 2001 In NYACS et al v. NYSDTF, United States Supreme Court denies NYACS et al's application for writ of certiorari asking Court to review New York case. The case ends.

January 16, 2002 By vote of 55-4 in Senate and 102-34 in Assembly, state Legislature approves increase in state cigarette excise tax from \$1.11 per pack to \$1.50. Stated reason: Provide raises for health care workers in order to ensure adequate staffing of hospitals and nursing homes. Real reason: Buy off politically powerful Local 1199 health care workers union so they'll support GOP candidate in Feb. 12 special election for vacant Senate seat in Manhattan's Silk Stocking District and so they won't campaign against Pataki in gubernatorial election in November.

April 1, 2002 39-cent increase in state excise tax on cigarettes takes effect. New rate is \$1.50 per pack, highest in the nation. Retailers required to pay "floor stocks tax" on existing inventories.

May 2002 State Legislature and Governor Pataki authorize New York City to increase city excise tax on cigarettes from 8 cents per pack to \$1.50 -- as long as it gives the State enough of the revenue to cover the resulting loss in state excise tax from the tax evasion it triggers.

July 1, 2002 The increase in the New York City excise tax on cigarettes takes effect, rising from 8 cents per pack to \$1.50, making combined state/city excise tax on pack of cigarettes \$3.00. Within weeks, many retailers in New York City experience 50% to 60% drop in cigarette volume as smokers shift to tax-free outlets.

July 2, 2002 New York State's excise tax on Other Tobacco Products (cigars, smokeless tobacco etc.) increases from 20% of wholesale to 37%.

August 2002 Mayor Bloomberg announces that New York City's cigarette tax collections increased 400% in July. Neglects to mention that they increased the tax *rate* by 1,775%.

August 14, 2002 Carl McCall, Democratic candidate for New York governor, calls upon Governor Pataki to start collecting taxes on tribal sales to non-Indians, saying "it's a matter of fairness" and "there should not be different rules for different stores."

August 14, 2002	General Accounting Office issues report detailing failure of Internet vendors to comply with federal Jenkins Act which requires them to report names and addresses of people who order cigarettes from them to buyer's home state so states can try to collect applicable taxes from consumers.
October 2002	Retail and wholesale businesses and trade groups impacted by cigarette tax evasion epidemic launch new "Fair Application of Cigarette Taxes (FACT) Alliance" to heighten public awareness of magnitude of problem and consequences of allowing it to continue.
January 2003	FACT Alliance releases study by Dr. Brian O'Connor of Ridgewood Economic Associates finding that 35% of cigarettes consumed in New York are purchased from unlicensed, unregulated sources and that New York State is losing \$890 million a year in cigarette tax revenue due to its failure to enforce collection of taxes on cigarettes sold by Native American reservations, the Internet, and from bootleggers.
February 13, 2003	Second Circuit U.S. Court of Appeals reinstates New York's 2000 Internet tobacco delivery restrictions, overturning Judge Preska's previous ruling declaring the law unconstitutional.
May 2, 2003	State Assembly and Senate pass budget bills that include provision requiring Tax Department to promulgate regulations for collecting taxes on Indian sales to non-Indians by September 2003.
May 6, 2003	Governor Pataki and St. Regis Mohawk tribe announce tentative agreement on compact designed to settle land claim, casino and taxation issues. Under "price parity" agreement, tribe would agree to collect and retain taxes equivalent to state and local taxes on their gasoline and cigarette sales to non-Indians so their prices are comparable to those of surrounding non-Indian retailers. But existing tribal businesses would be exempt if their gross receipts are less than \$2 million a year. Tentative deal subsequently falls apart when the tribe votes out the leaders who negotiated it.
May 14, 2003	Governor Pataki vetoes most of Legislature's budget bills.
May 15, 2003	Both houses of the Legislature override most of Governor Pataki's budget vetoes, including the tax collection mandate, automatically enacting it into law.
September 2003	The state Tax Department publishes draft regulations pursuant to the May 15, 2003 tax collection mandate, inviting public comment until November and setting December 1, 2003 as implementation date for tax collection.

October 2003	Seneca Indian Nation launches \$2 million TV and radio ad campaign claiming collection of state taxes on their sales to non-Indians would violate an 1842 treaty that says Seneca land will never be taxed by any unit of United States government.
November 2003	Swayed by political pressure created by the Seneca ad campaign, state Tax Department announces it is postponing until at least March 1, 2004 the start of tax collection in order to allow time for additional public comment on the draft regulations.
January 27, 2004	The FACT Alliance releases study by Dr. Brian O'Connor of Ridgewood Economic Associates stating that full and fair cigarette tax enforcement would result in net gain of 2,000 jobs.
February 10, 2004	NYS Tax Commissioner Andrew Eristoff, testifying at legislative budget hearing in Albany, announces his department is suspending "indefinitely" the start of tax enforcement on Indian sales to non-Indians, partly due to concerns about possible violence. Department files "notice of continuation" of regulation adoption process until September 23, 2004.
March 2004	New York Temporary State Commission on Lobbying publishes year-end reports showing Seneca Nation of Indians ranked third on list of top 10 lobbying clients in New York State in 2003, with reported lobbying expenditures of \$1.99 million.
June 2004	Annoyed with Tax Department's foot-dragging, state Senate (56-1) and Assembly (139-8) approve new bill, S.6822/A.11089, more explicitly directing state Tax Department to begin collecting taxes on Indian sales on tobacco and motor fuel to non-Indians on January 1, 2005, period.
October 2004	State Tax Department confirms it has allowed rulemaking process pursuant to the 2003 tax collection mandate to "expire," saying it will instead continue to pursue Governor Pataki's policy of seeking solution to the taxation issue through "cooperation rather than confrontation."
November 3, 2004	Approved bill S.6822/A.11089 is delivered to Governor Pataki to either sign into law or veto by November 15.
November 15, 2004	Governor Pataki vetoes bill S.6822/A.11089, citing technical flaws, fear of "devastating consequences" for State's relationship with Indian tribes, and newly minted land claim/casino/tax agreement with Seneca-Cayuga Tribe of Oklahoma which he claims lends credence to his "cooperation not confrontation" approach to resolving Native American tax issue.

- December 23, 2005 State Senate decides not to attempt an override of Pataki's veto.
- January 2005 State Attorney General Eliot Spitzer sends "letters of guidance" to credit card companies warning that they should block orders from Internet tobacco dealers who are not in compliance with federal and state laws pertaining to tax collection and age verification.
- January 13, 2005 The City of New York Finance Department announces it has started billing consumers for excise and sales taxes due on cigarettes they purchased on the Internet.
- February 2005 Governor Pataki submits to Legislature bill seeking to ratify land claim/casino/tax settlements with five New York tribes -- Seneca Cayuga, Cayuga of New York, St. Regis Mohawk, Stockbridge-Munsee, and Wisconsin Oneida. Both houses of Legislature schedule public hearings on the proposal.
- March 2005 Legislature passes budget bill requiring collection of taxes on Indian sales to non-Indians starting September 1, 2005. Pataki vetoes it.
- March 29, 2005 U.S. Supreme Court rules that City of Sherrill NY can collect property taxes from Oneida Indian Nation on land it had purchased in city outside its reservation, effectively debunking tribe's claim that such acquired lands enjoy sovereign immunity from state and local taxation and regulation. Decision dramatically alters dynamics surrounding Indian land claim, casino and tax policy statewide.
- Spring 2005 In light of *Sherrill* decision, Governor Pataki withdraws five-tribe land claim/casino/tax legislation but later resubmits bill proposing settlement with just one tribe -- the St. Regis Mohawk. Bill passes Assembly but dies in the Senate in dispute over how many Sullivan County casinos to approve and which tribes should operate them.
- April 12-13, 2005 As part of 2005-06 state budget, Legislature passes and Governor Pataki signs legislation requiring state Department of Taxation and Finance to begin collecting taxes on Indian sales to non-Indian New Yorkers on March 1, 2006.
- January 17, 2006 In his budget proposal to Legislature, Governor Pataki proposes to delay implementation of new tribal tax collection law until March 1, 2007, but recommends increasing state excise tax on cigarettes from current \$1.50 a pack to \$2.50.
- March 1, 2006 With no action by Legislature, tax collection law goes into effect as written, as scheduled. Governor Pataki refuses to enforce it, claiming "issues of sovereignty" need to be resolved with tribes. Tax Department says it would be "premature" to begin enforcement while Legislature "is reviewing substantive amendments to the law."

Early March 2006	Under pressure from Attorney General Eliot Spitzer to comply with law, some wholesale distributors halt deliveries of untaxed cigarettes to Indian tribes.
March 16, 2006	Tax Department issues “advisory opinion” informing wholesale distributors it doesn’t plan to enforce the law and they won’t be penalized if they resume deliveries to tribes in violation of law.
March 30, 2006	State Legislature adopts budget rejecting Governor Pataki’s cigarette tax increase and denying his request for one-year delay in implementing tribal tax collection mandate. Law remains in effect.
April 2006	NYACS, Nice N Easy Grocery Shoppes, and MWS Enterprises file new Article 78 action in State Supreme Court against Governor Pataki, state Tax Department, and five wholesale distributors known to sell untaxed cigarettes to Native American retailers – Day Wholesale Inc. of Tupper Lake; Milhelm Attea & Bros. of Buffalo; Gutlove & Shirvint of Long Island City; Mauro Pennisi of Lindenhurst; and Frank Colucci Inc. of Niagara Falls to enforce tax collection law. Action seeks court order directing Governor and Tax Department to enforce tax collection law.
June 2006	Legislature passes new bill giving Attorney General power to stop cigarette manufacturers from supplying distributors who continue to sell untaxed product to tribal stores.
August 16, 2006	Pataki vetoes it.
November 17, 2007	State Supreme Court Justice E. Michael Kavanagh dismisses Article 78 petition on grounds that NYACS and retailers lack standing. He simultaneously dismisses closely related Article 78 case brought by County of Seneca on same grounds. Governor Pataki simultaneously announces he is nominating Judge Kavanagh for promotion to Appellate Division of State Supreme Court.
January 2, 2007	In separate Article 78 case, State Supreme Court Justice Rose Sconiers issues injunction barring “the State of New York” from implementing tax collection law because Tax Department has not yet issued the prescribed tax-exempt coupons to tribes: “... The statute can only function if it properly exempts Indians purchasing cigarettes under circumstances where they are not lawfully required to pay such taxes.” Action was brought by Day Wholesale, which sells tax-free cigarettes to Native American retailers, and Scott Maybee, Seneca Indian tobacco wholesaler. NYACS, Nice N Easy Grocery Shoppes, and MWS Enterprises filed amicus arguments opposing injunction.
January 3, 2007	New Governor Eliot Spitzer says if the Department issues the tax-exemption coupons, the ruling is moot, and “we will be moving forward.”

January 2007 Governor Spitzer projects \$200 million in new revenue from the start of tax collection on Indian sales to non-Indians in new state budget that will take effect April 1.

February 2007 NYACS, Nice N Easy Grocery Shoppes, and MWS Enterprises file notice of intent to appeal Judge Kavanagh’s decision.

March 2007 In major policy shift, Governor Spitzer reveals that rather than enforcing tax collection law, he will try to negotiate “revenue sharing” agreements with Native American tribes to resolve issue.

June 2007 Legislative session closes without Governor Spitzer submitting any proposed tribal “revenue sharing” agreement for ratification.

July 2007 Frustrated with Governor Spitzer’s continued inaction, NYACS begins running TV ads in Buffalo, Albany and Syracuse saying that six months is long enough to wait for “Day One” of tax collection on Indian sales to non-Indian New Yorkers.

October 2007 NYACS, Nice N Easy Grocery Shoppes, and MWS Enterprises drop their appeal of Judge Kavanagh’s decision, opting instead to support new round of litigation with different plaintiffs.

November 2007 Governor Spitzer’s budget office announces it will forgo the \$200 million in revenue this fiscal year and postpone tax collection until April 2008 “at the earliest.”

January 2008 Governor Spitzer resubmits the \$200 million in anticipated new revenue from tax collection on Indian sales to non-Indians in his proposed 2008-09 budget.

January 2008 Assemblyman David Townsend and Dabiew’s Market file new Article 78 action in State Supreme Court against Governor Spitzer and state Tax Department.

March 2008 Governor Spitzer resigns amid prostitution scandal. Lieutenant Governor David Paterson is sworn in as new Governor.

April 2008 Over the strenuous objections of NYACS, the Legislature passes, and Governor Paterson signs, another \$1.25-a-pack increase in cigarette excise tax that is designed to generate \$235 million in new revenue but is certain to fuel cigarette tax evasion epidemic.

May 1, 2008 In Washington, U.S. Rep. Peter King (R-New York), Ranking Member of House Judiciary Subcommittee on Crime, Terrorism and Homeland Security, conducts congressional hearing on cigarette smuggling and its ties to terrorism. King issues report, “Tobacco and Terror: How Cigarette Smuggling is Funding Our Enemies Abroad.”

May 2008 Assemblyman Magee and Senator Nozzolio re-introduce their 2006 bill, which passed both houses but was vetoed, to allow Attorney General, City of New York or Tax Department to order tobacco manufacturers to stop supplying any wholesale distributor known to be selling tax-free cigarettes to a tribal retailer. NYACS and anti-smoking groups voice support for the bill, A.11258/S.8146.

June 3, 2008 \$1.25 tax hike takes effect. Licensed tax-collecting retailers immediately begin losing 25% or more of their cigarette sales due to customers shifting purchases to tax-free tribal stores, Internet sites, black market entrepreneurs, and lower-tax border states.

June 2008 Representatives of Governor Paterson, Assembly, and American Heart Association negotiate amendments to A.11258/S.8146. They remove AG/NYC/DTF notification provision, instead requiring wholesale distributors to self-certify to their tobacco suppliers and Tax Department that they aren't selling tax-free cigarettes to tribes. NYACS withdraws its support, noting that amended version lacks teeth and allows too much wiggle room. Anti-smoking groups continue to support amended version.

June 24, 2008 Amended Magee-Nozzolio bill A.11258a passes Assembly on final day of legislative session. Senate does not act on S.8146b.

July 14, 2008 State Supreme Court Justice Robert Sackett dismisses Townsend-Dabiew lawsuit on grounds that they lack standing to bring such an action. Rejecting Townsend's claim that Executive Branch refusal to implement tax collection law nullified his vote in favor of it, Judge Sackett maintains: "The Governor did not unconstitutionally interfere with Assemblyman Townsend's ability to legislate."

August 8, 2008 Senate passes amended Magee-Nozzolio bill S.8146b.

August 13, 2008 To build upon A.11258a/S.8146b, Assemblyman Magee introduces follow-up legislation (A.11834), which would require pre-payment of excise taxes by wholesale distributor, and provide mechanism for Native Americans who buy product from tribal stores to obtain refund from Tax Department, in order to preserve their exemption on purchases from tribal stores. No companion is introduced in Senate.

August 27, 2008 Governor Paterson says he wants to negotiate with tribes to end long-running stalemate instead of trying to force immediate halt to tax-free sales. "I think that they feel that they are always labeled as the villains in this whole process, and maybe if they were treated or thought to be just like other businesses here and they started to feel like they're part of our state, even if they live on sacred land, that we might be able to reach an accommodation," he tells *Buffalo News*. But he also warns, "I know that I believe I have the legal right to collect the taxes."

- August 29, 2008 Assemblyman Townsend and Dabiew's Market file notice of intent to appeal Judge Sackett's ruling that they lack standing.
- September 2008 Seneca Nation of Indians launches major newspaper, radio, TV and online advertising campaign calling upon Governor Paterson to veto the Magee-Nozzolio bill (A.11258a/ S.8146b), claiming it would violate existing Indian treaties and harm Western NY economy.
- September 2008 City of New York files suit in U.S. District Court seeking order barring eight largest cigarette dealers on Long Island's the Poospatuck Indian reservation from selling cigarettes tax-free to public, arguing the trade costs city \$195 a year in lost tax revenue and undermines anti-smoking efforts.
- November 2008 Claiming State is waging "economic war" against them, Seneca Indian Nation launches another TV, radio, print and online media campaign designed to turn public sentiment against amended Magee-Nozzolio bill that Governor Paterson will soon act upon.
- November 12, 2008 Anti-smoking organizations create online "Tax Ticker" enabling citizens to track the amount of tax dollars the state loses per second by failing to collect the excise tax on Indian cigarette sales. Groups estimate New York is losing more than \$600 million a year in revenue, or \$19.08 per second.
- November 25, 2008 In coordinated raids, sheriff's deputies of Cayuga and Seneca counties seize 17,000 cartons of untaxed cigarettes from the Cayuga Indian Nation's LakeSide Trading convenience stores in Union Springs and Seneca Falls. With those stores closed, non-Indian stores within 15-mile radius experience immediate increases of 20% to 125% in their cigarette sales volume. County officials say State of New York declined to assist them with enforcement initiative.
- December 10, 2008 In lawsuit filed by Cayuga Indian Nation, State Supreme Court Justice Kenneth Fisher rules that existing state law gave Cayuga and Seneca counties sufficient authority to conduct the raids and seize the cigarettes. He also rejects tribe's argument that tax-free sales were justifiable because both Lakeside Trading stores were on "qualified reservation" land.
- December 11, 2008 Grand juries in Seneca and Cayuga counties return sealed indictments in Cayuga Indian untaxed cigarettes case.
- December 15, 2008 Governor Paterson signs amended Magee-Nozzolio bill, saying: "This law has not been adequately applied for far too long, giving non-Indians easy access to tax-free cigarettes both on the reservations and over the Internet. However, the signing of this bill should not be seen as anything other than enforcing the tax laws of New York in a fair and effective manner. My commitment to the sovereign powers of

New York's Indian Nations has not and will not waiver, and I will continue to seek a comprehensive negotiated solution with all of New York's Indian Nations.”

- December 24, 2008 In an action filed by Day Wholesale and Seneca tobacco merchant Scott Maybee, State Supreme Court Justice Rose Sconiers issues temporary restraining order barring enforcement of newly signed Magee-Nozzolio law pending hearing January 27.
- January 13, 2009 Calling State's plans to start collecting taxes on cigarettes an “impending threat” against Seneca Nation of Indians, leader Barry Snyder melodramatically tells his tribe to start stockpiling food and water and reveals plans to “train emergency personnel.”
- January 2009 In Rochester, Appellate Division of State Supreme Court grants Cayuga Indian Nation preliminary injunction temporarily blocking Cayuga and Seneca counties from prosecuting felony tax evasion charges against tribe, pending court hearing in May.
- January 27, 2009 Judge Sconiers issues injunction barring enforcement of Magee-Nozzolio law based on State's failure to fulfill its obligation to issue tax-exemption coupons to tribes to protect tax exemption on Indian sales to tribal members.
- January 27, 2009 NYACS presents “Tax Fairness Tiger” Awards to four members of state Legislature for persistent leadership in trying to curb cigarette tax evasion epidemic – Senators Jeff Klein and Michael Nozzolio and Assemblymen Bill Magee and David Townsend Jr.
- January 30, 2009 Viewing Appellate Division injunction as shield, Cayuga Indians re-open their two LakeSide Trading stores, selling tax-free cigarettes.
- February 2009 Voicing frustration with lack of progress in talks on tax fairness issue, Governor Paterson refuses to give Seneca Indian Nation letter supporting their efforts to open gambling casino in southern Catskills.
- February 18, 2009 State Supreme Court Justice Kenneth Fisher orders Cayuga Indian Nation to stop selling untaxed cigarettes at its two LakeSide Trading stores. He also rules Cayuga and Seneca counties may hold onto as evidence 17,600 cartons of unstamped cigarettes seized during raids.
- February 2009 President Obama signs into law an expansion of State Children's Health Program (SCHIP) funded by massive increase in federal excise taxes on tobacco effective April 1, 2009. The hike from 39 cents to 1.01 per pack will boost prices at both Indian and non-Indian stores.
- March 2, 2009 NYACS issues updated report by economist Brian O'Connor PhD on magnitude of cigarette tax evasion in New York. It confirms that more than half of cigarettes consumed in New York are purchased

from untaxed sources, and that tax-free sales of cigarettes by tribal outlets to non-Indian customers is now costing State “in the vicinity of \$1 billion” a year in tax revenue.

- March 2009 Governor Paterson meets in Buffalo with leaders of Seneca Indian Nation on cigarette and motor fuel tax collection issue. *Buffalo News* quotes him as saying they presented proposal regarding "actions they would take that would increase the opportunity for commerce" off nation land. Tribal leaders describe meeting as "positive."
- May 2009 Oneida Indian Nation and the Oneida County Executive announce agreement on proposed settlement of long-standing land claim and tax disputes between the tribe and Oneida and Madison counties, including “tax parity” agreement on cigarette and motor fuel sales. Firestorm of opposition from general public prompts Oneida County Legislature to overwhelmingly reject plan.
- May 28, 2009 Assemblyman Townsend and Dabiew’s Market file appeal of Judge Sackett’s “standing” ruling with state Appellate Division.
- July 10, 2009 In Rochester, Appellate Division of State Supreme Court overturns Judge Fisher’s previous ruling in Cayuga Indian Nation case. Declares both Lakeside Trading were indeed on “qualified reservation” land and that there is no statutory basis for imposing any cigarette tax at such locations.
- August 2009 With State deficit for current fiscal year at \$3 billion and growing, Governor Paterson reaffirms his refusal to tap into a huge source of revenue – taxes on Indian sales of cigarettes and gas to non-Indian customers – when his budget office officially writes off \$65 million in revenue the 2009-2010 state budget had anticipated from such tax collection. Budget Director Robert Megna says it was deleted "to prudently address potential risks to our receipts forecast. We continue to work diligently toward a negotiated settlement of this issue."
- August 26, 2009 In lawsuit filed by City of New York, U.S. District Judge Carol Amon issues temporary injunction barring group of tobacco vendors on Long Island’s Poospatuck Indian reservation from selling tax-free cigarettes to general public. She stays ruling for 30 days to give tribe chance to appeal.
- September 2009 Saying "New York State simply can't afford to give up on this issue," state Senator Mike Nozzolio announces that Senate Committee on Investigations and Government Operations will hold public hearing October 27 "to look into Governor Paterson's refusal to comply with the law enacted last year taxing cigarettes sold by Native Americans."