



# TaxNewsFlash

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### **Ninth Circuit: Indian tribe's challenge, federal excise tax on tobacco products**

The U.S. Court of Appeals for the Ninth Circuit today concluded that a federal district court lacked jurisdiction to hear a Native American (Indian) tribe's claims concerning the imposition of the federal excise tax on tobacco products manufactured by an Indian-owned tobacco company.

The federal district court had granted summary judgment in favor of federal agencies in an action filed by the tribe in seeking to bar the imposition of federal excise tax on tobacco products manufactured by a corporation organized, existing, and operating under the laws of the Indian nation.

The Ninth Circuit today vacated the judgment of the lower court and remanded the case with instructions to dismiss. The appeals court's holding is based on a finding that the Anti-Injunction Act of 26 U.S.C. section 7421(a) blocked this action. Specifically, the appeals court concluded the Native American tribe was a "person" subject to the Anti-Injunction Act based on the definition of "person" in 26 U.S.C. section 7701(a)(1). Further, the appeals court found that the district court erred in concluding the tribe's claims fell within a judicial exception to the Anti-Injunction Act.

The case is: *Confederated Tribes and Bands of the Yakama Indian Nation v. Alcohol and Tobacco Tax and Trade Bureau*, No. 14-35165 (9<sup>th</sup> Cir. December 13, 2016). Read the Ninth Circuit's [opinion](#) {PDF 90 KB}

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