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Ninth Circuit: Federal excise tax on tobacco products, tribal manufacturer

The U.S. Court of Appeals for the Ninth Circuit today—in a case of “first impression”—affirmed a federal district court’s decision for the government in its action to collect federal excise tax on tobacco products from a Native American tribe. The Ninth Circuit held that a tobacco manufacturer located on trust land is subject to the federal excise tax that applies to all tobacco products manufactured in the United States under section 5702.

The case is: *United States v. King Mountain Tobacco Co., Inc.* Nos. 14-36055, 16-35607 (9th Cir. August 13, 2018). Read the Ninth Circuit’s [decision](#) [PDF 128 KB]

At issue was whether a tribal manufacturer of tobacco products, as manufactured on land held in trust by the United States, is subject to the federal excise tax on manufactured tobacco products. The district court awarded the United States almost \$58 million for unpaid federal excise taxes, associated penalties, and interest.

The Ninth Circuit today affirmed, finding that the manufacturer was not eligible for an exemption from the federal excise tax under the General Allotment Act of 1887 or under the Treaty with the Yakamas of 1855.

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