

# Registered Indians and Tobacco Taxation

## A Culturally-appropriate Strategy?

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### ABSTRACT

Taxation of tobacco is a widely-used strategy that prompts smoking cessation among adults and reduces cigarette consumption among continuing smokers. Registered Indian tobacco use prevalence is at least double that of the rest of Canadians and is in part due to the lower cost of tobacco products purchased on reserve by Registered Indians (RIs) as they are tax exempt. Although registered Indian communities have the ability to collect tax on tobacco products and direct the use of these revenues, this strategy is rarely utilized. Tobacco taxation could have substantial health and economic benefits to RI communities, but perhaps is not culturally-appropriate. In order to better support RI communities, governments and other organizations need to examine this policy instrument in the context of RI populations.

**MeSH terms:** Indigenous population; natives; taxation; nicotine; smoking

### RÉSUMÉ

La perception de taxes sur le tabac est une stratégie très répandue qui incite les adultes à renoncer au tabac et qui réduit la consommation de cigarettes chez les personnes qui continuent de fumer. La prévalence du tabagisme chez les Indiens inscrits est au moins le double de celle du reste des Canadiens, ce qui s'explique en partie par le prix plus faible (car exempt de taxe) des produits du tabac achetés dans les réserves par les Indiens inscrits. Les collectivités d'Indiens inscrits peuvent percevoir des taxes sur les produits du tabac et décider de l'utilisation de ces recettes, mais elles utilisent rarement cette stratégie. La taxation des produits du tabac pourrait procurer des avantages sanitaires et économiques considérables aux collectivités d'Indiens inscrits, mais elle n'est peut-être pas adaptée à leur réalité culturelle. Pour mieux appuyer ces collectivités, les gouvernements et autres organismes doivent examiner l'outil d'intervention que représente la taxation des produits du tabac dans le contexte des populations d'Indiens inscrits.

Tobacco use is a substantial public health concern as it is estimated that more than 45,000 people will die this year in Canada due to smoking. Smoking is well established as a major cause of chronic airway disease, lung cancer, ischemic heart disease and stroke.<sup>1</sup>

Comprehensive public health strategies to prevent and control tobacco use include: mass media, cessation services, community awareness initiatives, smoke-free spaces, litigation and taxation of tobacco products.<sup>2</sup> Taxation of tobacco is a widely-used strategy that prompts smoking cessation among adults and reduces cigarette consumption among continuing smokers.<sup>3</sup> However, Registered Indian (RI) communities, for several reasons, do not often utilize taxation. This paper will discuss taxation of tobacco products sold within RI communities.

The name of a Registered Indian, or a First Nation and Inuit person, within the meaning of the Indian Act appears on the Indian Registry as maintained by the Department of Indian and Northern Affairs<sup>4</sup> and does not include Metis people and non-Status Aboriginals. Of the approximately 700,000 RIs, it is estimated that 60% live off reserve and are a younger population compared to the Canadian population.<sup>4</sup> Traditional tobacco use is different than that of contemporary use, which primarily relates to nicotine dependence. Tobacco was employed by shamans to transport themselves into the realm of the supernatural, and smoke allowed communication with the supernatural, providing a bridge to the Creator. Interestingly, in general tobacco was restricted to certain rituals and individuals out of fear of precipitating an undesirable encounter with tobacco-craving spirits.<sup>5</sup> Tobacco use among RI people is a significant problem – rates are more than double that of the general population,<sup>6,7</sup> and account for 17-19% of RI adult mortality.<sup>8</sup>

The most current figure for the average price for a carton of 200 cigarettes within Canada was \$71.06, with product cost and taxation estimated to be \$23.87 and \$53.76, respectively. For an average carton, tobacco product taxation is comprised of: provincial taxes (mean of \$30.90), federal excise duty (\$15.87), sales tax rate (five provinces collected, ranging between 7-8%), provincial sales tax (fives provinces collect this tax, ranging between \$5.05-\$5.74), and federal GST.<sup>9</sup>

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The Indian Act, specifically section 87, states that personal property of a Registered Indian or a band situated on a reserve is exempt from taxation.<sup>10</sup> In the context of tobacco products, the only added cost to tobacco products purchased on reserve for RIs is the federal excise duty. Therefore, the average cost for a carton of cigarettes sold on reserve to a RI is \$39.74 (\$23.87 + \$15.87), which is 44% less than if purchased off reserve. This lower cost contributes to the high RI tobacco consumption.

Unfortunately, there is no published research on the effect of tobacco product taxation, or price increases, on tobacco utilization rates within RI populations. Among non-RI populations, a 10% price increase will result in a decrease in smoking rates by 4%.<sup>3</sup> If we assume an inverse relationship between price and tobacco use among RI populations, then in a RI community that implements the First Nations Tax (FNT) of 7%, similar to the national GST, tobacco use prevalence potentially could reduce by 2.8% ( $4\%/10\% \times 7\%$ ). Furthermore, if a RI community was to collect the provincial tax (mean of \$30.90), the price of a carton of cigarettes would increase by 56.3% ( $\$39.74/\$39.74 + \$30.90$ ), and tobacco use prevalence could reduce by 22.5% ( $4\%/10\% \times 56.3\%$ ). There are limitations with this extrapolation, namely assuming a similar inverse relationship between price and tobacco use for RI and non-RI populations, but nevertheless it is reasonable to expect a reduction in RI tobacco use with price increase. Among northern Inuit populations, tobacco products are among the highest in price but tobacco use prevalence is higher in comparison to other RI groups.<sup>7,9</sup> Perhaps tobacco price increases within RI communities will impact tobacco consumption amounts more so than prevalence due to the impact of other tobacco use risk factors, such as poverty.

However, certain tobacco use risk factors disproportionately impact RI populations, and thus tobacco price increases may not have the same effect on tobacco use as in non-RI populations. For example, a lower level of educational attainment correlates with RI tobacco use<sup>6</sup> and it is well known that the RI population attains a lower level of education than the rest of Canadians. Even with the uncertain reduction amount

in tobacco use that price increase will surely bring, it is very likely that many RIs, as with many surveyed residents in Ontario who supported tobacco control policies,<sup>10</sup> would support this strategy in order to reduce suffering within their community.

In addition to reducing tobacco use, tobacco taxation would serve as a source of economic development. In 1997, the federal government passed Bill C-93, the Budget Implementation Act, granting authority to RI communities to tax the sale of tobacco and tobacco products to Natives and non-Natives. The Bill also contains provisions that allow RI communities to impose a tax similar to that imposed under a provincial tobacco tax act.<sup>11</sup> Of the over 600 RI communities in Canada, 10 collect the FNT and only 1 community collects the provincial tax.<sup>4,11,12</sup> Since this is relatively new legislation, it is reasonable to expect unresolved legal issues over the rights of RI communities to tax tobacco products. Many RI communities require additional financial resources to address community needs due to population growth, an aging population and no recent increase in transfers from the federal government. Registered Indian communities can direct tobacco taxation revenue spending, but since there is no published research on this topic, the revenue amounts are unknown.

There are several possible reasons why taxation is underutilized among RI communities. There may be a lack of awareness of the relatively recent policy change that allows RI communities to tax tobacco products. Vendors may be reluctant to support a tax due to loss of revenue. Philosophical opposition to taxation within RI communities arises from possible reduced federal transfers, the end of statutory exemption for status Indians, and backlash from the collection of revenues from a population where many are faced with poverty.<sup>11</sup> Other concerns regarding this tax pertain to the establishment of a barrier against using tobacco for traditional purposes and a potential increase in tobacco smuggling. Currently, for many RI communities smuggling is minimal, as is the case with non-RI communities.<sup>3</sup> In summary, there are several substantial barriers to implementing a tobacco tax within RI communities, so much so that very few RI communities have pursued this policy

instrument. Clearly though, research into assessing the level of community support for tobacco taxation is needed.

Given that most RI communities do not collect a tobacco tax, action is needed to support RI communities as a means to help guide decision-making. If tobacco taxation cannot be implemented within RI communities, it does not necessarily mean that tobacco taxation is not effective but rather that it is not a culturally-appropriate tobacco control strategy. Perhaps incentives for both smokers and non-smokers are more appropriate and congruent with RI culture, which places an emphasis on self-empowerment rather than punitive action, as would be the case with tobacco taxation and smokers.

As mentioned, there is a paucity of research on price and tobacco use within RI populations. It is reasonable to expect price increase will reduce tobacco use, particularly within a comprehensive strategy.<sup>3</sup> Therefore, the federal and provincial governments need to closely examine the issue of tobacco product taxation within RI communities in order to utilize the limited tobacco control resources in the most effective and efficient manner. Government taxation departments and health officials need to establish partnerships in order to better support RI communities.

National and regional organizations, such as the Canadian Public Health Association, the Assembly of First Nations and provincial RI leadership need to establish committees that will examine tobacco product taxation in the context of RI communities and share this information with RI communities. Research funding organizations will need to support research that examines the implications of tobacco price increases.

Health professionals can support RI communities. Public health professionals should provide information related to tobacco taxation in a timely fashion to RI communities to aid decision-making. For example, when a community member is diagnosed with a health-related condition attributable to tobacco use or during a time when RI community leaders are seeking economic development opportunities, public health professionals must advocate for tobacco taxation. Of course, public health professionals will need to garner

support from the community Elders and other informal community leaders when doing so. Traditional approaches involving community dialogue have been helpful in gaining acceptance to tobacco taxation (Personal Communication with Ken Medd, Canada Customs and Revenue Agency, September 27, 2004). In addition, consideration of more culturally-appropriate strategies, such as those that empower smokers and non-smokers, also invite research.

After adequate information and support has been provided to RI communities, it is realistic that numerous communities will be very interested in RI taxation of tobacco – a hypothesis awaiting exploration.

Research on RI populations and tobacco taxation is required, including the examination of the impact of taxation on smoking amounts and prevalence of use, the health and economic impacts of taxation, and the level of community support for such policy.

In conclusion, Registered Indian tobacco use rates are much higher than those of the rest of Canadians, in part due to lower

pricing of tobacco products. Very few RI communities currently collect tobacco tax. There will be many challenges to implementing tobacco taxation within RI communities, but governments, NGOs and public health professions need to support RI communities in exploring this endeavour.

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