

**AMENDMENT TO
FORT BELKNAP- MONTANA
TOBACCO TAX AGREEMENT**

THIS AMENDMENT TO FORT BELKNAP INDIAN COMMUNITY COUNCIL - MONTANA TOBACCO TAX AGREEMENT amends the Agreement entered into on the 30th day of September, 2003, between the State of Montana, Department of Revenue, (hereinafter referred to as "the State"), whose address and phone number are Room 455, Mitchell Building, 125 North Roberts, PO Box 5805, Helena, MT 59604-5805, 406-444-1900 and the Fort Belknap Indian Community Council of the Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Reservation (hereinafter referred to as the "Tribes").

RECITALS

WHEREAS, the STATE and the TRIBES entered into a Tobacco Tax Revenue Sharing Agreement on September 30, 2003; and

WHEREAS, Section 9 of the Tobacco Tax Revenue Sharing Agreement permits amendments to said Agreement; and

WHEREAS, both parties wish to make amendments to the written agreement between the parties;

NOW THEREFORE, the STATE and TRIBES, in consideration of the mutual promises contained herein, agree to amend the Fort Belknap Indian Community Council - Montana Tobacco Tax Agreement entered into on the 30th day of September, 2003, as follows:

Section 2. to the FORT BELKNAP INDIAN COMMUNITY COUNCIL - MONTANA TOBACCO TAX AGREEMENT is replaced by the following:

"2. Recitals. This Agreement is made by and between the Fort Belknap Indian Community Council of the Gros Ventre and Assiniboine Tribes of the Fort Belknap Indian Reservation and the State of Montana, acting through its Department of Revenue. The parties hereto, having conferred together, desire to collect the tobacco tax on all tobacco or tobacco products sold or consumed on the Fort Belknap Reservation for the mutual benefit of all the people of Montana, including members of the Tribes."

Section 3. to the FORT BELKNAP INDIAN COMMUNITY COUNCIL - MONTANA TOBACCO TAX AGREEMENT is replaced by the following:

"3. Tribal law. The Tribes shall adopt and keep in force an ordinance imposing taxes equal to the Montana taxes on tobacco, which taxes shall apply to tobacco sold to all persons within the Tribes' jurisdiction on the Reservation in a manner similar to the Montana taxes.

The Tribes shall supply the State with a current copy of the ordinance as it may be amended from time to time, within sixty (60) days of the enactment or amendment of the ordinance. Within sixty (60) days of notification by the State pursuant to Section 4 of this Agreement, the Tribes shall amend the tribal ordinance to reflect taxes equal to the State taxes on tobacco. The amended ordinance shall be effective on the effective date of the amended state law. "

Section 5.a. to the FORT BELKNAP INDIAN COMMUNITY COUNCIL - MONTANA TOBACCO TAX AGREEMENT is replaced by the following:

“a. For each calendar quarter, the Tribes shall receive an amount of tobacco taxes pre-collected for tobacco sales on the Fort Belknap Reservation, which approximates the sales to enrolled Gros Ventre and Assiniboine tribal members living on the Fort Belknap Reservation. The amount of tobacco taxes that the Tribes receive shall be determined by multiplying 150 percent of the Montana per capita tobacco tax collected for the calendar quarter, times the total number of enrolled Gros Ventre and Assiniboine tribal members living on the Fort Belknap Reservation.

The total number of enrolled Gros Ventre and Assiniboine tribal members living on the Fort Belknap Reservation shall be determined by using the Gros Ventre and Assiniboine tribal enrollment population, as set forth in the membership requirements of the Constitution of the Fort Belknap Indian Community of the Fort Belknap Reservation necessary to determine place of residence. The Tribes shall certify to the State by March 31st of each year the number of enrolled Gros Ventre and Assiniboine tribal members living on the Fort Belknap Reservation as of January 1 of each calendar year. In the event that the Tribes do not issue a recertification, the State may use the previous year's certification. The Tribes authorize the State to review the enrollment records maintained by the Gros Ventre and Assiniboine Tribes and any other information the Tribes use to determine the enrolled tribal members living on the Reservation should the State wish to conduct an audit as provided in Section 7 of this Agreement.

The Montana per capita tobacco tax is based on the net sum of tobacco taxes in all funds into which cigarette and tobacco taxes are deposited, subsequent to the deduction or addition of refunds, credits, and corrections. Notwithstanding the foregoing, the Parties mutually agree that the total number of enrolled Gros Ventre and Assiniboine tribal members living on the Fort Belknap Reservation for the 2005 calendar year will be 2,682 until the Tribes certify a different number for calendar year 2005. If there is a different number certified by the Tribes, the State will adjust the payment to the Tribes for the enrollment change for the period starting April 1, 2005. If the process by which the Tribes determine to certify the number of tribal members living on the reservation is more reasonably reported at a date later than March 31 of each year, the State agrees to work with the Tribes to amend this Agreement to reflect such a change."

Section 5.b. of the FORT BELKNAP INDIAN COMMUNITY COUNCIL - MONTANA TOBACCO TAX AGREEMENT is replaced by the following:

"b. The State shall distribute the monies due to the Tribes under this Agreement no later than thirty (30) days from the end of each calendar quarter. The State shall include with each distribution a statement showing how the distribution was determined for that quarter. Distributions shall continue until the expiration or the termination of this Agreement as provided below or required by law. For the Purposes of this Agreement, a calendar quarter begins on January 1, April 1, July 1, and October 1 of each year. The State will remit the amount payable to the Tribes in the form of a warrant issued by the State of Montana payable to the Tribes and mailed to the President of the Council, unless the Tribes specify in writing that the State should remit payment in some other manner."

Section 5.c. of the FORT BELKNAP INDIAN COMMUNITY COUNCIL - MONTANA TOBACCO TAX AGREEMENT is stricken in its entirety.

Section 11. of the FORT BELKNAP INDIAN COMMUNITY COUNCIL - MONTANA TOBACCO TAX AGREEMENT is stricken in its entirety.

Section 13 of the FORT BELKNAP INDIAN COMMUNITY COUNCIL - MONTANA TOBACCO TAX AGREEMENT is changed as follows:

"13. Notices. All notices and other communications required to be given under this Agreement by the Tribes and the State shall be deemed to have been duly given when delivered in person or posted by United States certified mail, return receipt requested, with postage prepaid, addressed as follows:

i. To the Tribes:

President
RR #1 Box 66
Harlem, MT 59255

ii. To the State:

Governor's Office
P.O. Box 200801
State Capitol
Helena, MT 59620-0801

With copies to:

Director of Revenue
Montana Department of Revenue
Room 455, Mitchell Building
Helena, MT 59620

Attorney General
215 North Sanders
Helena, MT 59601-1401

As required by Section 9 of the Agreement, the Parties' signatures are set forth below.

Except as expressly amended hereby, all terms and conditions of the Agreement remain in full force and effect.

DATED June 1st 2005.

STATE OF MONTANA
COUNCIL

FORT BELKNAP INDIAN COMMUNITY

/S/ BRIAN SCHWEITZER

/S/ JULIA DONEY

Brian Schweitzer
Governor
State of Montana

Julia Doney
President
Fort Belknap Indian Community Council

/S/ DAN BUCKS

Dan Bucks
Director, Department of Revenue
State of Montana

Approved pursuant to § 18-11-105, MCA:

/S/ MIKE MCGRATH

Mike McGrath
Attorney General
State of Montana

_____, Superintendent, Fort Belknap Indian Agency, the Bureau of Indian Affairs, United States Department of Interior, hereby approves this Amendment to the FORT BELKNAP INDIAN COMMUNITY COUNCIL - MONTANA TOBACCO TAX AGREEMENT pursuant to 25 U.S.C. § 81.


