

Taxing Up the Wrong Tree

by Ellen Edgerton

New York State's attempts to collect revenue from the Haudenosaunee have had a long and turbulent history. The Haudenosaunee have never consented to the jurisdictional authority of New York State, and have never agreed to allow New York State to impose its tax laws on any transactions conducted within their territorial boundaries.

Taxation Violates Sovereignty

Taxation attempts violate the sovereignty of these indigenous Nations and their federal treaty rights. Article II of the 1794 Treaty of Canandaigua guarantees the Onondaga the "free use and enjoyment" of their remaining Territory. New York State claims that various US Supreme Court and lower federal court decisions authorize the collection of state taxes on sales of products to non-native buyers, even when such sales occur on Haudenosaunee territories.

Diplomatic government-to-government negotiation has historically been the Haudenosaunee approach to this contentious issue. The Haudenosaunee negotiated an agreement with the State in the spring of 1997. Since then, New York's political leaders have cancelled agreements and passed new bills seeking the collection of taxes from businesses on Native territory, and local law enforcement officials have conducted raids on Native-owned businesses and confiscated merchandise.

Following a 2011 federal appeals court ruling that lifted previous legal stays on New York's collection of sales taxes, the Cuomo administration has stated its intention to collect tax monies from Native cigarette sales. In response, several Haudenosaunee-owned businesses have stopped purchasing cigarettes from wholesalers and have made cigarettes on their own territories.



In 1794 the Treaty of Canandaigua (depicted here in Robert Griffing's painting, guaranteed audenosaunee sovereignty. This agreement built on earlier treaties beginning with the Two Row Wampum Treaty with the Dutch in 1613.

Support Treaties not Taxation

Although some citizen groups in New York have been increasingly vocal over New York's reticence over compelling taxes from the Haudenosaunee and other Native peoples (such as the Poospatuck of Long Island), a 2010 Zogby poll found that 68% of New York voters statewide believe that state and federal governments should continue honoring Native American treaties, including ones that bar state taxation of Native American businesses. This finding is con-

sistent with previous polls of 2004 and 2006 in which clear majorities of New Yorkers supported Native American rights relevant to taxation. (Source: Zogby International)

An October 2011 Siena Research Institute poll revealed that an even greater number of New Yorkers – 72% – believe that to close budget gaps, taxes should be increased on all individuals making more than a million dollars a year, an extension that Governor Cuomo opposes. We therefore question why Governor Cuomo would adopt the problematic and sovereignty-violating pursuit of a relatively small amount of revenue from Native American nations, when New Yorkers have indicated both their strong support of Native sovereignty and their strong desire to see tax monies collected from the wealthiest 1% of New Yorkers.

The Onondaga Nation currently plans to manufacture their own cigarettes for sale on their territory. Their store does not sell gasoline. The Onondaga Nation also does not operate any casinos, and therefore has no revenues from gambling.

Sales Benefit the People

Profits from the Onondaga Nation Smoke Shop go to the Onondaga Nation government and fund dozens of programs that benefit the Onondaga people: language programs, home repair programs, annual heat subsidies for households, repairs of community buildings, maintenance and landscaping of the Nation territory, and sports programs. Onondaga Nation citizens

are employed through these programs, and they spend their wages outside the Nation territory, generating an economic ripple in the surrounding communities.

Respecting Onondaga sovereignty and the Treaties, and not taxing these sales should be seen as an economic stimulus package for the Central New York economy, very similar to the Empire Zones and the tax breaks that have been enjoyed by other developers in Central New York.

While NOON doesn't support cigarette smoking, we recognize the sovereign status of these nations and call on our government to live up to the agreements embodied in the Two Row Wampum (1613) and the Treaty of Canandaigua (1794). Because each indigenous nation's situation is unique, negotiation that respects their sovereignties will build a firm and wise foundation for the many non-taxation issues that remain to be worked on by Native leaders and the State of New York.

Ellen is a NOON member whose father taught her that some day the Onondagas would seek justice.



Neighbors of the Onondaga Nation (NOON) is a grassroots effort of Central New Yorkers. We support the sovereignty of the Onondaga Nation's traditional government, their Land Rights Action and we collaborate with them on environmental protection and restoration. We join in the Onondaga Nation's call for justice, reconciliation and healing. We believe that we, and the wider community, have a great deal to learn from the Onondagas about living more peacefully with one another and more harmoniously with the Earth. NOON is a project of the Syracuse Peace Council.

For more information, or to join in our efforts, contact:

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***Why New York State
has no right to tax sales
by sovereign
Native American nations***