

FIRST NATIONS COMMUNITIES AND TOBACCO TAXATION: A COMMENTARY

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Abstract: Taxation of tobacco is a widely used strategy that promotes smoking cessation among adults and reduces cigarette consumption among continuing smokers. First Nations (FN) populations' tobacco use is estimated to be 2-3 times that of other Canadians and, in part, a reflection that tobacco products purchased on reserve by FN people are tax exempt. The purpose of this paper is to present a commentary related to the implementation and impact of a tobacco tax within an FN community.

INTRODUCTION

Tobacco use in Canada is estimated to result in the deaths of more than 47,000 people annually (Makomaski Illing & Kaiserman, 2004). Smoking is a major cause of chronic airway disease, lung cancer, ischemic heart disease, and stroke (Health Canada, 2005). Smoking has also been implicated as a risk factor in the development of diabetes (Houston et al., 2006).

Comprehensive public health strategies to prevent and control tobacco use include mass media campaigns, smoking cessation services, community awareness initiatives, smoke-free spaces, litigation, and taxation of tobacco products (U.S. Department of Health and Human Services [U.S. DHHS], 1999). Taxation of tobacco is a widely used strategy that prompts smoking cessation and reduces cigarette consumption (U.S. DHHS, 2000).

While national studies have demonstrated a decreasing prevalence of smoking—50% of Canadians aged 15 years or older smoked in 1965, compared to 20% in 2004—these trends are not uniform across the nation and specific populations, such as First Nations peoples, continue to exhibit high rates of tobacco use. “First Nations” (FN) refers to those persons who are Registered Indians or Inuit as defined by the Indian Act, and whose names appear on the Indian Registry maintained by the Department of Indian and Northern Affairs. This designation does not include Métis people or non-Status Aboriginals. There are approximately 760,000 FN people in Canada; they are a young population, and an estimated 45% live off reserve (Indian and Northern Affairs Canada [INAC], 2007).

FN populations' tobacco use is estimated to be 2-3 times that of the Canadian smoking rate (First Nations Centre, 2005; Health Canada, 2006a). A significant difference is observed in the prevalence of smoking between on-reserve and off-reserve adults, with smoking rates of 58.5% and 36%, respectively (First Nations Centre). FN smokers consumed an average of 10 cigarettes per day, a lower consumption rate than for other Canadians, who smoked an average of 15 cigarettes per day. (First Nations Centre). Smoking is a major source of morbidity and mortality in FN populations: Adjusted smoking-attributable mortality rates are almost 1.5 times those of the general population, and smoking is responsible for almost one in every fifth FN adult death in British Columbia (BC) (Wardman & Khan, 2004). There are several possible reasons why rates in FN communities are higher (as well as why rates on reserve are higher), including the spiritual role that tobacco plays in many FN cultures, the role of family members who smoke, and the level of education achieved (First Nations Centre; French, 2000; Kegler, Cleaver, & Yazzie-Valencia, 2000). Another contributing factor pertains to the exemption of tobacco products purchased on reserve by FN people from taxation (Fiscal Realities, 1997).

HISTORICAL OVERVIEW OF TOBACCO PRICES IN FN COMMUNITIES

The final selling price for tobacco products includes the Federal excise duty, collected during manufacturing for Canadian products and at the time of importation for imported products; the provincial tobacco taxes, which are established by the finance ministries of provinces and territories; as well as the product price. Taxes per 200 cigarettes vary greatly by province and territory, with Quebec setting the tax at \$20.60 and the Northwest Territories at \$42.00 (Health Canada, 2006b). The Indian Act (section 87) states that personal property of a Registered Indian or a band situated on a reserve is exempt from taxation; thus, the only cost added to tobacco products purchased by an FN person on reserve is the Federal excise duty. Therefore, the average cost for a carton of cigarettes sold on reserve to an FN person is CAD\$39.74 (CAD\$23.87 + CAD\$15.87), which is 44% less than if purchased off reserve (Fiscal Realities, 1997; Smoking and Health Action Foundation, 2003).

In 1997, the Federal government passed Bill C-93, the Budget Implementation Act, which grants authority to FN communities to tax the sale of tobacco and tobacco products to Natives and non-Natives. This is otherwise known as the FN Tax (FNT) and is identical to the Federal Goods and Sales Tax (GST). The Bill also contains provisions that allow FN communities to impose a tax similar to that imposed under a provincial tobacco tax act (Fiscal Realities, 1997). The Westbank First Nation in BC was the first to implement the FNT in 1998, and 10 other nations have followed suit (Canada Revenue Agency [CRA], 2006).

Although Registered Indian communities now have the ability to collect tax on tobacco products and direct the use of these revenues, the strategy is underutilized—less than 2% of bands collect a tobacco tax (CRA, 2006). In order to further reduce smoking rates among FN populations, the Federal government has embarked on several initiatives to inform bands about the tax and to support FN communities in the area of tobacco taxation. A commentary of some of the initial efforts to implement the tax will be presented here.

BENEFITS OF TAXATION

Unfortunately, there is little or no published research on the effect of tobacco product taxation or price increases on tobacco utilization rates within FN populations. Among non-FN populations, it is estimated that a 10% price increase will decrease smoking rates by 4% (U.S. DHHS, 2000). In addition, a study evaluating the Federal impact of a tobacco tax identified a 1.12-pack per capita decrease for every 1-cent increase in tobacco tax (Meier et al, 1997). If we assume an inverse relationship between price and tobacco use among FN populations, then the implementation of an FNT (7%) may reduce tobacco use by 2.8% ($4\%/10\% \times 7\%$). Furthermore, if an FN community were to collect the provincial tax (mean of \$34.85 per carton of cigarettes), the price would increase 53.3% ($\$39.74/(\$39.74 + \$34.85)$), followed by a potential reduction in tobacco use of 22.5% ($4\%/10\% \times 56.3\%$; Ontario Tobacco Research Unit, 2007).

The other potential health benefit of a tobacco tax is that a reduction in the consumption of tobacco may be accompanied by a reduction in the misuse of alcohol and other drugs (Prochaska, Delucchi, & Hall, 2004). A smoking cessation intervention examined by the authors showed a 25% increase in the likelihood of abstinence from drugs and alcohol for participants receiving the intervention compared to the control group (Prochaska et al.). Given that the misuse of substances is a major concern for many FN communities, taxing tobacco products is another mechanism by which they can address this most urgent issue.

In addition to the enormous health benefits of tobacco use reduction, tobacco taxation can serve as a source of community revenues. Once again, there is a lack of data available to indicate the amount of revenue a tobacco tax would generate for FN communities. However, it is possible to estimate the amounts. The government generated CAD\$1.15 billion from tobacco taxation during 2006 in BC, and if we assume that FN people represent 3.7% of the population, with approximately half living off reserve, CAD\$21,275,000 would potentially be generated annually from FN tobacco taxes. This amount breaks down to CAD\$106,375 per community, as there are 200 bands in BC (Physicians for A Smoke-Free Canada, 2008; British Columbia Vital Statistics Agency & First

Nations and Inuit Health Branch, 2002; INAC, 2006). Assuming FN smoking rates are higher than those of the general BC population (i.e., up to 3 times higher), revenues may be even higher, perhaps up to \$196,020 per community. These estimates include the provincial tax and the GST.

OBSTACLES TO IMPLEMENTING THE TAX

In spite of the substantial benefits of tobacco taxation to FN communities, very few presently collect this tax. There are several possible reasons why this is so, including lack of awareness of the policy that allows FN communities to tax tobacco products; vendors' reluctance to support a tax due to loss of revenue; worry about the possibility of reduced Federal transfers, the end of statutory exemption for Status Indians, and barriers against using tobacco for traditional purposes; and backlash against the revenue being collected from populations where many are faced with poverty (Fiscal Realities, 1997). However, despite these potential barriers, there appears to be considerable FN community support for tobacco taxation—a tobacco use survey in 2005 revealed that 50% of FN people dwelling on reserve supported a tobacco tax in their community (unpublished data, First Nations and Inuit Health Branch, Pacific Region, 2005).

In addition to the obstacles listed above, another concern regarding the tax pertains to the potential increase in tobacco smuggling in response to the tax. For many FN communities, however, smuggling is probably minimal, as is the case with non-FN communities (U.S. DHHS, 2000).

EXPERIENCE LAUNCHING THE TAX IN AN FN COMMUNITY

Having provided a general overview of the history and potential benefits and obstacles of FN tobacco taxation, it will be beneficial to examine an actual scenario of a tobacco tax being implemented in an FN community. As mentioned previously, tobacco taxation is a contentious issue in FN communities, and those that collect a tax are often reluctant to discuss specifics with outsiders. For this reason, and to maintain the confidentiality of those communities, the scenario presented is primarily based on one community but also draws on the collective experiences of communities that presently tax tobacco products. This amalgamation of communities will be referred to as Community A for ease of understanding.

The community presented is, in many ways, a typical FN community. It is located in a rural setting and has a population of 500 people, with 50% living off reserve. The population is young, with 40% aged 19 years or younger. (INAC, 2006). Members of Community A have often expressed their concerns about a high rate of cancer and problems with alcohol and drugs in the community, but there are no data available to quantify cancer rates and level of substance use in the community.

A survey of Community A revealed that 55% of the population smokes and tobacco is sold at 3 vendors within the community. The community receives \$15,000 annually from Health Canada to support tobacco control activities and has designated a champion—an individual with substantial community support—as part of the strategy. The community’s tobacco control strategy has focused on awareness, including the establishment of a tobacco information booth at the community health fair, where information related to health effects is provided; the development of marketing products (i.e., posters); presentations at the local school; and the sponsorship of tobacco walks (exercising while discussing the effects of tobacco use). There have also been efforts to include tobacco cessation advice within existing community programs, such as the prenatal program. Finally, band-operated buildings are smoke-free, although most other public spaces in the community are not. Because there are no staff exclusively hired to focus on tobacco control activities, such activities are often carried out by the tobacco control champion, who manages several other programs. Thus, tobacco programming in Community A often does not receive the resources and support it requires.

The regional First Nations and Inuit Health Program (FNIH) office has provided information related to tobacco taxation to bands in BC, as well as the opportunity to apply for one-time funding of \$5000 per community to support programming related to tobacco taxation. These funds can be used for supporting an initial community dialogue that explores tobacco taxation. The community champion from Community A was interested in the initiative and accessed the funds to support a community forum that would allow such a discussion.

The tobacco control champion, supported by the regional FNIH Program, arranged a community forum that included a traditional feast, a tobacco taxation presentation by a public health professional, and a performance by an Aboriginal hip-hop group, which included a song on the benefits of not smoking. Overall, the forum was well attended (approximately 100 people). A representative cross-section of the community that varied widely in age, and which included members of the elected leadership (Chief and Council), was present.

The presentation focused on the benefits and harms of tobacco taxation in an FN context, followed by a community dialogue session. Community members raised questions and concerns, which centered on how the tobacco tax revenues would be utilized, as well as the fact that raising the price of tobacco products might not reduce tobacco use. During a discussion in response to the first concern, participants decided to vote to determine the level of support for the tobacco tax, and to gather suggestions from community members on how the tax revenue should be utilized. Based on the vote, 94% of participants, who represented a majority of the community’s on-reserve membership at that time, supported the tax. The following areas for funding were identified: youth, Elders,

housing, tobacco/addiction prevention activities, and an identified priority area that would change yearly. Taxation information resources were provided to community members to aid their decision making (CRA, 2006; U.S. DHHS, 1999; Fiscal Realities, 1997; Wardman & Khan, 2005).

After a short break, participants discussed the fact that addiction disorders (including tobacco addiction) are treatable, and that many persons overcome their addiction without any professional intervention, in part due to maturation (O'Brien & MacLellan, 1996; Frances & Miller, 1998; Vaillant, 1988). In response to the second issue that had been raised earlier (namely, that tobacco cost and use were not directly correlated), participants discussed studies from different cultures and socioeconomic groups that have shown consistently that a decrease in smoking follows an increase in the price of tobacco products (U.S. DHHS, 2000). Based on their comments, those present appeared to accept that a tax would reduce tobacco consumption and result in health benefits. In summary, the forum allowed information to be presented to community members and leadership to aid their decision making about the tobacco tax. The forum was deemed a success.

During the next phase, the tobacco control champion presented voting results and the identified target areas for funding from the community forum to Community A's elected leadership. The presentation was similar to that made at the community forum, and was also followed by a dialogue. Based on this discussion, the leadership decided that the funds remaining from the \$5,000 Health Canada taxation programming grant would be used to gather additional information by communicating with communities that already taxed tobacco products to identify (1) how they had advanced the implementation of the tax and (2) what the resulting implications for their communities were. A report based on this information would be presented to the Chief and Council before a final decision was made about implementing a tobacco tax in Community A.

Four months later, the report was completed and presented to the leadership. Generally, little information could be gleaned from the experience of other communities that collected the tax because they did not assess the tax's impact on smoking. As well, these communities often included the tobacco tax revenues in their general revenues without specifying which areas had been targeted. However, one community noted that they had used tax revenues to buy back traditional land. Based on the information gathered in the report and what is known about the health benefits related to tobacco taxation, the leadership voted to implement the tax. The leadership then met with the CRA to discuss collection of the tax. It was decided that vendors would collect the tax and submit the funds to the CRA, which would then forward the funds to the band. The leadership arranged for presentations on the tax to be made in leadership meetings and other appropriate venues, and included an article in the community newsletter related to the tax and how the revenue would be used. Approximately 3 months before implementation, notices were posted throughout the community and placed in the community newsletter.

Once the leadership made the announcement, there was a small, vocal group who raised concerns. They argued that more community discussions were needed as the tax could have major implications for the community, including the erosion of tax-exempt status and loss of Federal government funding. The leadership met with the group to discuss the matter; it was decided that the tax would be implemented for 1 year so that its impact could be assessed and this information shared with the community. A plebiscite would then be held, allowing community members to decide whether the tax would continue.

ONE YEAR LATER

The tax was implemented with generally positive feedback and some minor complaints. A Tobacco Prevention Coordinator was hired (see below) who made several presentations on the tax and what it meant to the community. During the year, the community newsletter carried messages to keep members abreast of progress in implementing the tax. Approximately \$200,000 was generated; this money was equally distributed to the five areas chosen in the initial community forum (i.e., each program area received \$40,000). The revenue was utilized as follows:

- *Youth:* Trips to sporting events and conferences, team uniforms and sporting equipment, partial support of a youth drop-in center, and a parent-youth support group (development of life skills, including parenting skills)
- *Elders:* A transportation program and a Meals for Elders group
- *Housing:* Partial support of a community home mold remediation program
- *Tobacco/Addiction Prevention Activities:* Hiring a Tobacco Prevention Coordinator to develop and implement prevention activities, including the creation of smoke-free spaces; enhancing Driving While Impaired (DWI) penalties (including the exploration of an alternative justice program for individuals convicted of DWI); and support of an alcohol server trainer program
- *Priority Area:* Investigation of the impact that a local industry plant is having upon traditional foods, including human health effects

Once the tax had been in place for a year, the Tobacco Prevention Coordinator spearheaded a community forum at which tax revenue and program information was presented to community members and leadership. In general, the majority of community members present agreed that the tax was beneficial and thought that it should continue. Following the forum, similar presentations were made by the Coordinator to elected leadership, with positive feedback. The information was also presented in the community newsletter, and the Coordinator disseminated copies of a report summarizing information about the tax revenue and its program implications throughout the community.

Once the presentations were complete and the community had opportunity to review the report, a plebiscite was held in which 60% of band members indicated that they supported the tobacco tax; thus, it remained in place. Occasionally there are complaints from community members who oppose the collection of the tax. Annual updates on the use of the revenues are provided in the community newsletter, at Chief and Council meetings, and via dissemination of an annual summary report. In summary, the majority of community members feel the tax benefits the community and continue to support its collection.

CONCLUSION

FN people smoke at a higher rate than other Canadians, in part because they are exempt from taxation of tobacco products purchased on reserve. Tobacco taxation has economic and health benefits but is underutilized by FN communities. A commentary on tobacco taxation is presented to provide additional information to FN communities in their efforts to reduce tobacco use. Significant benefits (i.e., decreasing tobacco consumption, creating funding for community programs) may be derived from implementing the tax in communities where support can be mobilized.

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