



**FREDERICKS PEEBLES & MORGAN LLP**  
ATTORNEYS AT LAW

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**FPM SECURES VICTORY FOR THE FLANDREAU SANTEE SIOUX  
TRIBE AND BLOCKS COLLECTION OF SOUTH DAKOTA STATE TAX**

On September 15, 2017, the Flandreau Santee Sioux Tribe welcomed a victory from federal district court Judge Lawrence Piersol. In the case, Flandreau Santee Sioux Tribe v. Gerlach, Judge Piersol recognized the unlawfulness of State taxes on purchases of goods and services by non-tribal members at the Royal River Casino & Hotel. The ruling means “the State does not have jurisdiction to impose a use tax on nonmember purchases of goods and services at the Royal River Casino's slots, table games, food and beverage services, hotel, RV park, live entertainment events, and gift shop” as such taxation is preempted by the Indian Gaming Regulatory Act (“IGRA”). South Dakota can no longer condition renewal of the Tribe's alcohol beverage license on the collection and remittance of a use tax on non-tribal member consumer purchases.

This case represents a substantial victory in ensuring that tribes in South Dakota are not unduly burdened with invalid state tax on economic activity critical to tribal economic self-sufficiency. FPM Attorney Rebecca Kidder was elated by the decision stating, “It is my hope that this ruling will secure for the tribes in South Dakota the same protections afforded to other tribes throughout the United States under Supreme Court precedents and governing federal law, and usher in a new era of cooperation with South Dakota in promoting economic development within tribal nations that benefits all of the citizens of the State and all communities within South Dakota.”

The ruling did indicate that the State-tax authority on the Tribe's convenience store may have been lessened if the mini-mart was not structured as “single business entity.” Judge Piersol noted that the mini-mart is not “sufficiently complementary to gaming.” This suggests that the door is not completely closed to future decisions that prevent states from taxing convenience stores that are associated with casinos.

This legal battle began in November 2014. Tribal leaders had enough when the State of South Dakota refused to re-issue alcohol beverage licenses for the Tribe's casino, mini-mart, and bowling center. The State said that such licenses would not be re-issued until the Tribe paid the disputed taxes. But the Court determined that gaming is an essential revenue source for tribes, and the consumption of goods directly tied gaming cannot be taxed, except for that permitted by the IGRA.

"The tribe showed tremendous dedication and perseverance in securing this victory," said FPM Senior Partner John Peebles. "It is a victory that will stimulate economic development in Indian Country for years to come."

The tribe is represented by John M. Peebles, Rebecca L. Kidder, Steven J. Bloxham, John Nyhan and Tim Hennessy of Fredericks Peebles & Morgan LLP.

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Fredericks Peebles & Morgan is dedicated to representation of American Indian tribes and organizations throughout the United States. Our firm goes beyond basic legal services to include innovative solutions for tribal government, businesses and communities..