

2008--A

2011-2012 Regular Sessions

I N   S E N A T E

January 14, 2011

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Introduced by Sens. GRIFFO, LARKIN -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- recommitted to the Committee on Investigations and Government Operations in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the tax law, in relation to taxes on cigarettes sold on an Indian reservation to non-members of the Indian nation or tribe

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Subdivision 1 of section 471 of the tax law, as amended by  
2     section 1 of part D of chapter 134 of the laws of 2010, is amended to  
3     read as follows:  
4     1. There is hereby imposed and shall be paid a tax on all cigarettes  
5     possessed in the state by any person for sale, except that no tax shall  
6     be imposed on cigarettes sold under such circumstances that this state  
7     is without power to impose such tax, including sales to qualified Indi-  
8     ans for their own use and consumption on their nations' or tribes' qual-  
9     ified reservation, or sold to the United States or sold to or by a  
10    voluntary unincorporated organization of the armed forces of the United  
11    States operating a place for the sale of goods pursuant to regulations  
12    promulgated by the appropriate executive agency of the United States, to  
13    the extent provided in such regulations and policy statements of such an  
14    agency applicable to such sales. The tax imposed by this section is  
15    imposed on all cigarettes sold on an Indian reservation to non-members  
16    of the Indian nation or tribe and to non-Indians and evidence of such  
17    tax shall be by means of an affixed cigarette tax stamp. Indian nations  
18    or tribes may elect to participate in the Indian tax exemption coupon  
19    system established in section four hundred seventy-one-e of this article  
20    which provides a mechanism for the collection of the tax imposed by this  
21    section on cigarette sales on qualified reservations to such non-members

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 and non-Indians and for the delivery of quantities of tax-exempt ciga-  
2 rettes to Indian nations or tribes for the personal use and consumption  
3 of qualified members of the Indian nation or tribe. If an Indian nation  
4 or tribe does not elect to participate in the Indian tax exemption  
5 coupon system, the prior approval system shall be the mechanism for the  
6 delivery of quantities of tax-exempt cigarettes to Indian nations or  
7 tribes for the personal use and consumption of qualified members of the  
8 Indian nation or tribe as provided for in paragraph (b) of subdivision  
9 five of this section. Such tax on cigarettes shall be at the rate of  
10 four dollars and thirty-five cents for each twenty cigarettes or frac-  
11 tion thereof, provided, however, that if a package of cigarettes  
12 contains more than twenty cigarettes, the rate of tax on the cigarettes  
13 in such package in excess of twenty shall be one dollar and eight and  
14 three-quarters cents for each five cigarettes or fraction thereof.  
15 PROVIDED FURTHER THAT IF THE STATE FAILS TO COLLECT TAXES ON CIGARETTES  
16 SOLD ON AN INDIAN RESERVATION TO NON-MEMBERS OF THE INDIAN NATION OR  
17 TRIBE BY SEPTEMBER FIRST, TWO THOUSAND TWELVE, THAT SUCH CIGARETTE TAX  
18 RATE WOULD REVERT TO THE RATE OF TWO DOLLARS AND SEVENTY-FIVE CENTS AS  
19 PREVIOUSLY STATED IN LAW BEFORE THE PASSAGE OF CHAPTER ONE HUNDRED THIR-  
20 TY-FOUR OF THE LAWS OF TWO THOUSAND TEN. ONCE THE STATE BEGINS COLLECT-  
21 ING TAXES ON CIGARETTES SOLD ON AN INDIAN RESERVATION TO NON-MEMBERS OF  
22 THE INDIAN NATION OR TRIBE, THE CIGARETTE TAX RATE WOULD BE IMPOSED AT  
23 FOUR DOLLARS AND THIRTY-FIVE CENTS AS SPECIFIED IN CHAPTER ONE HUNDRED  
24 THIRTY-FOUR OF THE LAWS OF TWO THOUSAND TEN. Such tax is intended to be  
25 imposed upon only one sale of the same package of cigarettes. It shall  
26 be presumed that all cigarettes within the state are subject to tax  
27 until the contrary is established, and the burden of proof that any  
28 cigarettes are not taxable hereunder shall be upon the person in  
29 possession thereof.

30 S 2. This act shall take effect immediately.