

6839

I N S E N A T E

March 28, 2012

Introduced by Sen. GOLDEN -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to the tax on certain tobacco products; and providing for the repeal of certain provisions of such law relating thereto

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

1 Section 1. The opening paragraph of subdivision 1 of section 471-b of
2 the tax law, as amended by section 2 of part QQ1 of chapter 57 of the
3 laws of 2008, is amended to read as follows:
4 There is hereby imposed and shall be paid a tax on all tobacco
5 products [possessed in this state by any person for sale] SOLD, SHIPPED
6 OR DELIVERED WITHIN THIS STATE BY ANY PERSON, except that no tax shall
7 be imposed on tobacco products sold under such circumstances that this
8 state is without power to impose such tax, or sold to the United States,
9 or sold to or by a voluntary unincorporated organization of the armed
10 forces of the United States operating a place for the sale of goods
11 pursuant to regulations promulgated by the appropriate executive agency
12 of the United States, to the extent provided in such regulations and
13 policy statements of such an agency applicable to such sales.
14 S 2. Paragraph (a) of subdivision 1 of section 471-b of the tax law,
15 as amended by section 18 of part D of chapter 134 of the laws of 2010,
16 is amended to read as follows:
17 (a) (I) Such tax on tobacco products other than CIGARS, snuff and
18 little cigars shall be at the rate of seventy-five percent of the whole-
19 sale price, and is intended to be imposed only once upon the sale of any
20 tobacco products other than CIGARS, snuff and little cigars.
21 (II) SUCH TAX ON CIGARS SHALL BE AT A RATE OF SEVENTY-FIVE PERCENT OF
22 THE WHOLESALE PRICE OR ONE DOLLAR PER CIGAR, WHICHEVER IS LESS, AND IS
23 INTENDED TO BE IMPOSED ONLY ONCE UPON THE SALE OF ANY CIGAR.
24 S 3. Paragraphs (i), (ii) and (iii) of subdivision (a) of section
25 471-c of the tax law, paragraphs (i) and (ii) as amended by section 20

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

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1 and paragraph (iii) as added by section 21 of part D of chapter 134 of
2 the laws of 2010, are amended to read as follows:

3 (i) Such tax on tobacco products other than CIGARS, snuff and little
4 cigars shall be at the rate of seventy-five percent of the wholesale
5 price.

6 (ii) SUCH TAX ON CIGARS SHALL BE AT THE RATE OF SEVENTY-FIVE PERCENT
7 OF THE WHOLESALE PRICE OR ONE DOLLAR PER CIGAR, WHICHEVER IS LESS, AND
8 IS INTENDED TO BE IMPOSED ONLY ONCE UPON THE SALE OF ANY CIGAR.

9 (III) Such tax on snuff shall be at the rate of two dollars per ounce
10 and a proportionate rate on any fractional parts of an ounce, provided
11 that cans or packages of snuff with a net weight of less than one ounce
12 shall be taxed at the equivalent rate of cans or packages weighing one
13 ounce. Such tax shall be computed based on the net weight as listed by
14 the manufacturer.

15 [(iii)] (IV) Such tax on little cigars shall be at the same rate
16 imposed on cigarettes under this article and is intended to be imposed
17 only once upon the sale of any little cigars.

18 S 4. Subdivision 1 of section 473-a of the tax law, as added by chap-
19 ter 61 of the laws of 1989, is amended to read as follows:

20 1. Every distributor shall, on or before the twentieth day of each
21 month, file with the commissioner of taxation and finance a return on
22 forms to be prescribed and furnished by the commissioner, showing the
23 quantity and wholesale price of all tobacco products [imported or caused
24 to be imported into the state by him or manufactured in the state by
25 him], SOLD, SHIPPED OR DELIVERED WITHIN THIS STATE BY SUCH DISTRIBUTOR
26 during the preceding calendar month. Every distributor authorized by the
27 commissioner to make returns and pay the tax on tobacco products sold,
28 shipped or delivered by [him] SUCH DISTRIBUTOR to any person in the
29 state shall file a return showing the quantity and wholesale price of
30 all tobacco products so sold, shipped or delivered during the preceding
31 calendar month. Provided, however, the commissioner may, if he OR SHE
32 deems it necessary in order to insure the payment of the taxes imposed
33 by this article, require returns to be made at such times and covering
34 such periods as he OR SHE may deem necessary, and, by regulation, may
35 permit the filing of returns on a quarterly, semi-annual or annual
36 basis, or may waive the filing of returns by a distributor for such time
37 and upon such terms as he OR SHE may deem proper if satisfied that no
38 tax imposed by this article is or will be payable by [him] SUCH DISTRIB-
39 UTOR during the time for which returns are waived. Such returns shall
40 contain such further information as the commissioner may require.

41 S 5. The commissioner of taxation and finance, in conjunction with the
42 director of the division of the budget, shall submit to the governor,
43 the temporary president of the senate, and the speaker of the assembly,
44 an annual report to be submitted in July of each year evaluating the tax
45 on tobacco products. Such report shall include, but not be limited to,
46 the quantity of all tobacco products, by category, sold, shipped or
47 delivered in the state during the preceding fiscal year, the amount of
48 tax revenue received on tobacco products, by category, as well as the
49 number of distributors filing and paying such taxes to the state during
50 the preceding fiscal year. Such report shall be based on data available
51 from the returns filed with the department of taxation and finance as
52 well as from any final determinations of taxes assessed by the depart-
53 ment. Notwithstanding any provision of law to the contrary, the informa-
54 tion contained in the report shall be public information. The report may
55 also include any recommendations for changes in the imposition or admin-
56 istration of the tax, and any other recommendation of such commissioner

1 regarding continuing modification, or repeal of such tax, and such other
2 information regarding the tax as the commissioner may feel useful and
3 appropriate.

4 S 6. The commissioner of taxation and finance shall establish proce-
5 dures to provide for a credit against taxes paid by distributors for
6 periods prior to the effective date of this act to offset the taxes due
7 on or after the effective date of this act.

8 S 7. This act shall take effect on the first day of the month next
9 commencing at least ninety days after this act shall have become a law;
10 provided that the commissioner of taxation and finance shall be author-
11 ized on and after the date this act shall have become a law to adopt and
12 amend any rules and regulations and issue any procedure, forms or
13 instructions necessary to implement the provisions of this act on its
14 effective date; and provided further, that sections two and three of
15 this act shall expire and be deemed repealed December 31, 2017.