

2401

2013-2014 Regular Sessions

I N   S E N A T E

January 17, 2013

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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

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 Indians  
8     for their own use and consumption on their nations' or tribes' qualified  
9     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  
22    and non-Indians and for the delivery of quantities of tax-exempt cigarettes  
23    to Indian nations or tribes for the personal use and consumption  
24    of qualified members of the Indian nation or tribe. If an Indian nation

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

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

27 S 2. This act shall take effect immediately.