

AMENDMENTS TO LB1074

Introduced by Linehan, 39.

1           1. Insert the following new section:

2           Sec. 2. Section 77-2602.05, Reissue Revised Statutes of Nebraska, is  
3 amended to read:

4           77-2602.05 (1) A person that paid taxes applicable under section  
5 77-2602 on cigarettes sold in an exempt transaction shall be eligible for  
6 a refund of the taxes paid on those cigarettes.

7           (2) Exempt transactions, for purposes of this section and section  
8 69-2703, are defined as:

9           (a) Cigarette sales on a federal installation in a transaction that  
10 is exempt from state taxation under federal law; and

11           (b) Cigarette sales on an Indian tribe's Indian country to its  
12 tribal members where state taxation is precluded by federal law.

13           (3) Except as provided in subsection (5) of this section, the person  
14 seeking a refund of taxes shall submit an application to the Tax  
15 Commissioner providing documentation sufficient to demonstrate (a) that  
16 the cigarettes were sold in a package bearing the correct stamp required  
17 under section 77-2603 or 77-2603.01 and that the stamp was one that  
18 required payment of tax, (b) that the person paid the applicable taxes in  
19 question, (c) that the cigarettes were sold in an exempt transaction, and  
20 (d) that the person has not previously obtained the refund on the  
21 cigarettes. The documentation shall include, in addition to information  
22 necessary to meet the requirements of subdivisions (3)(a) through (d) of  
23 this section and any other information that the Tax Commissioner may  
24 reasonably require, documents showing the identity of the seller and  
25 purchaser and the places of shipment and delivery of the cigarettes. The  
26 Tax Commissioner shall verify the accuracy and completeness of the  
27 required documentation and information before granting the requested

1 refund.

2 (4) If a meritorious refund claim under subsection (3) of this  
3 section is not paid within sixty days after submission of the required  
4 documentation, the refund shall include interest on the amount of such  
5 refund at the rate specified in section 45-104.02 as such rate existed at  
6 the date of submission of the required documentation.

7 (5) The Tax Commissioner and an Indian tribe may agree upon a tax  
8 refund formula to operate in lieu of application for refunds under  
9 subsection (3) of this section. The aggregate refund provided to an  
10 Indian tribe under a formula for a year shall not exceed the aggregate  
11 tax paid by entities owned and operated by that tribe or a member of that  
12 tribe on cigarettes sold in exempt transactions on that tribe's Indian  
13 country during that year. Refunds of taxes under subsection (3) of this  
14 section shall not be available for cigarettes sold in exempt transactions  
15 on an Indian tribe's Indian country by an Indian tribe that agrees upon a  
16 refund formula under this subsection. Nothing in this subsection shall  
17 limit the state's authority to enter into an agreement pursuant to  
18 section 77-2602.06 pertaining to the collection and dissemination of any  
19 cigarette taxes which may otherwise be inconsistent with this subsection.

20 (6) Any product that is taxed as a cigar under Title 26 of the  
21 United States Code, as such title existed on January 1, 2020, and is a  
22 cigarette for purposes of section 77-2602, shall not be treated as a  
23 cigarette for purposes of (a) subdivision (4) of section 69-2702 and the  
24 Master Settlement Agreement as defined in section 69-2702 or (b) the  
25 Reduced Cigarette Ignition Propensity Act.

26 2. Renumber the remaining sections and correct the repealer  
27 accordingly.