LEGISLATION OF NEBRASKA
ONE HUNDRED SIXTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1013

Introduced by Linehan, 39.
Read first time January 15, 2020
Committee: Revenue

1 A BILL FOR AN ACT relating to tobacco; to amend section 77-2602.05,
2 Reissue Revised Statutes of Nebraska; to change provisions relating
3 to a cigarette tax and exempt transactions; to repeal the original
4 section; and to declare an emergency.
5 Be it enacted by the people of the State of Nebraska,
Section 1. Section 77-2602.05, Reissue Revised Statutes of Nebraska, is amended to read:

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

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

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

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

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

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

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

(6) Any product that is taxed as a cigar under Title 26 of the United States Code, and is a cigarette for purposes of section 77-2602, shall not be treated as a cigarette for purposes of subdivision (4) of section 69-2702 and the Master Settlement Agreement as defined in section 69-2702.

Sec. 2. Original section 77-2602.05, Reissue Revised Statutes of Nebraska, is repealed.

Sec. 3. Since an emergency exists, this act takes effect when passed and approved according to law.