

1 **CREDIT OR REFUND FOR TAX PAID ON CIGARETTE**
2 **OR TOBACCO PRODUCT DESTROYED**
3 **OR RETURNED TO THE MANUFACTURER**

4 2005 GENERAL SESSION

5 STATE OF UTAH

6 **Sponsor: Eric K. Hutchings**

7
8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Cigarettes and Tobacco Products part to create a tax credit or
11 refund.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ provides definitions;
- 15 ▶ allows a credit or refund for a tax paid on certain cigarettes or tobacco products that
16 are destroyed or returned to the manufacturer;
- 17 ▶ provides procedures and requirements for the State Tax Commission to grant the
18 credit or refund;
- 19 ▶ addresses the payment of interest on the credit or refund; and
- 20 ▶ grants rulemaking authority to the State Tax Commission.

21 **Monies Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 This bill has retrospective operation to January 1, 2005.

25 **Utah Code Sections Affected:**

26 ENACTS:

27 **59-14-409**, Utah Code Annotated 1953



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Be it enacted by the Legislature of the state of Utah:

Section 1. Section **59-14-409** is enacted to read:

59-14-409. Definitions -- Credit or refund for tax paid on cigarette or tobacco product that is destroyed or returned to the manufacturer -- Interest.

(1) As used in this section, "licensed person" means a person:

(a) licensed by the commission in accordance with Section 59-14-202; and

(b) that is a:

(i) distributor;

(ii) jobber;

(iii) manufacturer;

(iv) retailer;

(v) wholesaler; or

(vi) a person similar to a person described in Subsections (1)(b)(i) through (v) as determined by the commission by rule.

(2) A licensed person may apply to the commission for a credit or refund as provided in Subsection (3) if the licensed person:

(a) on or after January 1, 2005, removes from retail sale or from storage:

(i) a cigarette; or

(ii) a tobacco product;

(b) before the licensed person removes the cigarette or tobacco product from retail sale or from storage, remits a tax:

(i) to the commission;

(ii) on the:

(A) cigarette; or

(B) tobacco product; and

(iii) in accordance with:

(A) Part 2, Cigarettes; or

(B) Part 3, Tobacco Products; and

(c) verifies to the commission that the cigarette or tobacco product described in Subsection (2)(a) has been:

59 (i) returned to the manufacturer of the cigarette or tobacco product; or

60 (ii) destroyed.

61 (3) The amount of the credit or refund described in Subsection (2) is equal to:

62 (a) for a cigarette removed from retail sale or from storage, the amount of tax the

63 licensed person paid on the cigarette in accordance with Part 2, Cigarettes; or

64 (b) for a tobacco product removed from retail sale or from storage, the amount of tax

65 the licensed person paid on the tobacco product in accordance with Part 3, Tobacco Products.

66 (4) (a) The commission shall grant a credit or refund under this section if the

67 commission determines that a licensed person meets the requirements of Subsection (2).

68 (b) If the commission makes a credit or refund under this section within a 90-day

69 period after the day on which a licensed person submits an application to the commission for

70 the credit or refund, interest may not be added to the amount of credit or refund.

71 (c) If the commission makes a credit or refund under this section more than 90 days

72 after the day on which a licensed person submits an application to the commission for the

73 credit or refund, interest shall be added to the amount of credit or refund as provided in Section

74 59-1-402.

75 (5) (a) The commission may create a form for:

76 (i) a licensed person to:

77 (A) submit a claim for a credit or refund; or

78 (B) verify to the commission that a cigarette or tobacco product has been:

79 (I) returned to the manufacturer of the cigarette or tobacco product; or

80 (II) destroyed; or

81 (ii) processing a claim for a credit or refund for payment.

82 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

83 commission may make rules defining a person similar to a person described in Subsections

84 (1)(b)(i) through (v).

85 **Section 2. Retrospective operation.**

86 This bill has retrospective operation to January 1, 2005.

Legislative Review Note

as of 1-28-05 11:58 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0247

**Credit or Refund for Tax Paid on Cigarette or Tobacco
Product Destroyed or Returned to the Manufacturer**

*08-Feb-05
10:24 AM*

AMENDED NOTE

State Impact

Passage of this bill could decrease the General Fund by \$200,000 in FY 2006.

	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2006</u> <u>Revenue</u>	<u>FY 2007</u> <u>Revenue</u>
General Fund	\$0	\$0	(\$200,000)	\$0
TOTAL	\$0	\$0	(\$200,000)	\$0

Individual and Business Impact

Individual impact is dependent upon the level of credit claimed.

Office of the Legislative Fiscal Analyst