



Council of the Cherokee Nation

Cherokee Nation Tribal
Council
17763 S. Muskogee Ave.
Tahlequah, OK 74464

Legislation Text

File #: 13-128, Version: 3

A LEGISLATIVE ACT RELATING TO AND APPROVING A CERTAIN COMPACT WITH THE STATE OF OKLAHOMA TO BE KNOWN AS THE "CHEROKEE NATION-STATE OF OKLAHOMA TOBACCO COMPACT ACT OF 2013"

BE IT ENACTED BY THE CHEROKEE NATION:

Section 1. Title and Codification

This Act shall be known as the "Cherokee Nation - State of Oklahoma Tobacco Tax Compact Act of 2013" and codified as _____, Title _____, Section _____ of the Cherokee Nation Code Annotated (CNCA).

Section 2. Purpose

The Nation and the State agree to enter into a compact for the mutual benefit of both sovereign governments. In recognition of the sovereign authority of the Cherokee Nation to exercise the powers of self-government and the authority of the State of Oklahoma to act as an independent state, this law authorizes the Principal Chief to approve a compact and to take the necessary action to implement the requirements of its provisions as authorized and approved by the Council of the Cherokee Nation.

Section 3. Approval of Compact; Authority to Execute

The Compact has been negotiated by the Principal Chief and the Governor of the State of Oklahoma, a copy of which is attached hereto and incorporated herein by reference, is hereby approved and becomes effective as agreed to under the terms of the Compact.

Section 4. Tax Rates Relating to Cigarettes and Other Tobacco Products

The tribal tax on cigarettes will be \$3.65 per carton for all cigarettes sold from November 1, 2013 through December 31, 2013. The tribal tax on cigarettes will be \$1.50 per carton from January 1, 2014 through September 30, 2014. From October 1, 2014 through the end of the Compact Term, the tribal tax on cigarettes will be \$0.80 per carton.

A tribal retailer who agrees to forego payment of any rebate until after the Nation receives its payment from the State of Oklahoma and reconciles that payment against the tribal retailer's actual sales may opt out of the \$3.65 per carton tax. A tribal retailer who opts out will pay the \$1.50 per carton rate from November 1, 2013 through September 31, 2014. A tribal retailer's decision to opt-out must be delivered in writing to the Cherokee Nation Tax Commission by 5:00 p.m. on November 15, 2013. Once delivered, the decision of the tribal retailer to opt-out is final and cannot be withdrawn.

For other tobacco products, the tribal tax will be 10% of the wholesale list price.

Section 5. Tax Rebates to Tribal Retailers on Cigarettes and Other Tobacco Products

The Cherokee Nation Tax Commission will rebate \$3.56 per carton of cigarettes sold by a licensed tribal retailer from November 1, 2013 through December 31, 2013. The rebate to tribal retailers will be \$5.71 per carton from January 1, 2014 through September 30, 2014. From October 1, 2014 through the end of the Tobacco Compact term, the rebate to tribal retailers will be \$6.41 per carton.

A tribal retailer who agrees to forego payment of any rebate payment until after the Nation receives its payment from the State of Oklahoma and reconciles that payment against the tribal retailer's actual sales may opt out of the \$3.65 per carton tax. A tribal retailer who opts out will receive \$5.71 per carton from November 1, 2013 through September 31, 2014. No rebate will be paid to a tribal retailer who has opted out until after the Cherokee Nation receives its revenue from the State of Oklahoma and reconciles the individual tribal retailer's sales. A tribal retailer's decision to opt-out must be delivered in writing to the Cherokee Nation Tax Commission by 5:00 p.m. on November 15, 2013. Once delivered, the decision of the tribal retailer to opt-out is final and cannot be withdrawn.

For other tobacco products, the Cherokee Nation Tax Commission will rebate 55% of the wholesale list price to the tribal tobacco retailer.

Section 6. Provisions as cumulative

The provisions of this act shall be cumulative to existing law except as the terms of this compact shall supersede provisions of the previous Tobacco Tax Compacts approved by LA 03-92; LA 44-03; LA 07-04 and LA 28-08.

Section 7. Severability

The provisions of this act are severable and if any part of provision hereof shall be held void the decision of the court so holding shall not affect or impair any of the remaining parts or provisions of this act.

Emergency declared.

It being immediately necessary for the welfare of the Cherokee Nation, the Council hereby declares that an emergency exists, by reason whereof this Act shall take effect and be in full force after its passage and approval.