



## Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873  
Email: [fiscal.bureau@legis.wisconsin.gov](mailto:fiscal.bureau@legis.wisconsin.gov) • Website: <http://legis.wisconsin.gov/lfb>

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Joint Committee on Finance

Paper #352

### **Cigarette and Tobacco Product Tax Refunds -- Current Law Reestimate (General Fund Taxes -- Excise Taxes and Other Taxes)**

[LFB 2019-21 Budget Summary: Page 156, #4]

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#### **CURRENT LAW**

Federal law prohibits states from imposing a cigarette tax on sales of cigarettes by Native Americans to Native Americans on reservations or trust land. Under current law, DOR may enter into agreements with Native American tribes to provide for the refunding of cigarette and tobacco product taxes imposed on such sales. For sales of cigarettes that occur on reservations or trust land, the tribes receive a refund of 100% of the excise tax paid on cigarettes sold to eligible tribal members and 70% of the tax on sales to nontribal members. For tobacco products sold on reservations or trust land, the tribes receive a refund of 100% of the tax on products sold to eligible tribal members and 50% of the tax on products sold to nontribal members. Eligible tribal members must reside on the reservation or trust land of the tribe where the sale took place and be an enrolled member of that tribe.

Cigarette and tobacco product tax refunds to Native American tribes are paid through a sum sufficient GPR appropriation. Base funding for the appropriation is \$33,996,000.

#### **GOVERNOR**

Decrease funding for cigarette and tobacco product tax refunds by \$361,000 in 2019-20 and \$871,000 in 2020-21 to reflect lower estimates of the sum sufficient appropriation needed to reimburse Native American tribes under current law. Estimate expenditures from the cigarette and tobacco products tax refunds appropriation at \$33,635,000 in 2019-20 and \$33,125,000 in 2020-21. These figures do not include the impact of the proposed tax increases recommended by the Governor on certain nicotine and tobacco products.

## MODIFICATION

Reestimate the sum sufficient appropriation for cigarette and tobacco product tax refunds under current law at \$32,200,000 in 2019-20 and at \$31,700,000 in 2020-21. Compared to the bill, the reestimate would decrease the appropriation by \$1,435,000 in 2019-20 and \$1,425,000 in 2020-21.

**Explanation:** Estimates for tribal refunds incorporate the historical ratio of: (a) cigarette refunds to total cigarette tax collections; and (b) tobacco refunds to cigarette refunds. Expenditures in 2018-19 are estimated at \$32,700,000, below the base funding level. The reestimates more accurately reflect the current cigarette and tobacco products tax revenues estimated by this office for the 2019-21 biennium.

	Change to	
	Base	Bill
GPR	- \$4,092,000	- \$2,860,000

Prepared by: Dan Spika