

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

**SESSION LAW 2005-406  
SENATE BILL 868**

AN ACT TO AMEND THE ENTERPRISE TIER STRUCTURE UNDER THE WILLIAM S. LEE QUALITY JOBS AND BUSINESS EXPANSION ACT AND TO ALLOW FOR A REFUND OF EXCISE TAX ON UNSALABLE CIGARS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 105-129.3 is amended by adding a new subsection to read:

"(d1) Exception for Certain Multi-Jurisdictional Industrial Park. – For the purpose of this Article, an eligible industrial park created by interlocal agreement under G.S. 158-7.4 has the lowest enterprise tier designation of the designations of the counties in which it is located if all of the following conditions are satisfied:

- (1) The industrial park is located, at one or more sites, in four or more contiguous counties.
- (2) At least two of the counties in which the industrial park is located are enterprise tier one areas.
- (3) The industrial park is owned by four or more units of local government or a nonprofit corporation owned or controlled by four or more units of local government.
- (4) In each county in which the industrial park is located, the park has at least 300 developable acres. For the purposes of this subdivision, 'developable acres' includes acreage that is owned directly by the industrial park or its owners or that is the subject of a development agreement between the industrial park or its owners and a third-party owner.
- (5) The total population of all of the counties in which the industrial park is located is less than 200,000.
- (6) In each county in which the industrial park is located, at least sixteen and eight-tenths percent (16.8%) of the population was Medicaid eligible for the 2003-2004 fiscal year based on 2003 population estimates."

**SECTION 2.** G.S. 105-113.39 reads as rewritten:

**"§ 105-113.39. ~~Discount.~~Discount; refund.**

(a) Discount. – A wholesale dealer or a retail dealer who is primarily liable under G.S. 105-113.35(b) for the excise taxes imposed by this Part, who files a timely report under G.S. 105-113.37, and who sends a timely payment may deduct from the amount due with the report a discount of two percent (2%). This discount covers losses due to

damage to tobacco products, expenses incurred in preparing the records and reports required by this Part, and the expense of furnishing a bond.

(b) Refund. – A wholesale dealer or retail dealer who is primarily liable under G.S. 150-113.35(b) for the excise taxes imposed by this Part and is in possession of stale or otherwise unsalable cigars upon which the tax has been paid may return the cigars to the manufacturer and apply to the Secretary for refund of the tax. The application shall be in the form prescribed by the Secretary and shall be accompanied by an affidavit from the manufacturer stating the number of cigars returned to the manufacturer by the applicant. The Secretary shall refund the tax paid, less the discount allowed, on the unsalable cigars."

**SECTION 3.** Section 1 of this act is effective for taxable years beginning on or after January 1, 2005. Section 2 of this act becomes effective September 1, 2005. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 24<sup>th</sup> day of August, 2005.

s/ Beverly E. Perdue  
President of the Senate

s/ James B. Black  
Speaker of the House of Representatives

s/ Michael F. Easley  
Governor

Approved 1:10 p.m. this 20<sup>th</sup> day of September, 2005