

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Use Tax Act is amended by changing Section
5 11 as follows:

6 (35 ILCS 105/11) (from Ch. 120, par. 439.11)

7 Sec. 11. Every retailer required or authorized to collect
8 taxes hereunder and every person using in this State tangible
9 personal property purchased at retail from a retailer on or
10 after the effective date hereof shall keep such records,
11 receipts, invoices and other pertinent books, documents,
12 memoranda and papers as the Department shall require, in such
13 form as the Department shall require. The Department may adopt
14 rules that establish requirements, including record forms and
15 formats, for records required to be kept and maintained by
16 taxpayers. For purposes of this Section, "records" means all
17 data maintained by the taxpayer, including data on paper,
18 microfilm, microfiche or any type of machine-sensible data
19 compilation. For the purpose of administering and enforcing the
20 provisions hereof, the Department, or any officer or employee
21 of the Department designated, in writing, by the Director
22 thereof, may hold investigations and hearings concerning any
23 matters covered herein and may examine any books, papers,

1 records, documents or memoranda of any retailer or purchaser
2 bearing upon the sales or purchases of tangible personal
3 property, the privilege of using which is taxed hereunder, and
4 may require the attendance of such person or any officer or
5 employee of such person, or of any person having knowledge of
6 the facts, and may take testimony and require proof for its
7 information.

8 Any person who fails to keep books and records or fails to
9 produce books and records for examination, as required by this
10 Section and the rules adopted by the Department, is liable to
11 pay to the Department, for deposit into the Tax Compliance and
12 Administration Fund, a penalty of \$1,000 for the first failure
13 to keep books and records or produce books and records for
14 examination and a penalty of \$3,000 for each subsequent failure
15 to keep books and records or produce books and records for
16 examination as required by this Section and the rules adopted
17 by the Department. The penalties imposed under this Section
18 shall not apply if the taxpayer shows that he or she acted with
19 ordinary business care and prudence. The Department may adopt
20 rules to administer the penalties under this Section.

21 (Source: P.A. 88-480.)

22 Section 10. The Service Use Tax Act is amended by changing
23 Section 11 as follows:

24 (35 ILCS 110/11) (from Ch. 120, par. 439.41)

1 Sec. 11. Every serviceman required or authorized to collect
2 taxes hereunder and every user who is subject to the tax
3 imposed by this Act shall keep such records, receipts, invoices
4 and other pertinent books, documents, memoranda and papers as
5 the Department shall require, in such form as the Department
6 shall require. The Department may adopt rules that establish
7 requirements, including record forms and formats, for records
8 required to be kept and maintained by taxpayers. For purposes
9 of this Section, "records" means all data maintained by the
10 taxpayer, including data on paper, microfilm, microfiche or any
11 type of machine-sensible data compilation. For the purpose of
12 administering and enforcing the provisions hereof, the
13 Department, or any officer or employee of the Department
14 designated, in writing, by the Director thereof, may hold
15 investigations and hearings concerning any matters covered
16 herein and not otherwise delegated to the Illinois Independent
17 Tax Tribunal and may examine any relevant books, papers,
18 records, documents or memoranda of any serviceman or any
19 taxable purchaser for use hereunder, and may require the
20 attendance of such person or any officer or employee of such
21 person, or of any person having knowledge of the facts, and may
22 take testimony and require proof for its information.

23 Any person who fails to keep books and records or fails to
24 produce books and records for examination, as required by this
25 Section and the rules adopted by the Department, is liable to
26 pay to the Department, for deposit into the Tax Compliance and

1 Administration Fund, a penalty of \$1,000 for the first failure
2 to keep books and records or produce books and records for
3 examination and a penalty of \$3,000 for each subsequent failure
4 to keep books and records or produce books and records for
5 examination as required by this Section and the rules adopted
6 by the Department. The penalties imposed under this Section
7 shall not apply if the taxpayer shows that he or she acted with
8 ordinary business care and prudence. The Department may adopt
9 rules to administer the penalties under this Section.

10 (Source: P.A. 97-1129, eff. 8-28-12.)

11 Section 15. The Service Occupation Tax Act is amended by
12 changing Section 11 as follows:

13 (35 ILCS 115/11) (from Ch. 120, par. 439.111)

14 Sec. 11. Every supplier required or authorized to collect
15 taxes hereunder and every serviceman making sales of service in
16 this State on or after the effective date hereof shall keep
17 such records, receipts, invoices and other pertinent books,
18 documents, memoranda and papers as the Department shall
19 require, in such form as the Department shall require. The
20 Department may adopt rules that establish requirements,
21 including record forms and formats, for records required to be
22 kept and maintained by taxpayers. For purposes of this Section,
23 "records" means all data maintained by the taxpayer, including
24 data on paper, microfilm, microfiche or any type of

1 machine-sensible data compilation. For the purpose of
2 administering and enforcing the provisions hereof, the
3 Department, or any officer or employee of the Department
4 designated, in writing, by the Director thereof, may hold
5 investigations and hearings not otherwise delegated to the
6 Illinois Independent Tax Tribunal concerning any matters
7 covered herein and may examine any books, papers, records,
8 documents or memoranda of any supplier or serviceman bearing
9 upon the sales of services or the sales of tangible personal
10 property to servicemen, and may require the attendance of such
11 person or any officer or employee of such person, or of any
12 person having knowledge of the facts, and may take testimony
13 and require proof for its information.

14 Any person who fails to keep books and records or fails to
15 produce books and records for examination, as required by this
16 Section and the rules adopted by the Department, is liable to
17 pay to the Department, for deposit into the Tax Compliance and
18 Administration Fund, a penalty of \$1,000 for the first failure
19 to keep books and records or produce books and records for
20 examination and a penalty of \$3,000 for each subsequent failure
21 to keep books and records or produce books and records for
22 examination as required by this Section and the rules adopted
23 by the Department. The penalties imposed under this Section
24 shall not apply if the taxpayer shows that he or she acted with
25 ordinary business care and prudence. The Department may adopt
26 rules to administer the penalties under this Section.

1 (Source: P.A. 97-1129, eff. 8-28-12.)

2 Section 20. The Retailers' Occupation Tax Act is amended by
3 changing Section 7 as follows:

4 (35 ILCS 120/7) (from Ch. 120, par. 446)

5 Sec. 7. Every person engaged in the business of selling
6 tangible personal property at retail in this State shall keep
7 records and books of all sales of tangible personal property,
8 together with invoices, bills of lading, sales records, copies
9 of bills of sale, inventories prepared as of December 31 of
10 each year or otherwise annually as has been the custom in the
11 specific trade and other pertinent papers and documents. Every
12 person who is engaged in the business of selling tangible
13 personal property at retail in this State and who, in
14 connection with such business, also engages in other activities
15 (including, but not limited to, engaging in a service
16 occupation) shall keep such additional records and books of all
17 such activities as will accurately reflect the character and
18 scope of such activities and the amount of receipts realized
19 therefrom. The Department may adopt rules that establish
20 requirements, including record forms and formats, for records
21 required to be kept and maintained by taxpayers. For purposes
22 of this Section, "records" means all data maintained by the
23 taxpayer, including data on paper, microfilm, microfiche or any
24 type of machine-sensible data compilation.

1 All books and records and other papers and documents which
2 are required by this Act to be kept shall be kept in the
3 English language and shall, at all times during business hours
4 of the day, be subject to inspection by the Department or its
5 duly authorized agents and employees.

6 To support deductions made on the tax return form, or
7 authorized under this Act, on account of receipts from isolated
8 or occasional sales of tangible personal property, on account
9 of receipts from sales of tangible personal property for
10 resale, on account of receipts from sales to governmental
11 bodies or other exempted types of purchasers, on account of
12 receipts from sales of tangible personal property in interstate
13 commerce, and on account of receipts from any other kind of
14 transaction that is not taxable under this Act, entries in any
15 books, records or other pertinent papers or documents of the
16 taxpayer in relation thereto shall be in detail sufficient to
17 show the name and address of the taxpayer's customer in each
18 such transaction, the character of every such transaction, the
19 date of every such transaction, the amount of receipts realized
20 from every such transaction and such other information as may
21 be necessary to establish the non-taxable character of such
22 transaction under this Act.

23 Except in the case of a sale to a purchaser who will always
24 resell and deliver the property to his customers outside
25 Illinois, anyone claiming that he has made a nontaxable sale
26 for resale in some form as tangible personal property shall

1 also keep a record of the purchaser's registration number or
2 resale number with the Department.

3 It shall be presumed that all sales of tangible personal
4 property are subject to tax under this Act until the contrary
5 is established, and the burden of proving that a transaction is
6 not taxable hereunder shall be upon the person who would be
7 required to remit the tax to the Department if such transaction
8 is taxable. In the course of any audit or investigation or
9 hearing by the Department with reference to a given taxpayer,
10 if the Department finds that the taxpayer lacks documentary
11 evidence needed to support the taxpayer's claim to exemption
12 from tax hereunder, the Department is authorized to notify the
13 taxpayer in writing to produce such evidence, and the taxpayer
14 shall have 60 days subject to the right in the Department to
15 extend this period either on request for good cause shown or on
16 its own motion from the date when such notice is sent to the
17 taxpayer by certified or registered mail (or delivered to the
18 taxpayer if the notice is served personally) in which to obtain
19 and produce such evidence for the Department's inspection,
20 failing which the matter shall be closed, and the transaction
21 shall be conclusively presumed to be taxable hereunder.

22 Books and records and other papers reflecting gross
23 receipts received during any period with respect to which the
24 Department is authorized to issue notices of tax liability as
25 provided by Sections 4 and 5 of this Act shall be preserved
26 until the expiration of such period unless the Department, in

1 writing, shall authorize their destruction or disposal prior to
2 such expiration.

3 Any person who fails to keep books and records or fails to
4 produce books and records for examination, as required by this
5 Section and the rules adopted by the Department, is liable to
6 pay to the Department, for deposit into the Tax Compliance and
7 Administration Fund, a penalty of \$1,000 for the first failure
8 to keep books and records or produce books and records for
9 examination and a penalty of \$3,000 for each subsequent failure
10 to keep books and records or produce books and records for
11 examination as required by this Section and the rules adopted
12 by the Department. The penalties imposed under this Section
13 shall not apply if the taxpayer shows that he or she acted with
14 ordinary business care and prudence. The Department may adopt
15 rules to administer the penalties under this Section.

16 (Source: P.A. 88-480.)

17 Section 25. The Cigarette Tax Act is amended by changing
18 Sections 12, 13, 14, 15, 18b, and 18c and by adding Sections
19 13a, 15a, and 18d as follows:

20 (35 ILCS 130/12) (from Ch. 120, par. 453.12)

21 Sec. 12. Every distributor or secondary distributor who is
22 required to procure a license under this Act and who purchases
23 cigarettes for shipment into Illinois from a point outside this
24 State shall procure invoices in duplicate covering each such

1 shipment, shall make the invoices available for inspection upon
2 demand by a duly authorized employee of the Department, and
3 shall, if the Department so requires, furnish one copy of each
4 such invoice to the Department at the time of filing a return
5 or a report required by this Act.

6 (Source: P.A. 96-1027, eff. 7-12-10.)

7 (35 ILCS 130/13) (from Ch. 120, par. 453.13)

8 Sec. 13. Whenever any original package of cigarettes is
9 found in the place of business or in the possession of any
10 person who is not a licensed distributor under this Act without
11 proper stamps affixed thereto, or an authorized substitute
12 therefor imprinted thereon, underneath the sealed transparent
13 wrapper of such original package, as required by this Act, the
14 prima facie presumption shall arise that such original package
15 of cigarettes is kept therein or is held by such person in
16 violation of the provisions of this Act. If a presumption is
17 raised, the Department may, in addition to the penalties
18 imposed by Sections 18b and 18c of this Act and any other civil
19 or criminal penalties provided for in this Act, assess tax,
20 penalty, and interest on the original packages of cigarettes.

21 (Source: Laws 1953, p. 255.)

22 (35 ILCS 130/13a new)

23 Sec. 13a. Contraband cigarettes. Whenever a retailer
24 obtains original packages of cigarettes from an unlicensed

1 in-state or out-of-state distributor or person, a prima facie
2 presumption shall arise that such original packages of
3 cigarettes are contraband and are possessed by such retailer or
4 were possessed by such retailer in violation of the provisions
5 of this Act and subject to the penalties imposed by Sections
6 18b and 18c of this Act. Invoices or other documents kept in
7 the normal course of business in the possession of a retailer
8 reflecting purchases of original packages of cigarettes from an
9 unlicensed in-state or out-of-state distributor or person or
10 invoices or other documents kept in the normal course of
11 business obtained by the Department from an in-state or
12 out-of-state distributor or person, are sufficient to raise the
13 presumption that such original packages of cigarettes are
14 contraband and are possessed, or were possessed, by such
15 retailer in violation of the provisions of this Act and the
16 retailer is subject to the penalties imposed by Sections 18b
17 and 18c. If a presumption is raised, the Department may, in
18 addition to the penalties imposed by Sections 18b and 18c and
19 any other civil or criminal penalties provided for in this Act,
20 assess tax, penalty, and interest on the original packages of
21 cigarettes.

22 (35 ILCS 130/14) (from Ch. 120, par. 453.14)

23 Sec. 14. Any person required by this Act to keep records of
24 any kind whatsoever, who shall fail to keep the records so
25 required or who shall falsify such records, shall be guilty of

1 a Class 4 felony. If a person fails to produce the records for
2 inspection by the Department upon request, a prima facie
3 presumption shall arise that the person has failed to keep the
4 records so required. A person who is unable to rebut this
5 presumption is in violation of this Act and is subject to the
6 penalties provided in this Section.

7 (Source: P.A. 83-1428.)

8 (35 ILCS 130/15) (from Ch. 120, par. 453.15)

9 Sec. 15. Any person who shall fail to safely maintain and
10 preserve the records required by Sections ~~Section~~ 11, and
11 ~~Section~~ 11a, 11b, and 11c of this Act for the period of 3 ~~three~~
12 years, as required therein, in such manner as to insure
13 permanency and accessibility for inspection by the Department,
14 shall be guilty of a business offense and may be fined up to
15 \$5,000.

16 (Source: P.A. 96-1027, eff. 7-12-10.)

17 (35 ILCS 130/15a new)

18 Sec. 15a. Failure to keep or produce books and records. Any
19 person who fails to keep books and records or fails to produce
20 books and records for inspection, as required by Sections 11,
21 11a, 11b, and 11c of this Act, is liable to pay to the
22 Department, for deposit in the Tax Compliance and
23 Administration Fund, a penalty of \$1,000 for the first failure
24 to keep books and records or failure to produce books and

1 records for inspection, as required by Sections 11, 11a, 11b,
2 and 11c, and \$3,000 for each subsequent failure to keep books
3 and records or failure to produce books and records for
4 inspection, as required by Sections 11, 11a, 11b, and 11c. The
5 Department may adopt rules to administer the penalties under
6 this Section.

7 (35 ILCS 130/18b) (from Ch. 120, par. 453.18b)

8 Sec. 18b. Possession of more than 100 original packages of
9 contraband cigarettes; penalty. With the exception of licensed
10 distributors and transporters, as defined in Section 9c of this
11 Act, possessing unstamped original packages of cigarettes, and
12 licensed distributors possessing original packages of
13 cigarettes that bear a tax stamp of another state or taxing
14 jurisdiction, anyone possessing or having possessed contraband
15 cigarettes contained in original packages is liable to pay, to
16 the Department for deposit in the Tax Compliance and
17 Administration Fund, a penalty of \$25 for each such package of
18 cigarettes in excess of 100 packages, unless reasonable cause
19 can be established by the person upon whom the penalty is
20 imposed. This penalty is in addition to the taxes imposed by
21 this Act. Reasonable cause shall be determined in each
22 situation in accordance with rules adopted by the Department.
23 The provisions of the Uniform Penalty and Interest Act do not
24 apply to this Section.

25 (Source: P.A. 96-782, eff. 1-1-10.)

1 (35 ILCS 130/18c)

2 Sec. 18c. Possession of not less than 10 and not more than
3 100 original packages of contraband cigarettes; penalty. With
4 the exception of licensed distributors and transporters, as
5 defined in Section 9c of this Act, possessing unstamped
6 original packages of cigarettes, and licensed distributors
7 possessing original packages of cigarettes that bear a tax
8 stamp of another state or taxing jurisdiction, anyone
9 possessing or having possessed not less than 10 and not more
10 than 100 packages of contraband cigarettes contained in
11 original packages is liable to pay to the Department, for
12 deposit into the Tax Compliance and Administration Fund, a
13 penalty of \$15 ~~\$10~~ for each such package of cigarettes, unless
14 reasonable cause can be established by the person upon whom the
15 penalty is imposed. Reasonable cause shall be determined in
16 each situation in accordance with rules adopted by the
17 Department. The provisions of the Uniform Penalty and Interest
18 Act do not apply to this Section.

19 (Source: P.A. 96-782, eff. 1-1-10.)

20 (35 ILCS 130/18d new)

21 Sec. 18d. Cigarette package sizes; sale of individual or
22 loose cigarettes prohibited. Cigarettes may only be sold in
23 packages of 20 or 25 cigarettes. The sale of individual or
24 loose cigarettes is prohibited. Any person who violates this

1 Section of the Act is liable to pay to the Department, for
2 deposit in the Tax Compliance and Administration Fund, a
3 penalty of \$1,000 for the first violation and \$3,000 for any
4 subsequent violation. Any person who violates this Section
5 shall be guilty of a Class 4 felony. The Department may adopt
6 rules to administer the penalties under this Section.

7 Section 30. The Cigarette Use Tax Act is amended by
8 changing Sections 12, 22, 23, 25a, and 25b and by adding
9 Sections 8a, 23a, and 25c as follows:

10 (35 ILCS 135/8a new)

11 Sec. 8a. Contraband cigarettes. Whenever any person
12 obtains original packages of cigarettes from an unlicensed
13 in-state or out-of-state distributor or person, a prima facie
14 presumption shall arise that such original packages of
15 cigarettes are contraband and are possessed or were possessed
16 by such person in violation of the provisions of this Act and
17 subject to the penalties imposed by Sections 25a and 25b.
18 Invoices or other documents kept in the normal course of
19 business in the possession of a person reflecting purchases of
20 original packages of cigarettes from an unlicensed in-state or
21 out-of-state distributor or person or invoices or other
22 documents kept in the normal course of business obtained by the
23 Department from an in-state or out-of-state distributor or
24 person, are sufficient to raise the presumption that such

1 original packages of cigarettes are contraband and are
2 possessed, or were possessed, by such person in violation of
3 the provisions of this Act and the person is subject to the
4 penalties imposed by Sections 25a and 25b. If a presumption is
5 raised, the Department may, in addition to the penalties
6 imposed by Sections 25a and 25b and any other civil or criminal
7 penalties provided for in this Act, assess tax, penalty, and
8 interest on the original packages of cigarettes.

9 (35 ILCS 135/12) (from Ch. 120, par. 453.42)

10 Sec. 12. Declaration of possession of cigarettes on which
11 tax not paid.

12 (a) When cigarettes are acquired for use in this State by a
13 person (including a distributor as well as any other person),
14 who did not pay the tax herein imposed to a distributor, the
15 person, within 30 days after acquiring the cigarettes, shall
16 file with the Department a return declaring the possession of
17 the cigarettes and shall transmit with the return to the
18 Department the tax imposed by this Act.

19 (b) On receipt of the return and payment of the tax as
20 required by paragraph (a), the Department may furnish the
21 person with a suitable tax stamp to be affixed to the package
22 of cigarettes upon which the tax has been paid if the
23 Department determines that the cigarettes still exist.

24 (c) The return referred to in paragraph (a) shall contain
25 the name and address of the person possessing the cigarettes

1 involved, the location of the cigarettes and the quantity,
2 brand name, place, and date of the acquisition of the
3 cigarettes.

4 (d) Nothing in this Section shall permit a secondary
5 distributor to purchase unstamped original packages of
6 cigarettes or to purchase original packages of cigarettes from
7 a person other than a licensed distributor.

8 (e) Any distributor who violates this Section is liable to
9 pay to the Department, for deposit in the Tax Compliance and
10 Administration Fund, a penalty of \$1,000 for the first
11 violation and \$3,000 for any subsequent violation. The
12 Department may adopt rules to administer the penalties under
13 this Section. The Department may, in addition to the penalties
14 imposed by this Section, and any other civil or criminal
15 penalties provided for in this Act, assess tax, penalty, and
16 interest on the original packages of cigarettes.

17 (Source: P.A. 96-1027, eff. 7-12-10.)

18 (35 ILCS 135/22) (from Ch. 120, par. 453.52)

19 Sec. 22. Any person required by this Act to maintain or
20 keep records of any kind whatsoever, who shall fail to keep the
21 records so required or who shall falsify such records, shall be
22 guilty of a Class 4 felony ~~A misdemeanor~~. If a person fails to
23 produce the records for inspection by the Department upon
24 request, a prima facie presumption shall arise that the person
25 has failed to keep the records so required. A person who is

1 unable to rebut this presumption is in violation of this Act
2 and is subject to the penalties provided in this Section.

3 This Section shall not apply if the violation in a
4 particular case also constitutes a criminal violation of the
5 Cigarette Tax Act.

6 (Source: P.A. 77-2229.)

7 (35 ILCS 135/23) (from Ch. 120, par. 453.53)

8 Sec. 23. Any person who shall fail to safely preserve the
9 records required by Section 15 and Section 15a of this Act for
10 the period of three (3) years, as required therein, in such
11 manner as to insure permanency and accessibility for inspection
12 by the Department, shall be guilty of a business offense and
13 may be fined up to \$5,000 ~~One Thousand Dollars (\$1000)~~.

14 This Section shall not apply if the violation in a
15 particular case also constitutes a criminal violation of the
16 Cigarette Tax Act.

17 (Source: P.A. 96-1027, eff. 7-12-10.)

18 (35 ILCS 135/23a new)

19 Sec. 23a. Failure to keep or produce books and records. Any
20 person who fails to keep books and records or fails to produce
21 books and records for inspection, as required by Sections 15
22 and 15a of this Act, is liable to pay to the Department, for
23 deposit in the Tax Compliance and Administration Fund, a
24 penalty of \$1,000 for the first failure to keep books and

1 records or failure to produce books and records for inspection,
2 as required by Sections 15 and 15a, and \$3,000 for each
3 subsequent failure to keep books and records or failure to
4 produce books and records for inspection, as required by
5 Sections 15 and 15a. The Department may adopt rules to
6 administer the penalties under this Section.

7 (35 ILCS 135/25a) (from Ch. 120, par. 453.55a)

8 Sec. 25a. Possession of more than 100 original packages of
9 contraband cigarettes; penalty. With the exception of licensed
10 distributors or transporters, as defined in Section 9c of the
11 Cigarette Tax Act, possessing unstamped original packages of
12 cigarettes, and licensed distributors possessing original
13 packages of cigarettes that bear a tax stamp of another state
14 or taxing jurisdiction, anyone possessing or having possessed
15 more than 100 packages of contraband cigarettes contained in
16 original packages is liable to pay, to the Department for
17 deposit into the Tax Compliance and Administration Fund, a
18 penalty of \$25 for each such package of cigarettes in excess of
19 100 packages, unless reasonable cause can be established by the
20 person upon whom the penalty is imposed. Reasonable cause shall
21 be determined in each situation in accordance with rules
22 adopted by the Department. The provisions of the Uniform
23 Penalty and Interest Act do not apply to this Section.

24 (Source: P.A. 96-782, eff. 1-1-10.)

1 (35 ILCS 135/25b)

2 Sec. 25b. Possession of not less than 10 and not more than
3 100 original packages not tax stamped or improperly tax
4 stamped; penalty. With the exception of licensed distributors
5 and transporters, as defined in Section 9c of the Cigarette Tax
6 Act, possessing unstamped packages of cigarettes, and licensed
7 distributors possessing original packages of cigarettes that
8 bear a tax stamp of another state or taxing jurisdiction,
9 anyone possessing or having possessed not less than 10 and not
10 more than 100 packages of contraband cigarettes contained in
11 original packages is liable to pay to the Department, for
12 deposit into the Tax Compliance and Administration Fund, a
13 penalty of \$20 for each such package of cigarettes, unless
14 reasonable cause can be established by the person upon whom the
15 penalty is imposed. Reasonable cause shall be determined in
16 each situation in accordance with rules adopted by the
17 Department. Any person who purchases and possesses a total of 9
18 or fewer original packages of unstamped cigarettes per month is
19 exempt from the penalties of this Section. The provisions of
20 the Uniform Penalty and Interest Act do not apply to this
21 Section.

22 (Source: P.A. 96-782, eff. 1-1-10.)

23 (35 ILCS 135/25c new)

24 Sec. 25c. Cigarette package sizes; sale of individual or
25 loose cigarettes prohibited. Cigarettes may only be sold in

1 packages of 20 or 25 cigarettes. The sale of individual or
2 loose cigarettes is prohibited. Any person who violates this
3 Section is liable to pay to the Department, for deposit in the
4 Tax Compliance and Administration Fund, a penalty of \$1,000 for
5 the first violation and \$3,000 for any subsequent violation.
6 Any person who violates this Section shall be guilty of a Class
7 4 felony. This Section shall not apply if the violation in a
8 particular case also constitutes a violation of the Cigarette
9 Tax Act.

10 Section 35. The Tobacco Products Tax Act of 1995 is amended
11 by changing Sections 10-25, 10-35, 10-37, 10-40, and 10-50 and
12 by adding Sections 10-35a and 10-38 as follows:

13 (35 ILCS 143/10-25)

14 Sec. 10-25. License actions.

15 (a) The Department may, after notice and a hearing, revoke,
16 cancel, or suspend the license of any distributor or retailer
17 who violates any of the provisions of this Act, fails to keep
18 books and records as required under this Act, fails to make
19 books and records available for inspection upon demand by a
20 duly authorized employee of the Department, or violates a rule
21 or regulation of the Department for the administration and
22 enforcement of this Act. The notice shall specify the alleged
23 violation or violations upon which the revocation,
24 cancellation, or suspension proceeding is based.

1 (b) The Department may revoke, cancel, or suspend the
2 license of any distributor for a violation of the Tobacco
3 Product Manufacturers' Escrow Enforcement Act as provided in
4 Section 20 of that Act.

5 (c) If the retailer has a training program that facilitates
6 compliance with minimum-age tobacco laws, the Department shall
7 suspend for 3 days the license of that retailer for a fourth or
8 subsequent violation of the Prevention of Tobacco Use by Minors
9 and Sale and Distribution of Tobacco Products Act, as provided
10 in subsection (a) of Section 2 of that Act. For the purposes of
11 this Section, any violation of subsection (a) of Section 2 of
12 the Prevention of Tobacco Use by Minors and Sale and
13 Distribution of Tobacco Products Act occurring at the
14 retailer's licensed location, during a 24-month period, shall
15 be counted as a violation against the retailer.

16 If the retailer does not have a training program that
17 facilitates compliance with minimum-age tobacco laws, the
18 Department shall suspend for 3 days the license of that
19 retailer for a second violation of the Prevention of Tobacco
20 Use by Minors and Sale and Distribution of Tobacco Products
21 Act, as provided in subsection (a-5) of Section 2 of that Act.

22 If the retailer does not have a training program that
23 facilitates compliance with minimum-age tobacco laws, the
24 Department shall suspend for 7 days the license of that
25 retailer for a third violation of the Prevention of Tobacco Use
26 by Minors and Sale and Distribution of Tobacco Products Act, as

1 provided in subsection (a-5) of Section 2 of that Act.

2 If the retailer does not have a training program that
3 facilitates compliance with minimum-age tobacco laws, the
4 Department shall suspend for 30 days the license of a retailer
5 for a fourth or subsequent violation of the Prevention of
6 Tobacco Use by Minors and Sale and Distribution of Tobacco
7 Products Act, as provided in subsection (a-5) of Section 2 of
8 that Act.

9 A training program that facilitates compliance with
10 minimum-age tobacco laws must include at least the following
11 elements: (i) it must explain that only individuals displaying
12 valid identification demonstrating that they are 18 years of
13 age or older shall be eligible to purchase cigarettes or
14 tobacco products and (ii) it must explain where a clerk can
15 check identification for a date of birth. The training may be
16 conducted electronically. Each retailer that has a training
17 program shall require each employee who completes the training
18 program to sign a form attesting that the employee has received
19 and completed tobacco training. The form shall be kept in the
20 employee's file and may be used to provide proof of training.

21 (d) The Department may, by application to any circuit
22 court, obtain an injunction restraining any person who engages
23 in business as a distributor of tobacco products without a
24 license (either because his or her license has been revoked,
25 canceled, or suspended or because of a failure to obtain a
26 license in the first instance) from engaging in that business

1 until that person, as if that person were a new applicant for a
2 license, complies with all of the conditions, restrictions, and
3 requirements of Section 10-20 of this Act and qualifies for and
4 obtains a license. Refusal or neglect to obey the order of the
5 court may result in punishment for contempt.

6 (Source: P.A. 98-1055, eff. 1-1-16; 99-192, eff. 1-1-16.)

7 (35 ILCS 143/10-35)

8 Sec. 10-35. Record keeping.

9 (a) Every distributor, as defined in Section 10-5, shall
10 keep complete and accurate records of tobacco products held,
11 purchased, manufactured, brought in or caused to be brought in
12 from without the State, and tobacco products sold, or otherwise
13 disposed of, and shall preserve and keep all invoices, bills of
14 lading, sales records, and copies of bills of sale, the
15 wholesale price for tobacco products sold or otherwise disposed
16 of, an inventory of tobacco products prepared as of December 31
17 of each year or as of the last day of the distributor's fiscal
18 year if he or she files federal income tax returns on the basis
19 of a fiscal year, and other pertinent papers and documents
20 relating to the manufacture, purchase, sale, or disposition of
21 tobacco products. Every sales invoice issued by a licensed
22 distributor to a retailer in this State shall contain the
23 distributor's Tobacco Products License number unless the
24 distributor has been granted a waiver by the Department in
25 response to a written request in cases where (i) the

1 distributor sells little cigars or other tobacco products only
2 to licensed retailers that are wholly-owned by the distributor
3 or owned by a wholly-owned subsidiary of the distributor; (ii)
4 the licensed retailer obtains little cigars or other tobacco
5 products only from the distributor requesting the waiver; and
6 (iii) the distributor affixes the tax stamps to the original
7 packages of little cigars or has or will pay the tax on the
8 other tobacco products sold to the licensed retailer. The
9 distributor shall file a written request with the Department,
10 and, if the Department determines that the distributor meets
11 the conditions for a waiver, the Department shall grant the
12 waiver.

13 (b) Every retailer, as defined in Section 10-5, whether or
14 not the retailer has obtained a retailer's license pursuant to
15 Section 4g, shall keep complete and accurate records of tobacco
16 products held, purchased, sold, or otherwise disposed of, and
17 shall preserve and keep all invoices, bills of lading, sales
18 records, and copies of bills of sale, returns and other
19 pertinent papers and documents relating to the purchase, sale,
20 or disposition of tobacco products. Such records need not be
21 maintained on the licensed premises, but must be maintained in
22 the State of Illinois; however, if access is available
23 electronically, the records may be maintained out of state.
24 However, all original invoices or copies thereof covering
25 purchases of tobacco products must be retained on the licensed
26 premises for a period of 90 days after such purchase, unless

1 the Department has granted a waiver in response to a written
2 request in cases where records are kept at a central business
3 location within the State of Illinois or in cases where records
4 that are available electronically are maintained out of state.
5 The Department shall adopt rules regarding the eligibility for
6 a waiver, revocation of a waiver, and requirements and
7 standards for maintenance and accessibility of records located
8 at a central location out-of-State pursuant to a waiver
9 provided under this Section.

10 (c) Books, records, papers, and documents that are required
11 by this Act to be kept shall, at all times during the usual
12 business hours of the day, be subject to inspection by the
13 Department or its duly authorized agents and employees. The
14 books, records, papers, and documents for any period with
15 respect to which the Department is authorized to issue a notice
16 of tax liability shall be preserved until the expiration of
17 that period.

18 (Source: P.A. 98-1055, eff. 1-1-16; 99-192, eff. 1-1-16.)

19 (35 ILCS 143/10-35a new)

20 Sec. 10-35a. Failure to keep or produce books and records.
21 Any person who fails to keep books and records or fails to
22 produce books and records for inspection, as required by
23 Section 10-35, is liable to pay to the Department, for deposit
24 in the Tax Compliance and Administration Fund, a penalty of
25 \$1,000 for the first failure to keep books and records or

1 failure to produce books and records for inspection, as
2 required by Section 10-35, and \$3,000 for each subsequent
3 failure to keep books and records or failure to produce books
4 and records for inspection, as required by Section 10-35. The
5 Department may adopt rules to administer the penalties under
6 this Section.

7 (35 ILCS 143/10-37)

8 Sec. 10-37. Proof of payment of tax imposed by this Act.
9 Every licensed distributor of tobacco products in this State is
10 required to show proof of the tax having been paid as required
11 by this Act by displaying its Tobacco Products License number
12 on every sales invoice issued to a retailer in this State. No
13 retailer shall possess tobacco products without either a proper
14 invoice indicating that the tobacco products tax was paid by a
15 distributor for the tobacco products in the retailer's
16 possession or other proof that the tax was paid by the retailer
17 if it has purchased tobacco products on which tax has not been
18 paid as required by this Act. Failure to comply with the
19 provisions of this paragraph may be grounds for revocation of a
20 distributor's or retailer's license in accordance with Section
21 10-25 of this Act or Section 6 of the Cigarette Tax Act. In
22 addition, the Department may impose a civil penalty not to
23 exceed \$1,000 for the first violation and \$3,000 for each
24 subsequent violation, which shall be deposited into the Tax
25 Compliance and Administration Fund.

1 (Source: P.A. 98-1055, eff. 1-1-16.)

2 (35 ILCS 143/10-38 new)

3 Sec. 10-38. Presumption for unlicensed distributors or
4 persons. Whenever any person obtains tobacco products from an
5 unlicensed in-state or out-of-state distributor or person, a
6 prima facie presumption shall arise that the tax imposed by
7 this Act on such tobacco products has not been paid in
8 violation of this Act. Invoices or other documents kept in the
9 normal course of business in the possession of a person
10 reflecting purchases of tobacco products from an unlicensed
11 in-state or out-of-state distributor or person or invoices or
12 other documents kept in the normal course of business obtained
13 by the Department from in-state or out-of-state distributors or
14 persons, are sufficient to raise the presumption that the tax
15 imposed by this Act has not been paid. If a presumption is
16 raised, the Department may assess tax, penalty, and interest on
17 the tobacco products. In addition, any person who violates this
18 Section is liable to pay to the Department, for deposit in the
19 Tax Compliance and Administration Fund, a penalty of \$1,000 for
20 the first violation and \$3,000 for any subsequent violation.
21 The Department may adopt rules to administer the penalties
22 under this Section.

23 (35 ILCS 143/10-40)

24 Sec. 10-40. Invoices. Every distributor or other person who

1 purchases tobacco products for resale for shipment into
2 Illinois from a point outside Illinois shall procure invoices
3 in duplicate covering each shipment and shall make the invoices
4 available for inspection upon demand by a duly authorized
5 employee of the Department, and shall, if the Department so
6 requires, furnish one copy of each invoice to the Department at
7 the time of filing the return required by this Act.

8 (Source: P.A. 89-21, eff. 6-6-95.)

9 (35 ILCS 143/10-50)

10 Sec. 10-50. Violations and penalties. When the amount due
11 is under \$300, any distributor who fails to file a return,
12 willfully fails or refuses to make any payment to the
13 Department of the tax imposed by this Act, or files a
14 fraudulent return, or any officer or agent of a corporation
15 engaged in the business of distributing tobacco products to
16 retailers and consumers located in this State who signs a
17 fraudulent return filed on behalf of the corporation, or any
18 accountant or other agent who knowingly enters false
19 information on the return of any taxpayer under this Act is
20 guilty of a Class 4 felony.

21 Any person who violates any provision of Section 10-20,
22 10-21, or 10-22 of this Act, fails to keep books and records as
23 required under this Act, or willfully violates a rule or
24 regulation of the Department for the administration and
25 enforcement of this Act is guilty of a Class 4 felony. A person

1 commits a separate offense on each day that he or she engages
2 in business in violation of Section 10-20, 10-21, or 10-22 of
3 this Act. If a person fails to produce the books and records
4 for inspection by the Department upon request, a prima facie
5 presumption shall arise that the person has failed to keep
6 books and records as required under this Act. A person who is
7 unable to rebut this presumption is in violation of this Act
8 and is subject to the penalties provided in this Section.

9 When the amount due is under \$300, any person who accepts
10 money that is due to the Department under this Act from a
11 taxpayer for the purpose of acting as the taxpayer's agent to
12 make the payment to the Department, but who fails to remit the
13 payment to the Department when due, is guilty of a Class 4
14 felony.

15 Any person who violates any provision of Sections 10-20,
16 10-21 and 10-22 of this Act, fails to keep books and records as
17 required under this Act, or willfully violates a rule or
18 regulation of the Department for the administration and
19 enforcement of this Act is guilty of a business offense and may
20 be fined up to \$5,000. If a person fails to produce books and
21 records for inspection by the Department upon request, a prima
22 facie presumption shall arise that the person has failed to
23 keep books and records as required under this Act. A person who
24 is unable to rebut this presumption is in violation of this Act
25 and is subject to the penalties provided in this Section. A
26 person commits a separate offense on each day that he or she

1 engages in business in violation of Sections 10-20, 10-21 and
2 10-22 of this Act.

3 When the amount due is \$300 or more, any distributor who
4 files, or causes to be filed, a fraudulent return, or any
5 officer or agent of a corporation engaged in the business of
6 distributing tobacco products to retailers and consumers
7 located in this State who files or causes to be filed or signs
8 or causes to be signed a fraudulent return filed on behalf of
9 the corporation, or any accountant or other agent who knowingly
10 enters false information on the return of any taxpayer under
11 this Act is guilty of a Class 3 felony.

12 When the amount due is \$300 or more, any person engaged in
13 the business of distributing tobacco products to retailers and
14 consumers located in this State who fails to file a return,
15 willfully fails or refuses to make any payment to the
16 Department of the tax imposed by this Act, or accepts money
17 that is due to the Department under this Act from a taxpayer
18 for the purpose of acting as the taxpayer's agent to make
19 payment to the Department but fails to remit such payment to
20 the Department when due is guilty of a Class 3 felony.

21 When the amount due is under \$300, any retailer who fails
22 to file a return, willfully fails or refuses to make any
23 payment to the Department of the tax imposed by this Act, or
24 files a fraudulent return, or any officer or agent of a
25 corporation engaged in the retail business of selling tobacco
26 products to purchasers of tobacco products for use and

1 consumption located in this State who signs a fraudulent return
2 filed on behalf of the corporation, or any accountant or other
3 agent who knowingly enters false information on the return of
4 any taxpayer under this Act is guilty of a Class A misdemeanor
5 for a first offense and a Class 4 felony for each subsequent
6 offense.

7 When the amount due is \$300 or more, any retailer who fails
8 to file a return, willfully fails or refuses to make any
9 payment to the Department of the tax imposed by this Act, or
10 files a fraudulent return, or any officer or agent of a
11 corporation engaged in the retail business of selling tobacco
12 products to purchasers of tobacco products for use and
13 consumption located in this State who signs a fraudulent return
14 filed on behalf of the corporation, or any accountant or other
15 agent who knowingly enters false information on the return of
16 any taxpayer under this Act is guilty of a Class 4 felony.

17 Any person whose principal place of business is in this
18 State and who is charged with a violation under this Section
19 shall be tried in the county where his or her principal place
20 of business is located unless he or she asserts a right to be
21 tried in another venue. If the taxpayer does not have his or
22 her principal place of business in this State, however, the
23 hearing must be held in Sangamon County unless the taxpayer
24 asserts a right to be tried in another venue.

25 Any taxpayer or agent of a taxpayer who with the intent to
26 defraud purports to make a payment due to the Department by

1 issuing or delivering a check or other order upon a real or
2 fictitious depository for the payment of money, knowing that it
3 will not be paid by the depository, is guilty of a deceptive
4 practice in violation of Section 17-1 of the Criminal Code of
5 2012.

6 A prosecution for a violation described in this Section may
7 be commenced within 3 years after the commission of the act
8 constituting the violation.

9 (Source: P.A. 100-201, eff. 8-18-17.)

10 (35 ILCS 143/10-36 rep.)

11 Section 40. The Tobacco Products Tax Act of 1995 is amended
12 by repealing Section 10-36.

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.