



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2780

Introduced 2/16/2023, by Rep. Robert "Bob" Rita

SYNOPSIS AS INTRODUCED:

35 ILCS 143/10-5
35 ILCS 143/10-10
35 ILCS 143/10-23 new
35 ILCS 143/10-30
35 ILCS 143/10-35

Amends the Tobacco Products Tax Act of 1995. Provides that, beginning on January 1, 2022, the tax per cigar or other rolled tobacco product shall not exceed \$0.50 per cigar or roll. Provides that distributors are allowed a discount in the amount of 2% of the distributor's tax liability, but not to exceed \$2,000 per return. Provides that certain remote retail sellers are liable for the payment of the tax under the Act. Sets forth the tax rate for remote retail sellers. Provides that remote retail sellers must obtain a license from the Department of Revenue. Effective immediately.

LRB103 30353 HLH 56783 b

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 Tobacco Products Tax Act of 1995 is amended
5 by changing Sections 10-5, 10-10, 10-30, and 10-35 and by
6 adding Section 10-23 as follows:

7 (35 ILCS 143/10-5)

8 Sec. 10-5. Definitions. For purposes of this Act:

9 "Actual cost" means the actual price paid by a remote
10 retail seller for a particular SKU.

11 "Actual cost list" means the average of the actual price
12 paid by a remote retail seller for a particular SKU over the 12
13 calendar months immediately preceding January 1 of the
14 calendar year in which the sale occurs.

15 "Business" means any trade, occupation, activity, or
16 enterprise engaged in, at any location whatsoever, for the
17 purpose of selling tobacco products.

18 "Cigar" means any roll of tobacco wrapped in leaf tobacco
19 or in any substance containing tobacco, but does not include a
20 little cigar or any item that is considered a cigarette under
21 Section 1 of the Cigarette Tax Act.

22 "Cigarette" has the meaning ascribed to the term in
23 Section 1 of the Cigarette Tax Act.

1 "Contraband little cigar" means:

2 (1) packages of little cigars containing 20 or 25
3 little cigars that do not bear a required tax stamp under
4 this Act;

5 (2) packages of little cigars containing 20 or 25
6 little cigars that bear a fraudulent, imitation, or
7 counterfeit tax stamp;

8 (3) packages of little cigars containing 20 or 25
9 little cigars that are improperly tax stamped, including
10 packages of little cigars that bear only a tax stamp of
11 another state or taxing jurisdiction; or

12 (4) packages of little cigars containing other than 20
13 or 25 little cigars in the possession of a distributor,
14 retailer or wholesaler, unless the distributor, retailer,
15 or wholesaler possesses, or produces within the time frame
16 provided in Section 10-27 or 10-28 of this Act, an invoice
17 from a stamping distributor, distributor, or wholesaler
18 showing that the tax on the packages has been or will be
19 paid.

20 "Consumer" means any person who has title to or possession
21 of tobacco products or vapor products in storage for the
22 person's own use or consumption in this State and not for
23 resale.

24 "Correctional Industries program" means a program run by a
25 State penal institution in which residents of the penal
26 institution produce tobacco products for sale to persons

1 incarcerated in penal institutions or resident patients of a
2 State operated mental health facility.

3 "Department" means the Illinois Department of Revenue.

4 "Distributor" means any of the following:

5 (1) Any manufacturer or wholesaler in this State
6 engaged in the business of selling tobacco products who
7 sells, exchanges, or distributes tobacco products to
8 retailers or consumers in this State.

9 (2) Any manufacturer or wholesaler engaged in the
10 business of selling tobacco products from without this
11 State who sells, exchanges, distributes, ships, or
12 transports tobacco products to retailers or consumers
13 located in this State, so long as that manufacturer or
14 wholesaler has or maintains within this State, directly or
15 by subsidiary, an office, sales house, or other place of
16 business, or any agent or other representative operating
17 within this State under the authority of the person or
18 subsidiary, irrespective of whether the place of business
19 or agent or other representative is located here
20 permanently or temporarily.

21 (3) Any retailer who receives tobacco products on
22 which the tax has not been or will not be paid by another
23 distributor.

24 "Distributor" does not include any person, wherever
25 resident or located, who makes, manufactures, or fabricates
26 tobacco products as part of a Correctional Industries program

1 for sale to residents incarcerated in penal institutions or
2 resident patients of a State operated mental health facility.

3 "Electronic cigarette" means:

4 (1) any device that employs a battery or other
5 mechanism to heat a solution or substance to produce a
6 vapor or aerosol intended for inhalation, except for (A)
7 any device designed solely for use with cannabis that
8 contains a statement on the retail packaging that the
9 device is designed solely for use with cannabis and not
10 for use with tobacco or (B) any device that contains a
11 solution or substance that contains cannabis subject to
12 tax under the Compassionate Use of Medical Cannabis
13 Program Act or the Cannabis Regulation and Tax Act;

14 (2) any cartridge or container of a solution or
15 substance intended to be used with or in the device or to
16 refill the device, except for any cartridge or container
17 of a solution or substance that contains cannabis subject
18 to tax under the Compassionate Use of Medical Cannabis
19 Program Act or the Cannabis Regulation and Tax Act; or

20 (3) any solution or substance, whether or not it
21 contains nicotine, intended for use in the device, except
22 for any solution or substance that contains cannabis
23 subject to tax under the Compassionate Use of Medical
24 Cannabis Program Act or the Cannabis Regulation and Tax
25 Act.

26 The changes made to the definition of "electronic

1 cigarette" by this amendatory Act of the 102nd General
2 Assembly apply on and after June 28, 2019, but no claim for
3 credit or refund is allowed on or after the effective date of
4 this amendatory Act of the 102nd General Assembly for such
5 taxes paid during the period beginning June 28, 2019 and the
6 effective date of this amendatory Act of the 102nd General
7 Assembly.

8 "Electronic cigarette" includes, but is not limited to,
9 any electronic nicotine delivery system, electronic cigar,
10 electronic cigarillo, electronic pipe, electronic hookah, vape
11 pen, or similar product or device, and any component or part
12 that can be used to build the product or device. "Electronic
13 cigarette" does not include: cigarettes, as defined in Section
14 1 of the Cigarette Tax Act; any product approved by the United
15 States Food and Drug Administration for sale as a tobacco
16 cessation product, a tobacco dependence product, or for other
17 medical purposes that is marketed and sold solely for that
18 approved purpose; any asthma inhaler prescribed by a physician
19 for that condition that is marketed and sold solely for that
20 approved purpose; or any therapeutic product approved for use
21 under the Compassionate Use of Medical Cannabis Program Act.

22 "Little cigar" means and includes any roll, made wholly or
23 in part of tobacco, where such roll has an integrated
24 cellulose acetate filter and weighs less than 4 pounds per
25 thousand and the wrapper or cover of which is made in whole or
26 in part of tobacco.

1 "Manufacturer" means any person, wherever resident or
2 located, who manufactures and sells tobacco products, except a
3 person who makes, manufactures, or fabricates tobacco products
4 as a part of a Correctional Industries program for sale to
5 persons incarcerated in penal institutions or resident
6 patients of a State operated mental health facility.

7 Beginning on January 1, 2013, "moist snuff" means any
8 finely cut, ground, or powdered tobacco that is not intended
9 to be smoked, but shall not include any finely cut, ground, or
10 powdered tobacco that is intended to be placed in the nasal
11 cavity.

12 "Person" means any natural individual, firm, partnership,
13 association, joint stock company, joint venture, limited
14 liability company, or public or private corporation, however
15 formed, or a receiver, executor, administrator, trustee,
16 conservator, or other representative appointed by order of any
17 court.

18 "Pipe tobacco" means any tobacco that, because of its
19 appearance, type, packaging, or labeling, is suitable for use
20 in a pipe and is likely to be offered to or purchased by a
21 consumer as tobacco to be smoked in a pipe.

22 "Place of business" means and includes any place where
23 tobacco products are sold or where tobacco products are
24 manufactured, stored, or kept for the purpose of sale or
25 consumption, including any vessel, vehicle, airplane, train,
26 or vending machine.

1 "Remote retail sale" means any sale of cigars or pipe
2 tobacco to a consumer in this State when:

3 (1) the consumer submits the order for the sale by
4 means of a telephone or other method of voice
5 transmission, the mail, or the Internet or other online
6 service, or the seller is otherwise not in the physical
7 presence of the buyer when the request for purchase or
8 order is made; or

9 (2) the cigars or pipe tobacco are delivered to the
10 buyer by common carrier, private delivery service, or
11 other method of remote delivery, or the seller is not in
12 the physical presence of the buyer when the buyer obtains
13 possession of the cigars or pipe tobacco.

14 "Remote retail seller" means a person located in this
15 State or outside of this State who makes remote retail sales of
16 cigars or pipe tobacco, or both, and who meets the economic
17 nexus threshold set forth in subsection (b) of Section 2 of the
18 Retailers' Occupation Tax Act for remote retailers who are
19 engaged in the occupation of selling at retail in Illinois.

20 "Retailer" means any person in this State engaged in the
21 business of selling tobacco products to consumers in this
22 State, regardless of quantity or number of sales.

23 "Sale" means any transfer, exchange, or barter in any
24 manner or by any means whatsoever for a consideration and
25 includes all sales made by persons.

26 "Stamp" or "stamps" mean the indicia required to be

1 affixed on a package of little cigars that evidence payment of
2 the tax on packages of little cigars containing 20 or 25 little
3 cigars under Section 10-10 of this Act. These stamps shall be
4 the same stamps used for cigarettes under the Cigarette Tax
5 Act.

6 "Stamping distributor" means a distributor licensed under
7 this Act and also licensed as a distributor under the
8 Cigarette Tax Act or Cigarette Use Tax Act.

9 "Stock-keeping unit" or "SKU" means the unique identifier
10 assigned by the distributor or remote retail seller to an item
11 in order to track inventory.

12 "Tobacco products" means any cigars, including little
13 cigars; cheroots; stogies; periques; granulated, plug cut,
14 crimp cut, ready rubbed, and other smoking tobacco; snuff
15 (including moist snuff) or snuff flour; cavendish; plug and
16 twist tobacco; fine-cut and other chewing tobaccos; shorts;
17 refuse scraps, clippings, cuttings, and sweeping of tobacco;
18 and other kinds and forms of tobacco, prepared in such manner
19 as to be suitable for chewing or smoking in a pipe or
20 otherwise, or both for chewing and smoking; but does not
21 include cigarettes as defined in Section 1 of the Cigarette
22 Tax Act or tobacco purchased for the manufacture of cigarettes
23 by cigarette distributors and manufacturers defined in the
24 Cigarette Tax Act and persons who make, manufacture, or
25 fabricate cigarettes as a part of a Correctional Industries
26 program for sale to residents incarcerated in penal

1 institutions or resident patients of a State operated mental
2 health facility.

3 Beginning on July 1, 2019, "tobacco products" also
4 includes electronic cigarettes.

5 "Wholesale price" means the established list price for
6 which a manufacturer sells tobacco products to a distributor,
7 before the allowance of any discount, trade allowance, rebate,
8 or other reduction. In the absence of such an established list
9 price, the manufacturer's invoice price at which the
10 manufacturer sells the tobacco product to unaffiliated
11 distributors, before any discounts, trade allowances, rebates,
12 or other reductions, shall be presumed to be the wholesale
13 price.

14 "Wholesaler" means any person, wherever resident or
15 located, engaged in the business of selling tobacco products
16 to others for the purpose of resale. "Wholesaler", when used
17 in this Act, does not include a person licensed as a
18 distributor under Section 10-20 of this Act unless expressly
19 stated in this Act.

20 (Source: P.A. 101-31, eff. 6-28-19; 101-593, eff. 12-4-19;
21 102-40, eff. 6-25-21.)

22 (35 ILCS 143/10-10)

23 Sec. 10-10. Tax imposed.

24 (a) Except as otherwise provided in this Section ~~with~~
25 ~~respect to little cigars~~, on the first day of the third month

1 after the month in which this Act becomes law, a tax is imposed
2 on any person engaged in business as a distributor of tobacco
3 products, as defined in Section 10-5, at the rate of (i) 18% of
4 the wholesale price of tobacco products sold or otherwise
5 disposed of to retailers or consumers located in this State
6 prior to July 1, 2012 and (ii) 36% of the wholesale price of
7 tobacco products sold or otherwise disposed of to retailers or
8 consumers located in this State beginning on July 1, 2012;
9 except that, beginning on January 1, 2013, the tax on moist
10 snuff shall be imposed at a rate of \$0.30 per ounce, and a
11 proportionate tax at the like rate on all fractional parts of
12 an ounce, sold or otherwise disposed of to retailers or
13 consumers located in this State; and except that, beginning
14 July 1, 2019, the tax on electronic cigarettes shall be
15 imposed at the rate of 15% of the wholesale price of electronic
16 cigarettes sold or otherwise disposed of to retailers or
17 consumers located in this State. Beginning on July 1, 2025, a
18 remote retail seller is liable for the payment of the tax under
19 this Act at the rate of 36% of (i) the actual price paid by a
20 remote retail seller for the particular stock-keeping unit or
21 (ii) if documentation of the actual price paid by the remote
22 retail seller is not available, the actual cost list price
23 paid by the remote retail seller for the particular
24 stock-keeping unit. The tax shall be imposed at the time the
25 remote retail seller makes a remote sale to a consumer in the
26 State. It is the intent and purpose of this amendatory Act of

1 the 103rd General Assembly that the remote retail seller be
2 liable for the tax. It is further the intent and purpose of
3 this amendatory Act of the 103rd General Assembly to impose
4 the tax only once on all tobacco products, including cigars
5 and pipe tobacco, sold in the State. The tax is in addition to
6 all other occupation or privilege taxes imposed by the State
7 of Illinois, by any political subdivision thereof, or by any
8 municipal corporation. However, the tax is not imposed upon
9 any activity in that business in interstate commerce or
10 otherwise, to the extent to which that activity may not, under
11 the Constitution and Statutes of the United States, be made
12 the subject of taxation by this State, and except that,
13 beginning July 1, 2013, the tax on little cigars shall be
14 imposed at the same rate, and the proceeds shall be
15 distributed in the same manner, as the tax imposed on
16 cigarettes under the Cigarette Tax Act. The tax is also not
17 imposed on sales made to the United States or any entity
18 thereof.

19 (b) Notwithstanding subsection (a) of this Section,
20 stamping distributors of packages of little cigars containing
21 20 or 25 little cigars sold or otherwise disposed of in this
22 State shall remit the tax by purchasing tax stamps from the
23 Department and affixing them to packages of little cigars in
24 the same manner as stamps are purchased and affixed to
25 cigarettes under the Cigarette Tax Act, unless the stamping
26 distributor sells or otherwise disposes of those packages of

1 little cigars to another stamping distributor. Only persons
2 meeting the definition of "stamping distributor" contained in
3 Section 10-5 of this Act may affix stamps to packages of little
4 cigars containing 20 or 25 little cigars. Stamping
5 distributors may not sell or dispose of little cigars at
6 retail to consumers or users at locations where stamping
7 distributors affix stamps to packages of little cigars
8 containing 20 or 25 little cigars.

9 (c) The impact of the tax levied by this Act is imposed
10 upon distributors engaged in the business of selling tobacco
11 products to retailers or consumers in this State. Whenever a
12 stamping distributor brings or causes to be brought into this
13 State from without this State, or purchases from without or
14 within this State, any packages of little cigars containing 20
15 or 25 little cigars upon which there are no tax stamps affixed
16 as required by this Act, for purposes of resale or disposal in
17 this State to a person not a stamping distributor, then such
18 stamping distributor shall pay the tax to the Department and
19 add the amount of the tax to the price of such packages sold by
20 such stamping distributor. Payment of the tax shall be
21 evidenced by a stamp or stamps affixed to each package of
22 little cigars containing 20 or 25 little cigars.

23 Stamping distributors paying the tax to the Department on
24 packages of little cigars containing 20 or 25 little cigars
25 sold to other distributors, wholesalers or retailers shall add
26 the amount of the tax to the price of the packages of little

1 cigars containing 20 or 25 little cigars sold by such stamping
2 distributors.

3 (d) Beginning on January 1, 2013, the tax rate imposed per
4 ounce of moist snuff may not exceed 15% of the tax imposed upon
5 a package of 20 cigarettes pursuant to the Cigarette Tax Act.

6 (d-5) Notwithstanding the provisions of this Section,
7 beginning January 1, 2022, the tax per cigar or other rolled
8 tobacco product sold or otherwise disposed of shall not exceed
9 \$0.50 per cigar or roll.

10 (e) All moneys received by the Department under this Act
11 from sales occurring prior to July 1, 2012 shall be paid into
12 the Long-Term Care Provider Fund of the State Treasury. Of the
13 moneys received by the Department from sales occurring on or
14 after July 1, 2012, except for moneys received from the tax
15 imposed on the sale of little cigars, 50% shall be paid into
16 the Long-Term Care Provider Fund and 50% shall be paid into the
17 Healthcare Provider Relief Fund. Beginning July 1, 2013, all
18 moneys received by the Department under this Act from the tax
19 imposed on little cigars shall be distributed as provided in
20 Section 2 of the Cigarette Tax Act.

21 (Source: P.A. 101-31, eff. 6-28-19.)

22 (35 ILCS 143/10-23 new)

23 Sec. 10-23. Remote retail sales; license; age
24 verification.

25 (a) Beginning on July 1, 2025, no person inside or outside

1 the State may make a remote retail sale of cigars or pipe
2 tobacco to consumers in the State without completing an
3 application for and being granted a license by the Department
4 as a remote retail seller. Each applicant for a license under
5 this Section shall furnish to the Department, in an electronic
6 format established by the Department, the following
7 information:

8 (1) the name and address of the applicant;

9 (2) the address of the location at which the applicant
10 proposes to engage in business as a remote retail seller
11 of tobacco products whether within or outside this State;
12 and

13 (3) such other additional information as the
14 Department may lawfully require by its rules and
15 regulations.

16 (b) A remote retail seller's license issued pursuant to
17 this Section shall be issued for the seller's principal place
18 of business location, whether that location is inside or
19 outside of this State. The license need not be displayed.

20 (c) The annual license fee payable to the Department for
21 each remote retail seller's license is \$75. The fee shall be
22 deposited into the Tax Compliance and Administration Fund and
23 shall be used for the cost of tobacco retail inspection and
24 contraband tobacco and tobacco smuggling with at least
25 two-thirds of the money being used for contraband tobacco and
26 tobacco smuggling operations and enforcement. Each applicant

1 for license shall pay such fee to the Department at the time of
2 submitting its application for license to the Department. The
3 Department shall require an applicant for a license under this
4 Section to electronically file and pay the fee. A separate
5 annual license fee shall be paid for each place of business at
6 which a person who is required to procure a remote retail
7 seller's license under this Section proposes to engage in
8 business as a remote retail seller in Illinois under this Act.

9 (d) The following are ineligible to receive a remote
10 retail seller's license under this Act:

11 (1) a person who has been convicted of a felony under
12 any federal or State law for smuggling cigarettes or
13 tobacco products or tobacco tax evasion, if the
14 Department, after investigation and a hearing if requested
15 by the applicant, determines that the person has not been
16 sufficiently rehabilitated to warrant the public trust;
17 and

18 (2) a corporation, if any officer, manager, or
19 director thereof, or any stockholder or stockholders owning in
20 the aggregate more than 5% of the stock of the corporation,
21 would not be eligible to receive a license under this Act for
22 any reason.

23 (e) The Department, upon receipt of an application and
24 license fee, in proper form, from a person who is eligible to
25 receive a remote retail seller's license under this Act, shall
26 issue to the applicant a license in form prescribed by the

1 Department. That license shall permit the applicant to engage
2 in business as a remote retail seller under this Act at the
3 place shown in the seller's application. All licenses issued
4 by the Department under this Section shall be valid for a
5 period not to exceed one year after issuance unless sooner
6 revoked, canceled, or suspended as provided in this Act. No
7 license issued under this Section is transferable or
8 assignable. A person who obtains a license as a retailer who
9 ceases to do business as specified in the license, or who never
10 commenced business, or whose license is suspended or revoked,
11 shall immediately surrender the license to the Department.

12 (f) A retailer as defined under this Act need not obtain an
13 additional license under this Act, but shall be deemed to be
14 sufficiently licensed by virtue of his being properly licensed
15 as a retailer under Section 4g of the Cigarette Tax Act.

16 (g) No person inside or outside the State may make a remote
17 retail sale of cigars or pipe tobacco to consumers in the State
18 unless the seller provides for age verification through an
19 independent, third-party age verification service that
20 compares information available from a commercially available
21 database, or aggregate of databases, that are regularly used
22 by government agencies and businesses for the purpose of age
23 and identity verification to the personal information entered
24 by the individual during the ordering process that establishes
25 that the individual is of age.

26 (h) If economic nexus thresholds are met, and the tax

1 under this Act is being remitted using the actual cost list
2 method to calculate the tax, the remote retail seller must
3 provide the remote retail sellers's certified actual cost list
4 to the Department for each SKU that the remote retail seller
5 will offer for remote retail sale in the subsequent calendar
6 year. The actual cost list shall be updated quarterly as new
7 SKUs are added to a remote retail seller's inventory. New SKUs
8 will be added using the actual cost first paid for the SKU.

9 (i) In addition to the license required under this
10 Section, each remote retailer seller must also obtain any
11 required licenses or certificates of registration under the
12 Retailers' Occupation Tax Act and the Cigarette Tax Act.

13 (j) Any person aggrieved by any decision of the Department
14 under this Section may, within 30 days after notice of the
15 decision, protest and request a hearing. Upon receiving a
16 request for a hearing, the Department shall give notice to the
17 person requesting the hearing of the time and place fixed for
18 the hearing and shall hold a hearing in conformity with the
19 provisions of this Act and then issue its final administrative
20 decision in the matter to that person. In the absence of a
21 protest and request for a hearing within 30 days, the
22 Department's decision shall become final without any further
23 determination being made or notice given.

24 (35 ILCS 143/10-30)

25 Sec. 10-30. Returns.

1 (a) Every distributor shall, on or before the 15th day of
2 each month, file a return with the Department covering the
3 preceding calendar month. The return shall disclose the
4 wholesale price for all tobacco products other than moist
5 snuff and the quantity in ounces of moist snuff sold or
6 otherwise disposed of and other information that the
7 Department may reasonably require. The return shall be filed
8 upon a form prescribed and furnished by the Department.

9 (a-5) Every remote retail seller shall, on or before the
10 15th day of each month, file a return with the Department
11 covering the preceding calendar month. The remote retail
12 seller's return must report all tobacco products brought in or
13 caused to be brought in from outside the State or shipped or
14 transported to consumers within the State during the preceding
15 calendar month. The return must include further information as
16 the Department may prescribe by rule and must show the total
17 actual cost or actual cost list price paid by a remote retail
18 seller for each stock-keeping unit for the previous calendar
19 month. The return must show the amount of tax due for all
20 remote retail sales made from within or outside the State to a
21 consumer in the State during the preceding calendar month. It
22 is the intent and purpose of this amendatory Act of the 103rd
23 General Assembly that the remote retail seller remit the tax
24 at the time the return is filed. It is further the intent and
25 purpose of this amendatory Act of the 103rd General Assembly
26 to impose the tax only once on all tobacco products, including

1 cigars and pipe tobacco, sold in the State.

2 (b) In addition to the information required under
3 subsection (a), on or before the 15th day of each month,
4 covering the preceding calendar month, each stamping
5 distributor shall, on forms prescribed and furnished by the
6 Department, report the quantity of little cigars sold or
7 otherwise disposed of, including the number of packages of
8 little cigars sold or disposed of during the month containing
9 20 or 25 little cigars.

10 (c) At the time when any return of any distributor is due
11 to be filed with the Department, the distributor shall also
12 remit to the Department the tax liability that the distributor
13 has incurred for transactions occurring in the preceding
14 calendar month, less the discount allowed.

15 (d) The Department may adopt rules to require the
16 electronic filing of any return or document required to be
17 filed under this Act. Those rules may provide for exceptions
18 from the filing requirement set forth in this paragraph for
19 persons who demonstrate that they do not have access to the
20 Internet and petition the Department to waive the electronic
21 filing requirement.

22 (e) If any payment provided for in this Section exceeds
23 the distributor's liabilities under this Act, as shown on an
24 original return, the distributor may credit such excess
25 payment against liability subsequently to be remitted to the
26 Department under this Act, in accordance with reasonable rules

1 adopted by the Department.

2 (f) The distributor required to pay the tax under Section
3 10-10 shall be entitled to a discount to reimburse the
4 distributor for the expenses incurred in keeping and
5 maintaining records, preparing and filing the returns,
6 remitting the tax, and supplying the data to the Department
7 upon request. The discount shall be 2% of the distributor's
8 tax liability under this Act, but not to exceed \$2,000 per
9 return.

10 (Source: P.A. 100-1171, eff. 1-4-19.)

11 (35 ILCS 143/10-35)

12 Sec. 10-35. Record keeping.

13 (a) Every distributor, as defined in Section 10-5, shall
14 keep complete and accurate records of tobacco products held,
15 purchased, manufactured, brought in or caused to be brought in
16 from without the State, and tobacco products sold, or
17 otherwise disposed of, and shall preserve and keep all
18 invoices, bills of lading, sales records, and copies of bills
19 of sale, the wholesale price for tobacco products sold or
20 otherwise disposed of, an inventory of tobacco products
21 prepared as of December 31 of each year or as of the last day
22 of the distributor's fiscal year if he or she files federal
23 income tax returns on the basis of a fiscal year, and other
24 pertinent papers and documents relating to the manufacture,
25 purchase, sale, or disposition of tobacco products. Every

1 sales invoice issued by a licensed distributor to a retailer
2 in this State shall contain the distributor's Tobacco Products
3 License number unless the distributor has been granted a
4 waiver by the Department in response to a written request in
5 cases where (i) the distributor sells little cigars or other
6 tobacco products only to licensed retailers that are
7 wholly-owned by the distributor or owned by a wholly-owned
8 subsidiary of the distributor; (ii) the licensed retailer
9 obtains little cigars or other tobacco products only from the
10 distributor requesting the waiver; and (iii) the distributor
11 affixes the tax stamps to the original packages of little
12 cigars or has or will pay the tax on the other tobacco products
13 sold to the licensed retailer. The distributor shall file a
14 written request with the Department, and, if the Department
15 determines that the distributor meets the conditions for a
16 waiver, the Department shall grant the waiver.

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

1 electronically, the records may be maintained out of state.
2 However, all original invoices or copies thereof covering
3 purchases of tobacco products must be retained on the licensed
4 premises for a period of 90 days after such purchase, unless
5 the Department has granted a waiver in response to a written
6 request in cases where records are kept at a central business
7 location within the State of Illinois or in cases where
8 records that are available electronically are maintained out
9 of state. The Department shall adopt rules regarding the
10 eligibility for a waiver, revocation of a waiver, and
11 requirements and standards for maintenance and accessibility
12 of records located at a central location out-of-State pursuant
13 to a waiver provided under this Section.

14 (b-5) Every remote retail seller, whether or not the
15 remote retail seller has obtained a remote retail seller's
16 license under Section 4g of the Cigarette Tax Act, shall keep
17 complete and accurate records of tobacco products held,
18 purchased, sold, or otherwise disposed of, and shall preserve
19 and keep all invoices, bills of lading, sales records, and
20 copies of bills of sale, returns and other pertinent papers
21 and documents relating to the purchase, sale, or disposition
22 of tobacco products. These records must be on the licensed
23 premises but need not be maintained in the State of Illinois;
24 however, a remote retail seller shall be able to access
25 available records electronically, if the records are
26 maintained out of state. However, all original invoices or

1 copies covering purchases of tobacco products must be retained
2 on the licensed premises for a period of 365 days after such
3 purchase, unless the Department has granted a waiver in
4 response to a written request in cases where records are kept
5 at a central business location within the State of Illinois or
6 in cases where records that are available electronically are
7 maintained out of state. The Department shall adopt rules
8 regarding the eligibility for a waiver, revocation of a
9 waiver, and requirements and standards for maintenance and
10 accessibility of records located at a central location out of
11 state pursuant to a waiver provided under this Section.

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

20 (Source: P.A. 99-192, eff. 1-1-16; 100-940, eff. 8-17-18.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.