



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB0044

Introduced 1/30/2009, by Sen. Jeffrey M. Schoenberg

SYNOPSIS AS INTRODUCED:

30 ILCS 105/5.719 new	
30 ILCS 105/6z-76 new	
35 ILCS 130/1	from Ch. 120, par. 453.1
35 ILCS 130/2	from Ch. 120, par. 453.2
35 ILCS 135/1	from Ch. 120, par. 453.31
35 ILCS 135/2	from Ch. 120, par. 453.32
35 ILCS 135/12	from Ch. 120, par. 453.42

Amends the Cigarette Tax Act and the Cigarette Use Tax Act. Provides that an additional tax of 50 mills per cigarette shall be imposed on retailers of cigarettes. Provides that, of the proceeds of the tax, 0.57% shall be deposited into the Tax Compliance and Administration Fund and 99.43% shall be deposited into the Healthcare Provider Relief Fund. Changes the definition of "cigarette" to exclude those with wrappers made of "whole tobacco leaf" (instead of "tobacco"). Amends the State Finance Act to create the Healthcare Provider Relief Fund. Provides that moneys in the Fund may be used by the Department of Healthcare and Family Services for the purpose of making reimbursements to providers who participate in certain medical assistance programs. Effective immediately.

LRB096 03720 HLH 13749 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 State Finance Act is amended by adding
5 Sections 5.719 and 6z-76 as follows:

6 (30 ILCS 105/5.719 new)

7 Sec. 5.719. The Healthcare Provider Relief Fund.

8 (30 ILCS 105/6z-76 new)

9 Sec. 6z-76. The Healthcare Provider Relief Fund. The
10 Healthcare Provider Relief Fund is created as a special fund in
11 the State treasury. Moneys in the Fund may be used, subject to
12 appropriation, by Department of Healthcare and Family Services
13 only for the purpose of making reimbursements to providers of
14 goods or services under the medical assistance program under
15 Article V of the Illinois Public Aid Code, the Children's
16 Health Insurance Program Act, the Covering All Kids Health
17 Insurance Act, and the pharmaceutical assistance program under
18 the Senior Citizens and Disabled Persons Property Tax Relief
19 and Pharmaceutical Assistance Act. The Department shall make
20 all such reimbursements from the Fund in the order that claims
21 for those reimbursements were received by the Department.

22 Any interest earnings that are attributable to moneys in

1 the Fund must be deposited into the Fund.

2 The Healthcare Provider Relief Fund is not subject to
3 sweeps, administrative charges, or charge-backs, including but
4 not limited to, those authorized under Section 8h of the State
5 Finance Act, or any other fiscal or budgetary maneuver that
6 would in any way transfer any funds from the Healthcare
7 Provider Relief Fund into any other fund of the State.

8 Section 10. The Cigarette Tax Act is amended by changing
9 Sections 1 and 2 as follows:

10 (35 ILCS 130/1) (from Ch. 120, par. 453.1)

11 Sec. 1. For the purposes of this Act:

12 "Cigarette", when used in this Act, shall be construed to
13 mean: Any roll for smoking made wholly or in part of tobacco
14 irrespective of size or shape and whether or not such tobacco
15 is flavored, adulterated or mixed with any other ingredient,
16 and the wrapper or cover of which is made of paper or any other
17 substance or material except whole tobacco leaf.

18 "Person" means any natural individual, firm, partnership,
19 association, joint stock company, joint adventure, public or
20 private corporation, however formed, limited liability
21 company, or a receiver, executor, administrator, trustee,
22 guardian or other representative appointed by order of any
23 court.

24 "Prior Continuous Compliance Taxpayer" means any person

1 who is licensed under this Act and who, having been a licensee
2 for a continuous period of 5 years, is determined by the
3 Department not to have been either delinquent or deficient in
4 the payment of tax liability during that period or otherwise in
5 violation of this Act. Also, any taxpayer who has, as verified
6 by the Department, continuously complied with the condition of
7 his bond or other security under provisions of this Act for a
8 period of 5 consecutive years shall be considered to be a
9 "Prior continuous compliance taxpayer". In calculating the
10 consecutive period of time described herein for qualification
11 as a "prior continuous compliance taxpayer", a consecutive
12 period of time of qualifying compliance immediately prior to
13 the effective date of this amendatory Act of 1987 shall be
14 credited to any licensee who became licensed on or before the
15 effective date of this amendatory Act of 1987.

16 "Department" means the Department of Revenue.

17 "Sale" means any transfer, exchange or barter in any manner
18 or by any means whatsoever for a consideration, and includes
19 and means all sales made by any person.

20 "Original Package" means the individual packet, box or
21 other container whatsoever used to contain and to convey
22 cigarettes to the consumer.

23 "Distributor" means any and each of the following:

24 (1) Any person engaged in the business of selling
25 cigarettes in this State who brings or causes to be brought
26 into this State from without this State any original

1 packages of cigarettes, on which original packages there is
2 no authorized evidence underneath a sealed transparent
3 wrapper showing that the tax liability imposed by this Act
4 has been paid or assumed by the out-of-State seller of such
5 cigarettes, for sale or other disposition in the course of
6 such business.

7 (2) Any person who makes, manufactures or fabricates
8 cigarettes in this State for sale in this State, except a
9 person who makes, manufactures or fabricates cigarettes as
10 a part of a correctional industries program for sale to
11 residents incarcerated in penal institutions or resident
12 patients of a State-operated mental health facility.

13 (3) Any person who makes, manufactures or fabricates
14 cigarettes outside this State, which cigarettes are placed
15 in original packages contained in sealed transparent
16 wrappers, for delivery or shipment into this State, and who
17 elects to qualify and is accepted by the Department as a
18 distributor under Section 4b of this Act.

19 "Place of business" shall mean and include any place where
20 cigarettes are sold or where cigarettes are manufactured,
21 stored or kept for the purpose of sale or consumption,
22 including any vessel, vehicle, airplane, train or vending
23 machine.

24 "Business" means any trade, occupation, activity or
25 enterprise engaged in for the purpose of selling cigarettes in
26 this State.

1 "Retailer" means any person who engages in the making of
2 transfers of the ownership of, or title to, cigarettes to a
3 purchaser for use or consumption and not for resale in any
4 form, for a valuable consideration. "Retailer" does not include
5 a person:

6 (1) who transfers to residents incarcerated in penal
7 institutions or resident patients of a State-operated
8 mental health facility ownership of cigarettes made,
9 manufactured, or fabricated as part of a correctional
10 industries program; or

11 (2) who transfers cigarettes to a not-for-profit
12 research institution that conducts tests concerning the
13 health effects of tobacco products and who does not offer
14 the cigarettes for resale.

15 "Retailer" shall be construed to include any person who
16 engages in the making of transfers of the ownership of, or
17 title to, cigarettes to a purchaser, for use or consumption by
18 any other person to whom such purchaser may transfer the
19 cigarettes without a valuable consideration, except a person
20 who transfers to residents incarcerated in penal institutions
21 or resident patients of a State-operated mental health facility
22 ownership of cigarettes made, manufactured or fabricated as
23 part of a correctional industries program.

24 (Source: P.A. 95-462, eff. 8-27-07.)

25 (35 ILCS 130/2) (from Ch. 120, par. 453.2)

1 Sec. 2. Tax imposed; rate; collection, payment, and
2 distribution; discount.

3 (a) A tax is imposed upon any person engaged in business as
4 a retailer of cigarettes in this State at the rate of 5 1/2
5 mills per cigarette sold, or otherwise disposed of in the
6 course of such business in this State. In addition to any other
7 tax imposed by this Act, a tax is imposed upon any person
8 engaged in business as a retailer of cigarettes in this State
9 at a rate of 1/2 mill per cigarette sold or otherwise disposed
10 of in the course of such business in this State on and after
11 January 1, 1947, and shall be paid into the Metropolitan Fair
12 and Exposition Authority Reconstruction Fund or as otherwise
13 provided in Section 29. On and after December 1, 1985, in
14 addition to any other tax imposed by this Act, a tax is imposed
15 upon any person engaged in business as a retailer of cigarettes
16 in this State at a rate of 4 mills per cigarette sold or
17 otherwise disposed of in the course of such business in this
18 State. Of the additional tax imposed by this amendatory Act of
19 1985, \$9,000,000 of the moneys received by the Department of
20 Revenue pursuant to this Act shall be paid each month into the
21 Common School Fund. On and after the effective date of this
22 amendatory Act of 1989, in addition to any other tax imposed by
23 this Act, a tax is imposed upon any person engaged in business
24 as a retailer of cigarettes at the rate of 5 mills per
25 cigarette sold or otherwise disposed of in the course of such
26 business in this State. On and after the effective date of this

1 amendatory Act of 1993, in addition to any other tax imposed by
2 this Act, a tax is imposed upon any person engaged in business
3 as a retailer of cigarettes at the rate of 7 mills per
4 cigarette sold or otherwise disposed of in the course of such
5 business in this State. On and after December 15, 1997, in
6 addition to any other tax imposed by this Act, a tax is imposed
7 upon any person engaged in business as a retailer of cigarettes
8 at the rate of 7 mills per cigarette sold or otherwise disposed
9 of in the course of such business of this State. All of the
10 moneys received by the Department of Revenue pursuant to this
11 Act and the Cigarette Use Tax Act from the additional taxes
12 imposed by this amendatory Act of 1997, shall be paid each
13 month into the Common School Fund. On and after July 1, 2002,
14 in addition to any other tax imposed by this Act, a tax is
15 imposed upon any person engaged in business as a retailer of
16 cigarettes at the rate of 20.0 mills per cigarette sold or
17 otherwise disposed of in the course of such business in this
18 State. Beginning on September 1, 2009, in addition to any other
19 tax imposed by this Act, a tax is imposed upon any person
20 engaged in business as a retailer of cigarettes at the rate of
21 50 mills per cigarette sold or otherwise disposed of in the
22 course of such business in this State. Of the moneys received
23 by the Department of Revenue under this Act and the Cigarette
24 Use Tax Act from the additional taxes imposed by this
25 amendatory Act of the 96th General Assembly: (i) 0.57% must be
26 paid each month into the Tax Compliance and Administration Fund

1 for the purpose of cigarette and tobacco related enforcement,
2 retail inspections, and prevention of internet and interstate
3 trafficking of contraband cigarettes, and (ii) 99.43% must be
4 paid each month into the Healthcare Provider Relief Fund. The
5 payment of such taxes shall be evidenced by a stamp affixed to
6 each original package of cigarettes, or an authorized
7 substitute for such stamp imprinted on each original package of
8 such cigarettes underneath the sealed transparent outside
9 wrapper of such original package, as hereinafter provided.
10 However, such taxes are not imposed upon any activity in such
11 business in interstate commerce or otherwise, which activity
12 may not under the Constitution and statutes of the United
13 States be made the subject of taxation by this State.

14 Beginning on the effective date of this amendatory Act of
15 the 92nd General Assembly and through June 30, 2006, all of the
16 moneys received by the Department of Revenue pursuant to this
17 Act and the Cigarette Use Tax Act, other than the moneys that
18 are dedicated to the Common School Fund, shall be distributed
19 each month as follows: first, there shall be paid into the
20 General Revenue Fund an amount which, when added to the amount
21 paid into the Common School Fund for that month, equals
22 \$33,300,000, except that in the month of August of 2004, this
23 amount shall equal \$83,300,000; then, from the moneys
24 remaining, if any amounts required to be paid into the General
25 Revenue Fund in previous months remain unpaid, those amounts
26 shall be paid into the General Revenue Fund; then, beginning on

1 April 1, 2003, from the moneys remaining, \$5,000,000 per month
2 shall be paid into the School Infrastructure Fund; then, if any
3 amounts required to be paid into the School Infrastructure Fund
4 in previous months remain unpaid, those amounts shall be paid
5 into the School Infrastructure Fund; then the moneys remaining,
6 if any, shall be paid into the Long-Term Care Provider Fund. To
7 the extent that more than \$25,000,000 has been paid into the
8 General Revenue Fund and Common School Fund per month for the
9 period of July 1, 1993 through the effective date of this
10 amendatory Act of 1994 from combined receipts of the Cigarette
11 Tax Act and the Cigarette Use Tax Act, notwithstanding the
12 distribution provided in this Section, the Department of
13 Revenue is hereby directed to adjust the distribution provided
14 in this Section to increase the next monthly payments to the
15 Long Term Care Provider Fund by the amount paid to the General
16 Revenue Fund and Common School Fund in excess of \$25,000,000
17 per month and to decrease the next monthly payments to the
18 General Revenue Fund and Common School Fund by that same excess
19 amount.

20 Beginning on July 1, 2006, all of the moneys received by
21 the Department of Revenue pursuant to this Act and the
22 Cigarette Use Tax Act, other than the moneys that are dedicated
23 to the Common School Fund and, beginning on the effective date
24 of this amendatory Act of the 96th General Assembly, other than
25 the moneys from the additional taxes imposed by this amendatory
26 Act of the 96th General Assembly that must be paid each month

1 into the Tax Compliance and Administration Fund and the
2 Healthcare Provider Relief Fund, shall be distributed each
3 month as follows: first, there shall be paid into the General
4 Revenue Fund an amount that, when added to the amount paid into
5 the Common School Fund for that month, equals \$29,200,000;
6 then, from the moneys remaining, if any amounts required to be
7 paid into the General Revenue Fund in previous months remain
8 unpaid, those amounts shall be paid into the General Revenue
9 Fund; then from the moneys remaining, \$5,000,000 per month
10 shall be paid into the School Infrastructure Fund; then, if any
11 amounts required to be paid into the School Infrastructure Fund
12 in previous months remain unpaid, those amounts shall be paid
13 into the School Infrastructure Fund; then the moneys remaining,
14 if any, shall be paid into the Long-Term Care Provider Fund.

15 When any tax imposed herein terminates or has terminated,
16 distributors who have bought stamps while such tax was in
17 effect and who therefore paid such tax, but who can show, to
18 the Department's satisfaction, that they sold the cigarettes to
19 which they affixed such stamps after such tax had terminated
20 and did not recover the tax or its equivalent from purchasers,
21 shall be allowed by the Department to take credit for such
22 absorbed tax against subsequent tax stamp purchases from the
23 Department by such distributor.

24 The impact of the tax levied by this Act is imposed upon
25 the retailer and shall be prepaid or pre-collected by the
26 distributor for the purpose of convenience and facility only,

1 and the amount of the tax shall be added to the price of the
2 cigarettes sold by such distributor. Collection of the tax
3 shall be evidenced by a stamp or stamps affixed to each
4 original package of cigarettes, as hereinafter provided.

5 Each distributor shall collect the tax from the retailer at
6 or before the time of the sale, shall affix the stamps as
7 hereinafter required, and shall remit the tax collected from
8 retailers to the Department, as hereinafter provided. Any
9 distributor who fails to properly collect and pay the tax
10 imposed by this Act shall be liable for the tax. Any
11 distributor having cigarettes to which stamps have been affixed
12 in his possession for sale on the effective date of this
13 amendatory Act of 1989 shall not be required to pay the
14 additional tax imposed by this amendatory Act of 1989 on such
15 stamped cigarettes. Any distributor having cigarettes to which
16 stamps have been affixed in his or her possession for sale at
17 12:01 a.m. on the effective date of this amendatory Act of
18 1993, is required to pay the additional tax imposed by this
19 amendatory Act of 1993 on such stamped cigarettes. This
20 payment, less the discount provided in subsection (b), shall be
21 due when the distributor first makes a purchase of cigarette
22 tax stamps after the effective date of this amendatory Act of
23 1993, or on the first due date of a return under this Act after
24 the effective date of this amendatory Act of 1993, whichever
25 occurs first. Any distributor having cigarettes to which stamps
26 have been affixed in his possession for sale on December 15,

1 1997 shall not be required to pay the additional tax imposed by
2 this amendatory Act of 1997 on such stamped cigarettes.

3 Any distributor having cigarettes to which stamps have been
4 affixed in his or her possession for sale on July 1, 2002 shall
5 not be required to pay the additional tax imposed by this
6 amendatory Act of the 92nd General Assembly on those stamped
7 cigarettes. Any distributor having cigarettes to which stamps
8 have been affixed in his or her possession for sale on or after
9 September 1, 2009 is required to pay the additional tax imposed
10 by this amendatory Act of the 96th General Assembly on those
11 stamped cigarettes. This payment, less the discount provided in
12 subsection (b), is due when the distributor first makes a
13 purchase of cigarette tax stamps on or after September 1, 2009
14 or on the first due date of a return under this Act occurring
15 on or after September 1, 2009, whichever occurs first.

16 The amount of the Cigarette Tax imposed by this Act shall
17 be separately stated, apart from the price of the goods, by
18 both distributors and retailers, in all advertisements, bills
19 and sales invoices.

20 (b) The distributor shall be required to collect the taxes
21 provided under paragraph (a) hereof, and, to cover the costs of
22 such collection, shall be allowed a discount during any year
23 commencing July 1st and ending the following June 30th in
24 accordance with the schedule set out hereinbelow, which
25 discount shall be allowed at the time of purchase of the stamps
26 when purchase is required by this Act, or at the time when the

1 tax is remitted to the Department without the purchase of
2 stamps from the Department when that method of paying the tax
3 is required or authorized by this Act. Prior to December 1,
4 1985, a discount equal to $1\frac{2}{3}\%$ of the amount of the tax up to
5 and including the first \$700,000 paid hereunder by such
6 distributor to the Department during any such year; $1\frac{1}{3}\%$ of
7 the next \$700,000 of tax or any part thereof, paid hereunder by
8 such distributor to the Department during any such year; 1% of
9 the next \$700,000 of tax, or any part thereof, paid hereunder
10 by such distributor to the Department during any such year, and
11 $\frac{2}{3}$ of 1% of the amount of any additional tax paid hereunder by
12 such distributor to the Department during any such year shall
13 apply. On and after December 1, 1985, a discount equal to 1.75%
14 of the amount of the tax payable under this Act up to and
15 including the first \$3,000,000 paid hereunder by such
16 distributor to the Department during any such year and 1.5% of
17 the amount of any additional tax paid hereunder by such
18 distributor to the Department during any such year shall apply.

19 Two or more distributors that use a common means of
20 affixing revenue tax stamps or that are owned or controlled by
21 the same interests shall be treated as a single distributor for
22 the purpose of computing the discount.

23 (c) The taxes herein imposed are in addition to all other
24 occupation or privilege taxes imposed by the State of Illinois,
25 or by any political subdivision thereof, or by any municipal
26 corporation.

1 (Source: P.A. 93-839, eff. 7-30-04; 94-91, eff. 7-1-05; 94-839,
2 eff. 6-6-06.)

3 Section 15. The Cigarette Use Tax Act is amended by
4 changing Sections 1, 2, and 12 as follows:

5 (35 ILCS 135/1) (from Ch. 120, par. 453.31)

6 Sec. 1. For the purpose of this Act, unless otherwise
7 required by the context:

8 "Use" means the exercise by any person of any right or
9 power over cigarettes incident to the ownership or possession
10 thereof, other than the making of a sale thereof in the course
11 of engaging in a business of selling cigarettes and shall
12 include the keeping or retention of cigarettes for use. For the
13 purpose of this Act, "use" does not include the use of
14 cigarettes by a not-for-profit research institution for the
15 purpose of conducting tests concerning the health effects of
16 tobacco products, provided the cigarettes are not offered for
17 resale.

18 "Cigarette" means any roll for smoking made wholly or in
19 part of tobacco irrespective of size or shape and whether or
20 not such tobacco is flavored, adulterated or mixed with any
21 other ingredient, and the wrapper or cover of which is made of
22 paper or any other substance or material except whole tobacco
23 leaf.

24 "Person" means any natural individual, firm, partnership,

1 association, joint stock company, joint adventure, public or
2 private corporation, however formed, limited liability
3 company, or a receiver, executor, administrator, trustee,
4 guardian or other representative appointed by order of any
5 court.

6 "Department" means the Department of Revenue.

7 "Sale" means any transfer, exchange or barter in any manner
8 or by any means whatsoever for a consideration, and includes
9 and means all sales made by any person.

10 "Original Package" means the individual packet, box or
11 other container whatsoever used to contain and to convey
12 cigarettes to the consumer.

13 "Distributor" means any and each of the following:

14 a. Any person engaged in the business of selling
15 cigarettes in this State who brings or causes to be brought
16 into this State from without this State any original
17 packages of cigarettes, on which original packages there is
18 no authorized evidence underneath a sealed transparent
19 wrapper showing that the tax liability imposed by this Act
20 has been paid or assumed by the out-of-State seller of such
21 cigarettes, for sale in the course of such business.

22 b. Any person who makes, manufactures or fabricates
23 cigarettes in this State for sale, except a person who
24 makes, manufactures or fabricates cigarettes for sale to
25 residents incarcerated in penal institutions or resident
26 patients or a State-operated mental health facility.

1 c. Any person who makes, manufactures or fabricates
2 cigarettes outside this State, which cigarettes are placed
3 in original packages contained in sealed transparent
4 wrappers, for delivery or shipment into this State, and who
5 elects to qualify and is accepted by the Department as a
6 distributor under Section 7 of this Act.

7 "Distributor" does not include any person who transfers
8 cigarettes to a not-for-profit research institution that
9 conducts tests concerning the health effects of tobacco
10 products and who does not offer the cigarettes for resale.

11 "Distributor maintaining a place of business in this
12 State", or any like term, means any distributor having or
13 maintaining within this State, directly or by a subsidiary, an
14 office, distribution house, sales house, warehouse or other
15 place of business, or any agent operating within this State
16 under the authority of the distributor or its subsidiary,
17 irrespective of whether such place of business or agent is
18 located here permanently or temporarily, or whether such
19 distributor or subsidiary is licensed to transact business
20 within this State.

21 "Business" means any trade, occupation, activity or
22 enterprise engaged in or conducted in this State for the
23 purpose of selling cigarettes.

24 "Prior Continuous Compliance Taxpayer" means any person
25 who is licensed under this Act and who, having been a licensee
26 for a continuous period of 5 years, is determined by the

1 Department not to have been either delinquent or deficient in
2 the payment of tax liability during that period or otherwise in
3 violation of this Act. Also, any taxpayer who has, as verified
4 by the Department, continuously complied with the condition of
5 his bond or other security under provisions of this Act of a
6 period of 5 consecutive years shall be considered to be a
7 "prior continuous compliance taxpayer". In calculating the
8 consecutive period of time described herein for qualification
9 as a "prior continuous compliance taxpayer", a consecutive
10 period of time of qualifying compliance immediately prior to
11 the effective date of this amendatory Act of 1987 shall be
12 credited to any licensee who became licensed on or before the
13 effective date of this amendatory Act of 1987.

14 (Source: P.A. 95-462, eff. 8-27-07.)

15 (35 ILCS 135/2) (from Ch. 120, par. 453.32)

16 Sec. 2. A tax is imposed upon the privilege of using
17 cigarettes in this State, at the rate of 6 mills per cigarette
18 so used. On and after December 1, 1985, in addition to any
19 other tax imposed by this Act, a tax is imposed upon the
20 privilege of using cigarettes in this State at a rate of 4
21 mills per cigarette so used. On and after the effective date of
22 this amendatory Act of 1989, in addition to any other tax
23 imposed by this Act, a tax is imposed upon the privilege of
24 using cigarettes in this State at the rate of 5 mills per
25 cigarette so used. On and after the effective date of this

1 amendatory Act of 1993, in addition to any other tax imposed by
2 this Act, a tax is imposed upon the privilege of using
3 cigarettes in this State at a rate of 7 mills per cigarette so
4 used. On and after December 15, 1997, in addition to any other
5 tax imposed by this Act, a tax is imposed upon the privilege of
6 using cigarettes in this State at a rate of 7 mills per
7 cigarette so used. On and after July 1, 2002, in addition to
8 any other tax imposed by this Act, a tax is imposed upon the
9 privilege of using cigarettes in this State at a rate of 20.0
10 mills per cigarette so used. Beginning on September 1, 2009, in
11 addition to any other tax imposed by this Act, a tax is imposed
12 upon the privilege of using cigarettes in this State at a rate
13 of 50 mills per cigarette so used. The taxes herein imposed
14 shall be in addition to all other occupation or privilege taxes
15 imposed by the State of Illinois or by any political
16 subdivision thereof or by any municipal corporation.

17 When any tax imposed herein terminates or has terminated,
18 distributors who have bought stamps while such tax was in
19 effect and who therefore paid such tax, but who can show, to
20 the Department's satisfaction, that they sold the cigarettes to
21 which they affixed such stamps after such tax had terminated
22 and did not recover the tax or its equivalent from purchasers,
23 shall be allowed by the Department to take credit for such
24 absorbed tax against subsequent tax stamp purchases from the
25 Department by such distributors.

26 When the word "tax" is used in this Act, it shall include

1 any tax or tax rate imposed by this Act and shall mean the
2 singular of "tax" or the plural "taxes" as the context may
3 require.

4 Any distributor having cigarettes to which stamps have been
5 affixed in his possession for sale on the effective date of
6 this amendatory Act of 1989 shall not be required to pay the
7 additional tax imposed by this amendatory Act of 1989 on such
8 stamped cigarettes. Any distributor having cigarettes to which
9 stamps have been affixed in his or her possession for sale at
10 12:01 a.m. on the effective date of this amendatory Act of
11 1993, is required to pay the additional tax imposed by this
12 amendatory Act of 1993 on such stamped cigarettes. This payment
13 shall be due when the distributor first makes a purchase of
14 cigarette tax stamps after the effective date of this
15 amendatory Act of 1993, or on the first due date of a return
16 under this Act after the effective date of this amendatory Act
17 of 1993, whichever occurs first. Once a distributor tenders
18 payment of the additional tax to the Department, the
19 distributor may purchase stamps from the Department. Any
20 distributor having cigarettes to which stamps have been affixed
21 in his possession for sale on December 15, 1997 shall not be
22 required to pay the additional tax imposed by this amendatory
23 Act of 1997 on such stamped cigarettes.

24 Any distributor having cigarettes to which stamps have been
25 affixed in his or her possession for sale on July 1, 2002 shall
26 not be required to pay the additional tax imposed by this

1 amendatory Act of the 92nd General Assembly on those stamped
2 cigarettes. Any distributor having cigarettes to which stamps
3 have been affixed in his or her possession for sale on or after
4 September 1, 2009 is required to pay the additional tax imposed
5 by this amendatory Act of the 96th General Assembly on those
6 stamped cigarettes. This payment, less the discount provided in
7 Section 3 of this Act, is due when the distributor first makes
8 a purchase of cigarette tax stamps on or after September 1,
9 2009 or on the first due date of a return under this Act
10 occurring on or after September 1, 2009, whichever occurs
11 first.

12 (Source: P.A. 92-536, eff. 6-6-02.)

13 (35 ILCS 135/12) (from Ch. 120, par. 453.42)

14 Sec. 12. Declaration of possession of cigarettes on which
15 tax not paid.

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

23 (b) On receipt of the return and payment of the tax as
24 required by paragraph (a), the Department may furnish the
25 person with a suitable tax stamp to be affixed to the package

1 of cigarettes upon which the tax has been paid if the
2 Department determines that the cigarettes still exist.

3 (c) The return referred to in paragraph (a) shall contain
4 the name and address of the person possessing the cigarettes
5 involved, the location of the cigarettes and the quantity,
6 brand name, place, and date of the acquisition of the
7 cigarettes.

8 (d) The provisions of this subsection are not subject to
9 the Uniform Penalty and Interest Act.

10 (Source: P.A. 92-322, eff. 1-1-02.)

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.