



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB0006

Introduced 1/27/2011, by Sen. John J. Cullerton

SYNOPSIS AS INTRODUCED:

See Index

Amends the Cigarette Tax Act and the Cigarette Use Tax Act. Provides that an additional tax of 38 mills per cigarette is imposed beginning March 1, 2011. Provides that an additional tax of 12.5 mills per cigarette is imposed beginning March 1, 2012. Provides that proceeds from the additional taxes shall be deposited into the Long-Term Care Provider Fund and the Fund for the Advancement of Education. Amends the State Finance Act to create the Fund for the Advancement of Education. Provides that retailers and distributors who have stamped cigarettes in their possession when the additional tax takes effect are not required to pay the additional tax on those stamped cigarettes, except that retailers and distributors are required to pay the additional tax to the extent the average monthly volume of cigarette stamps in the retailer or distributor's possession exceeds the average monthly volume of cigarette stamps purchased by the retailer or distributor in the previous calendar year. Allows distributors to make payment for tax stamps by draft, which shall be payable within 10 days after purchase. Amends the Tobacco Products Tax Act. Provides that moist snuff is considered a tobacco product. Provides that the tax is imposed on moist snuff at the rate of \$0.20 per ounce. Provides that, beginning on March 1, 2011, the tax rate imposed per ounce of moist snuff may not exceed 11% of the tax imposed upon a package of 20 cigarettes pursuant to the Cigarette Tax Act. Effective immediately.

LRB097 06649 HLH 46735 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 5.786 and 6z-87 as follows:

6 (30 ILCS 105/5.786 new)

7 Sec. 5.786. The Fund for the Advancement of Education.

8 (30 ILCS 105/6z-87 new)

9 Sec. 6z-87. The Fund for the Advancement of Education;
10 creation. The Fund for the Advancement of Education is hereby
11 created as a special fund in the State treasury. All moneys
12 deposited into the fund shall be appropriated to provide
13 financial assistance for education programs. Moneys
14 appropriated from the Fund shall supplement and not supplant
15 the current level of education funding.

16 Section 10. The Cigarette Tax Act is amended by changing
17 Sections 2 and 3 as follows:

18 (35 ILCS 130/2) (from Ch. 120, par. 453.2)

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

1 (a) A tax is imposed upon any person engaged in business as
2 a retailer of cigarettes in this State at the rate of 5 1/2
3 mills per cigarette sold, or otherwise disposed of in the
4 course of such business in this State. In addition to any other
5 tax imposed by this Act, a tax is imposed upon any person
6 engaged in business as a retailer of cigarettes in this State
7 at a rate of 1/2 mill per cigarette sold or otherwise disposed
8 of in the course of such business in this State on and after
9 January 1, 1947, and shall be paid into the Metropolitan Fair
10 and Exposition Authority Reconstruction Fund or as otherwise
11 provided in Section 29. On and after December 1, 1985, in
12 addition to any other tax imposed by this Act, a tax is imposed
13 upon any person engaged in business as a retailer of cigarettes
14 in this State at a rate of 4 mills per cigarette sold or
15 otherwise disposed of in the course of such business in this
16 State. Of the additional tax imposed by this amendatory Act of
17 1985, \$9,000,000 of the moneys received by the Department of
18 Revenue pursuant to this Act shall be paid each month into the
19 Common School Fund. On and after the effective date of this
20 amendatory Act of 1989, in addition to any other tax imposed by
21 this Act, a tax is imposed upon any person engaged in business
22 as a retailer of cigarettes at the rate of 5 mills per
23 cigarette sold or otherwise disposed of in the course of such
24 business in this State. On and after the effective date of this
25 amendatory Act of 1993, in addition to any other tax imposed by
26 this Act, a tax is imposed upon any person engaged in business

1 as a retailer of cigarettes at the rate of 7 mills per
2 cigarette sold or otherwise disposed of in the course of such
3 business in this State. On and after December 15, 1997, in
4 addition to any other tax imposed by this Act, a tax is imposed
5 upon any person engaged in business as a retailer of cigarettes
6 at the rate of 7 mills per cigarette sold or otherwise disposed
7 of in the course of such business of this State. All of the
8 moneys received by the Department of Revenue pursuant to this
9 Act and the Cigarette Use Tax Act from the additional taxes
10 imposed by this amendatory Act of 1997, shall be paid each
11 month into the Common School Fund. On and after July 1, 2002,
12 in addition to any other tax imposed by this Act, a tax is
13 imposed upon any person engaged in business as a retailer of
14 cigarettes at the rate of 20.0 mills per cigarette sold or
15 otherwise disposed of in the course of such business in this
16 State. Beginning on March 1, 2011, in addition to any other tax
17 imposed by this Act, a tax is imposed upon any person engaged
18 in business as a retailer of cigarettes at the rate of 38 mills
19 per cigarette sold or otherwise disposed of in the course of
20 such business in this State. Beginning on March 1, 2012, in
21 addition to any other tax imposed by this Act, a tax is imposed
22 upon any person engaged in business as a retailer of cigarettes
23 at the rate of 12.5 mills per cigarette sold or otherwise
24 disposed of in the course of such business in this State. Of
25 the moneys received by the Department of Revenue under this Act
26 and the Cigarette Use Tax Act from the additional taxes imposed

1 by this amendatory Act of the 97th General Assembly (i) an
2 amount equal to 0.5 mills per cigarette sold or otherwise
3 disposed of shall be paid each month into the Long-Term Care
4 Provider Fund and (ii) the balance shall be paid each month
5 into the Fund for the Advancement of Education, a special fund
6 in the State treasury. The payment of such taxes shall be
7 evidenced by a stamp affixed to each original package of
8 cigarettes, or an authorized substitute for such stamp
9 imprinted on each original package of such cigarettes
10 underneath the sealed transparent outside wrapper of such
11 original package, as hereinafter provided. However, such taxes
12 are not imposed upon any activity in such business in
13 interstate commerce or otherwise, which activity may not under
14 the Constitution and statutes of the United States be made the
15 subject of taxation by this State.

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

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

22 Beginning on July 1, 2006, all of the moneys received by
23 the Department of Revenue pursuant to this Act and the
24 Cigarette Use Tax Act, other than the moneys that are dedicated
25 to the Common School Fund and, beginning on the effective date
26 of this amendatory Act of the 97th General Assembly, other than

1 the moneys from the additional taxes imposed by this amendatory
2 Act of the 97th General Assembly that must be paid each month
3 into the Long-Term Care Provider Fund and the Fund for the
4 Advancement of Education, shall be distributed each month as
5 follows: first, there shall be paid into the General Revenue
6 Fund an amount that, when added to the amount paid into the
7 Common School Fund for that month, equals \$29,200,000; then,
8 from the moneys remaining, if any amounts required to be paid
9 into the General Revenue Fund in previous months remain unpaid,
10 those amounts shall be paid into the General Revenue Fund; then
11 from the moneys remaining, \$5,000,000 per month shall be paid
12 into the School Infrastructure Fund; then, if any amounts
13 required to be paid into the School Infrastructure Fund in
14 previous months remain unpaid, those amounts shall be paid into
15 the School Infrastructure Fund; then the moneys remaining, if
16 any, shall be paid into the Long-Term Care Provider Fund.

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 distributor.

26 The impact of the tax levied by this Act is imposed upon

1 the retailer and shall be prepaid or pre-collected by the
2 distributor for the purpose of convenience and facility only,
3 and the amount of the tax shall be added to the price of the
4 cigarettes sold by such distributor. Collection of the tax
5 shall be evidenced by a stamp or stamps affixed to each
6 original package of cigarettes, as hereinafter provided.

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

1 occurs first. Any distributor having cigarettes to which stamps
2 have been affixed in his possession for sale on December 15,
3 1997 shall not be required to pay the additional tax imposed by
4 this amendatory Act of 1997 on such stamped cigarettes.

5 Any distributor having cigarettes to which stamps have been
6 affixed in his or her possession for sale on July 1, 2002 shall
7 not be required to pay the additional tax imposed by this
8 amendatory Act of the 92nd General Assembly on those stamped
9 cigarettes. Any retailer having cigarettes in his or her
10 possession on March 1, 2011 to which tax stamps have been
11 affixed is not required to pay the additional tax that begins
12 on March 1, 2011 imposed by this amendatory Act of the 97th
13 General Assembly on those stamped cigarettes. Any distributor
14 having cigarettes in his or her possession on March 1, 2011 to
15 which tax stamps have been affixed is required to pay the
16 additional tax that begins on March 1, 2011 imposed by this
17 amendatory Act of the 97th General Assembly to the extent the
18 calendar year 2011 average monthly volume of cigarette stamps
19 in the distributor's possession exceeds the average monthly
20 volume of cigarette stamps purchased by the distributor in
21 calendar year 2010. This payment, less the discount provided in
22 subsection (b), is due when the distributor first makes a
23 purchase of cigarette stamps on or after March 1, 2011 or on
24 the first due date of a return under this Act occurring on or
25 after March 1, 2011, whichever occurs first. Any retailer
26 having cigarettes in his or her possession on March 1, 2012 to

1 which tax stamps have been affixed is not required to pay the
2 additional tax that begins on March 1, 2012 imposed by this
3 amendatory Act of the 97th General Assembly on those stamped
4 cigarettes. Any distributor having cigarettes in his or her
5 possession on March 1, 2012 to which tax stamps have been
6 affixed is required to pay the additional tax that begins on
7 March 1, 2012 imposed by this amendatory Act of the 97th
8 General Assembly to the extent the calendar year 2012 average
9 monthly volume of cigarette stamps in the distributor's
10 possession exceeds the average monthly volume of cigarette
11 stamps purchased by the distributor in calendar year 2011. This
12 payment, less the discount provided in subsection (b), is due
13 when the distributor first makes a purchase of cigarette stamps
14 on or after March 1, 2012 or on the first due date of a return
15 under this Act occurring on or after March 1, 2012, whichever
16 occurs first.

17 Distributors making sales of cigarettes to secondary
18 distributors shall add the amount of the tax to the price of
19 the cigarettes sold by the distributors. Secondary
20 distributors making sales of cigarettes to retailers shall
21 include the amount of the tax in the price of the cigarettes
22 sold to retailers. The amount of tax shall not be less than the
23 amount of taxes imposed by the State and all local
24 jurisdictions. The amount of local taxes shall be calculated
25 based on the location of the retailer's place of business shown
26 on the retailer's certificate of registration or

1 sub-registration issued to the retailer pursuant to Section 2a
2 of the Retailers' Occupation Tax Act. The original packages of
3 cigarettes sold to the retailer shall bear all the required
4 stamps, or other indicia, for the taxes included in the price
5 of cigarettes.

6 The amount of the Cigarette Tax imposed by this Act shall
7 be separately stated, apart from the price of the goods, by
8 distributors, secondary distributors, and retailers, in all
9 bills and sales invoices.

10 (b) The distributor shall be required to collect the taxes
11 provided under paragraph (a) hereof, and, to cover the costs of
12 such collection, shall be allowed a discount during any year
13 commencing July 1st and ending the following June 30th in
14 accordance with the schedule set out hereinbelow, which
15 discount shall be allowed at the time of purchase of the stamps
16 when purchase is required by this Act, or at the time when the
17 tax is remitted to the Department without the purchase of
18 stamps from the Department when that method of paying the tax
19 is required or authorized by this Act. Prior to December 1,
20 1985, a discount equal to 1 2/3% of the amount of the tax up to
21 and including the first \$700,000 paid hereunder by such
22 distributor to the Department during any such year; 1 1/3% of
23 the next \$700,000 of tax or any part thereof, paid hereunder by
24 such distributor to the Department during any such year; 1% of
25 the next \$700,000 of tax, or any part thereof, paid hereunder
26 by such distributor to the Department during any such year, and

1 2/3 of 1% of the amount of any additional tax paid hereunder by
2 such distributor to the Department during any such year shall
3 apply. On and after December 1, 1985, a discount equal to 1.75%
4 of the amount of the tax payable under this Act up to and
5 including the first \$3,000,000 paid hereunder by such
6 distributor to the Department during any such year and 1.5% of
7 the amount of any additional tax paid hereunder by such
8 distributor to the Department during any such year shall apply.

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

13 (c) The taxes herein imposed are in addition to all other
14 occupation or privilege taxes imposed by the State of Illinois,
15 or by any political subdivision thereof, or by any municipal
16 corporation.

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

18 (35 ILCS 130/3) (from Ch. 120, par. 453.3)

19 Sec. 3. Affixing tax stamp; remitting tax to the
20 Department. Payment of the taxes imposed by Section 2 of this
21 Act shall (except as hereinafter provided) be evidenced by
22 revenue tax stamps affixed to each original package of
23 cigarettes. Each distributor of cigarettes, before delivering
24 or causing to be delivered any original package of cigarettes
25 in this State to a purchaser, shall firmly affix a proper stamp

1 or stamps to each such package, or (in case of manufacturers of
2 cigarettes in original packages which are contained inside a
3 sealed transparent wrapper) shall imprint the required
4 language on the original package of cigarettes beneath such
5 outside wrapper, as hereinafter provided.

6 No stamp or imprint may be affixed to, or made upon, any
7 package of cigarettes unless that package complies with all
8 requirements of the federal Cigarette Labeling and Advertising
9 Act, 15 U.S.C. 1331 and following, for the placement of labels,
10 warnings, or any other information upon a package of cigarettes
11 that is sold within the United States. Under the authority of
12 Section 6, the Department shall revoke the license of any
13 distributor that is determined to have violated this paragraph.
14 A person may not affix a stamp on a package of cigarettes,
15 cigarette papers, wrappers, or tubes if that individual package
16 has been marked for export outside the United States with a
17 label or notice in compliance with Section 290.185 of Title 27
18 of the Code of Federal Regulations. It is not a defense to a
19 proceeding for violation of this paragraph that the label or
20 notice has been removed, mutilated, obliterated, or altered in
21 any manner.

22 Only distributors licensed under this Act and
23 transporters, as defined in Section 9c of this Act, may possess
24 unstamped original packages of cigarettes. Prior to shipment to
25 a secondary distributor or an Illinois retailer, a stamp shall
26 be applied to each original package of cigarettes sold to the

1 secondary distributor or retailer. A distributor may apply tax
2 stamps only to original packages of cigarettes purchased or
3 obtained directly from an in-state maker, manufacturer, or
4 fabricator licensed as a distributor under Section 4 of this
5 Act or an out-of-state maker, manufacturer, or fabricator
6 holding a permit under Section 4b of this Act. A licensed
7 distributor may ship or otherwise cause to be delivered
8 unstamped original packages of cigarettes in, into, or from
9 this State. A licensed distributor may transport unstamped
10 original packages of cigarettes to a facility, wherever
11 located, owned or controlled by such distributor; however, a
12 distributor may not transport unstamped original packages of
13 cigarettes to a facility where retail sales of cigarettes take
14 place or to a facility where a secondary distributor makes
15 sales for resale. Any licensed distributor that ships or
16 otherwise causes to be delivered unstamped original packages of
17 cigarettes into, within, or from this State shall ensure that
18 the invoice or equivalent documentation and the bill of lading
19 or freight bill for the shipment identifies the true name and
20 address of the consignor or seller, the true name and address
21 of the consignee or purchaser, and the quantity by brand style
22 of the cigarettes so transported, provided that this Section
23 shall not be construed as to impose any requirement or
24 liability upon any common or contract carrier.

25 The Department, or any person authorized by the Department,
26 shall sell such stamps only to persons holding valid licenses

1 as distributors under this Act. On and after July 1, 2003,
2 payment for such stamps must be made by means of electronic
3 funds transfer. The Department may refuse to sell stamps to any
4 person who does not comply with the provisions of this Act.
5 Beginning on the effective date of this amendatory Act of the
6 92nd General Assembly and through June 30, 2002, persons
7 holding valid licenses as distributors may purchase cigarette
8 tax stamps up to an amount equal to 115% of the distributor's
9 average monthly cigarette tax stamp purchases over the 12
10 calendar months prior to the effective date of this amendatory
11 Act of the 92nd General Assembly.

12 Prior to December 1, 1985, the Department shall allow a
13 distributor 21 days in which to make final payment of the
14 amount to be paid for such stamps, by allowing the distributor
15 to make payment for the stamps at the time of purchasing them
16 with a draft which shall be in such form as the Department
17 prescribes, and which shall be payable within 21 days
18 thereafter: Provided that such distributor has filed with the
19 Department, and has received the Department's approval of, a
20 bond, which is in addition to the bond required under Section 4
21 of this Act, payable to the Department in an amount equal to
22 80% of such distributor's average monthly tax liability to the
23 Department under this Act during the preceding calendar year or
24 \$500,000, whichever is less. The Bond shall be joint and
25 several and shall be in the form of a surety company bond in
26 such form as the Department prescribes, or it may be in the

1 form of a bank certificate of deposit or bank letter of credit.
2 The bond shall be conditioned upon the distributor's payment of
3 amount of any 21-day draft which the Department accepts from
4 that distributor for the delivery of stamps to that distributor
5 under this Act. The distributor's failure to pay any such
6 draft, when due, shall also make such distributor automatically
7 liable to the Department for a penalty equal to 25% of the
8 amount of such draft.

9 On and after December 1, 1985 and until July 1, 2003, the
10 Department shall allow a distributor 30 days in which to make
11 final payment of the amount to be paid for such stamps, by
12 allowing the distributor to make payment for the stamps at the
13 time of purchasing them with a draft which shall be in such
14 form as the Department prescribes, and which shall be payable
15 within 30 days thereafter, and beginning on January 1, 2003 and
16 thereafter, the draft shall be payable by means of electronic
17 funds transfer: Provided that such distributor has filed with
18 the Department, and has received the Department's approval of,
19 a bond, which is in addition to the bond required under Section
20 4 of this Act, payable to the Department in an amount equal to
21 150% of such distributor's average monthly tax liability to the
22 Department under this Act during the preceding calendar year or
23 \$750,000, whichever is less, except that as to bonds filed on
24 or after January 1, 1987, such additional bond shall be in an
25 amount equal to 100% of such distributor's average monthly tax
26 liability under this Act during the preceding calendar year or

1 \$750,000, whichever is less. The bond shall be joint and
2 several and shall be in the form of a surety company bond in
3 such form as the Department prescribes, or it may be in the
4 form of a bank certificate of deposit or bank letter of credit.
5 The bond shall be conditioned upon the distributor's payment of
6 the amount of any 30-day draft which the Department accepts
7 from that distributor for the delivery of stamps to that
8 distributor under this Act. The distributor's failure to pay
9 any such draft, when due, shall also make such distributor
10 automatically liable to the Department for a penalty equal to
11 25% of the amount of such draft.

12 Beginning on the effective date of this amendatory Act of
13 the 97th General Assembly, the Department shall allow a
14 distributor 10 days in which to make final payment of the
15 amount to be paid for such stamps, by allowing the distributor
16 to make payment for the stamps at the time of purchasing them
17 with a draft, which shall be payable by means of electronic
18 funds transfer and in such form as the Department prescribes,
19 and which shall be payable within 10 days thereafter, provided
20 that such distributor has filed with the Department, and has
21 received the Department's approval of, a bond, which is in
22 addition to the bond required under Section 4 of this Act,
23 payable to the Department in an amount equal to 100% of that
24 distributor's average monthly tax liability to the Department
25 under this Act during the preceding calendar year or \$750,000,
26 whichever is less. The bond shall be joint and several and

1 shall be in the form of a surety company bond in such form as
2 the Department prescribes, or it may be in the form of a bank
3 certificate of deposit or bank letter of credit. The bond shall
4 be conditioned upon the distributor's payment of the amount of
5 any 10-day draft which the Department accepts from that
6 distributor for the delivery of stamps to that distributor
7 under this Act. The distributor's failure to pay any such
8 draft, when due, shall also make such distributor automatically
9 liable to the Department for a penalty equal to 25% of the
10 amount of such draft.

11 Every prior continuous compliance taxpayer shall be exempt
12 from all requirements under this Section concerning the
13 furnishing of such bond, as defined in this Section, as a
14 condition precedent to his being authorized to engage in the
15 business licensed under this Act. This exemption shall continue
16 for each such taxpayer until such time as he may be determined
17 by the Department to be delinquent in the filing of any
18 returns, or is determined by the Department (either through the
19 Department's issuance of a final assessment which has become
20 final under the Act, or by the taxpayer's filing of a return
21 which admits tax to be due that is not paid) to be delinquent
22 or deficient in the paying of any tax under this Act, at which
23 time that taxpayer shall become subject to the bond
24 requirements of this Section and, as a condition of being
25 allowed to continue to engage in the business licensed under
26 this Act, shall be required to furnish bond to the Department

1 in such form as provided in this Section. Such taxpayer shall
2 furnish such bond for a period of 2 years, after which, if the
3 taxpayer has not been delinquent in the filing of any returns,
4 or delinquent or deficient in the paying of any tax under this
5 Act, the Department may reinstate such person as a prior
6 continuance compliance taxpayer. Any taxpayer who fails to pay
7 an admitted or established liability under this Act may also be
8 required to post bond or other acceptable security with the
9 Department guaranteeing the payment of such admitted or
10 established liability.

11 Any person aggrieved by any decision of the Department
12 under this Section may, within the time allowed by law, protest
13 and request a hearing, whereupon the Department shall give
14 notice and shall hold a hearing in conformity with the
15 provisions of this Act and then issue its final administrative
16 decision in the matter to such person. In the absence of such a
17 protest filed within the time allowed by law, the Department's
18 decision shall become final without any further determination
19 being made or notice given.

20 The Department shall discharge any surety and shall release
21 and return any bond or security deposited, assigned, pledged,
22 or otherwise provided to it by a taxpayer under this Section
23 within 30 days after:

24 (1) Such taxpayer becomes a prior continuous compliance
25 taxpayer; or

26 (2) Such taxpayer has ceased to collect receipts on which

1 he is required to remit tax to the Department, has filed a
2 final tax return, and has paid to the Department an amount
3 sufficient to discharge his remaining tax liability as
4 determined by the Department under this Act. The Department
5 shall make a final determination of the taxpayer's outstanding
6 tax liability as expeditiously as possible after his final tax
7 return has been filed. If the Department cannot make such final
8 determination within 45 days after receiving the final tax
9 return, within such period it shall so notify the taxpayer,
10 stating its reasons therefor.

11 The Department may authorize distributors to affix revenue
12 tax stamps by imprinting tax meter stamps upon original
13 packages of cigarettes. The Department shall adopt rules and
14 regulations relating to the imprinting of such tax meter stamps
15 as will result in payment of the proper taxes as herein
16 imposed. No distributor may affix revenue tax stamps to
17 original packages of cigarettes by imprinting tax meter stamps
18 thereon unless such distributor has first obtained permission
19 from the Department to employ this method of affixation. The
20 Department shall regulate the use of tax meters and may, to
21 assure the proper collection of the taxes imposed by this Act,
22 revoke or suspend the privilege, theretofore granted by the
23 Department to any distributor, to imprint tax meter stamps upon
24 original packages of cigarettes.

25 Illinois cigarette manufacturers who place their
26 cigarettes in original packages which are contained inside a

1 sealed transparent wrapper, and similar out-of-State cigarette
2 manufacturers who elect to qualify and are accepted by the
3 Department as distributors under Section 4b(a) of this Act,
4 shall pay the taxes imposed by this Act by remitting the amount
5 thereof to the Department by the 5th day of each month covering
6 cigarettes shipped or otherwise delivered in Illinois to
7 purchasers during the preceding calendar month. Such
8 manufacturers of cigarettes in original packages which are
9 contained inside a sealed transparent wrapper, before
10 delivering such cigarettes or causing such cigarettes to be
11 delivered in this State to purchasers, shall evidence their
12 obligation to remit the taxes due with respect to such
13 cigarettes by imprinting language to be prescribed by the
14 Department on each original package of such cigarettes
15 underneath the sealed transparent outside wrapper of such
16 original package, in such place thereon and in such manner as
17 the Department may designate. Such imprinted language shall
18 acknowledge the manufacturer's payment of or liability for the
19 tax imposed by this Act with respect to the distribution of
20 such cigarettes.

21 A distributor shall not affix, or cause to be affixed, any
22 stamp or imprint to a package of cigarettes, as provided for in
23 this Section, if the tobacco product manufacturer, as defined
24 in Section 10 of the Tobacco Product Manufacturers' Escrow Act,
25 that made or sold the cigarettes has failed to become a
26 participating manufacturer, as defined in subdivision (a)(1)

1 of Section 15 of the Tobacco Product Manufacturers' Escrow Act,
2 or has failed to create a qualified escrow fund for any
3 cigarettes manufactured by the tobacco product manufacturer
4 and sold in this State or otherwise failed to bring itself into
5 compliance with subdivision (a) (2) of Section 15 of the Tobacco
6 Product Manufacturers' Escrow Act.

7 (Source: P.A. 95-1053, eff. 1-1-10; 96-782, eff. 1-1-10;
8 96-1027, eff. 7-12-10.)

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

11 (35 ILCS 135/2) (from Ch. 120, par. 453.32)

12 Sec. 2. A tax is imposed upon the privilege of using
13 cigarettes in this State, at the rate of 6 mills per cigarette
14 so used. On and after December 1, 1985, in addition to any
15 other tax imposed by this Act, a tax is imposed upon the
16 privilege of using cigarettes in this State at a rate of 4
17 mills per cigarette so used. On and after the effective date of
18 this amendatory Act of 1989, in addition to any other tax
19 imposed by this Act, a tax is imposed upon the privilege of
20 using cigarettes in this State at the rate of 5 mills per
21 cigarette so used. On and after the effective date of this
22 amendatory Act of 1993, in addition to any other tax imposed by
23 this Act, a tax is imposed upon the privilege of using
24 cigarettes in this State at a rate of 7 mills per cigarette so

1 used. On and after December 15, 1997, in addition to any other
2 tax imposed by this Act, a tax is imposed upon the privilege of
3 using cigarettes in this State at a rate of 7 mills per
4 cigarette so used. On and after July 1, 2002, in addition to
5 any other tax imposed by this Act, a tax is imposed upon the
6 privilege of using cigarettes in this State at a rate of 20.0
7 mills per cigarette so used. Beginning on March 1, 2011, in
8 addition to any other tax imposed by this Act, a tax is imposed
9 upon the privilege of using cigarettes in this State at a rate
10 of 38 mills per cigarette so used. Beginning on March 1, 2012,
11 in addition to any other tax imposed by this Act, a tax is
12 imposed upon the privilege of using cigarettes in this State at
13 a rate of 12.5 mills per cigarette so used. The taxes herein
14 imposed shall be in addition to all other occupation or
15 privilege taxes imposed by the State of Illinois or by any
16 political 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 retailer having cigarettes in his or her
3 possession on March 1, 2011 to which tax stamps have been
4 affixed is not required to pay the additional tax that begins
5 on March 1, 2011 imposed by this amendatory Act of the 97th
6 General Assembly on those stamped cigarettes. Any distributor
7 having cigarettes in his or her possession on March 1, 2011 to
8 which tax stamps have been affixed is required to pay the
9 additional tax that begins on March 1, 2011 imposed by this
10 amendatory Act of the 97th General Assembly to the extent the
11 calendar year 2011 average monthly volume of cigarette stamps
12 in the distributor's possession exceeds the average monthly
13 volume of cigarette stamps purchased by the distributor in
14 calendar year 2010. This payment, less the discount provided in
15 Section 3, is due when the distributor first makes a purchase
16 of cigarette stamps on or after March 1, 2011 or on the first
17 due date of a return under this Act occurring on or after March
18 1, 2011, whichever occurs first. Any retailer having cigarettes
19 in his or her possession on March 1, 2012 to which tax stamps
20 have been affixed is not required to pay the additional tax
21 that begins on March 1, 2012 imposed by this amendatory Act of
22 the 97th General Assembly on those stamped cigarettes. Any
23 distributor having cigarettes in his or her possession on March
24 1, 2012 to which tax stamps have been affixed is required to
25 pay the additional tax that begins on March 1, 2012 imposed by
26 this amendatory Act of the 97th General Assembly to the extent

1 the calendar year 2012 average monthly volume of cigarette
2 stamps in the distributor's possession exceeds the average
3 monthly volume of cigarette stamps purchased by the distributor
4 in calendar year 2011. This payment, less the discount provided
5 in Section 3, is due when the distributor first makes a
6 purchase of cigarette stamps on or after March 1, 2012 or on
7 the first due date of a return under this Act occurring on or
8 after March 1, 2012, whichever occurs first.

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

10 (35 ILCS 135/3) (from Ch. 120, par. 453.33)

11 Sec. 3. Stamp payment. The tax hereby imposed shall be
12 collected by a distributor maintaining a place of business in
13 this State or a distributor authorized by the Department
14 pursuant to Section 7 hereof to collect the tax, and the amount
15 of the tax shall be added to the price of the cigarettes sold
16 by such distributor. Collection of the tax shall be evidenced
17 by a stamp or stamps affixed to each original package of
18 cigarettes or by an authorized substitute for such stamp
19 imprinted on each original package of such cigarettes
20 underneath the sealed transparent outside wrapper of such
21 original package, except as hereinafter provided. Each
22 distributor who is required or authorized to collect the tax
23 herein imposed, before delivering or causing to be delivered
24 any original packages of cigarettes in this State to any
25 purchaser, shall firmly affix a proper stamp or stamps to each

1 such package, or (in the case of manufacturers of cigarettes in
2 original packages which are contained inside a sealed
3 transparent wrapper) shall imprint the required language on the
4 original package of cigarettes beneath such outside wrapper as
5 hereinafter provided. Such stamp or stamps need not be affixed
6 to the original package of any cigarettes with respect to which
7 the distributor is required to affix a like stamp or stamps by
8 virtue of the Cigarette Tax Act, however, and no tax imprint
9 need be placed underneath the sealed transparent wrapper of an
10 original package of cigarettes with respect to which the
11 distributor is required or authorized to employ a like tax
12 imprint by virtue of the Cigarette Tax Act.

13 No stamp or imprint may be affixed to, or made upon, any
14 package of cigarettes unless that package complies with all
15 requirements of the federal Cigarette Labeling and Advertising
16 Act, 15 U.S.C. 1331 and following, for the placement of labels,
17 warnings, or any other information upon a package of cigarettes
18 that is sold within the United States. Under the authority of
19 Section 6, the Department shall revoke the license of any
20 distributor that is determined to have violated this paragraph.
21 A person may not affix a stamp on a package of cigarettes,
22 cigarette papers, wrappers, or tubes if that individual package
23 has been marked for export outside the United States with a
24 label or notice in compliance with Section 290.185 of Title 27
25 of the Code of Federal Regulations. It is not a defense to a
26 proceeding for violation of this paragraph that the label or

1 notice has been removed, mutilated, obliterated, or altered in
2 any manner.

3 Only distributors licensed under this Act and
4 transporters, as defined in Section 9c of the Cigarette Tax
5 Act, may possess unstamped original packages of cigarettes.
6 Prior to shipment to an Illinois retailer or secondary
7 distributor, a stamp shall be applied to each original package
8 of cigarettes sold to the retailer or secondary distributor. A
9 distributor may apply a tax stamp only to an original package
10 of cigarettes purchased or obtained directly from an in-state
11 maker, manufacturer, or fabricator licensed as a distributor
12 under Section 4 of this Act or an out-of-state maker,
13 manufacturer, or fabricator holding a permit under Section 7 of
14 this Act. A licensed distributor may ship or otherwise cause to
15 be delivered unstamped original packages of cigarettes in,
16 into, or from this State. A licensed distributor may transport
17 unstamped original packages of cigarettes to a facility,
18 wherever located, owned or controlled by such distributor;
19 however, a distributor may not transport unstamped original
20 packages of cigarettes to a facility where retail sales of
21 cigarettes take place or to a facility where a secondary
22 distributor makes sales for resale. Any licensed distributor
23 that ships or otherwise causes to be delivered unstamped
24 original packages of cigarettes into, within, or from this
25 State shall ensure that the invoice or equivalent documentation
26 and the bill of lading or freight bill for the shipment

1 identifies the true name and address of the consignor or
2 seller, the true name and address of the consignee or
3 purchaser, and the quantity by brand style of the cigarettes so
4 transported, provided that this Section shall not be construed
5 as to impose any requirement or liability upon any common or
6 contract carrier.

7 Distributors making sales of cigarettes to secondary
8 distributors shall add the amount of the tax to the price of
9 the cigarettes sold by the distributors. Secondary
10 distributors making sales of cigarettes to retailers shall
11 include the amount of the tax in the price of the cigarettes
12 sold to retailers. The amount of tax shall not be less than the
13 amount of taxes imposed by the State and all local
14 jurisdictions. The amount of local taxes shall be calculated
15 based on the location of the retailer's place of business shown
16 on the retailer's certificate of registration or
17 sub-registration issued to the retailer pursuant to Section 2a
18 of the Retailers' Occupation Tax Act. The original packages of
19 cigarettes sold by the retailer shall bear all the required
20 stamps, or other indicia, for the taxes included in the price
21 of cigarettes.

22 Stamps, when required hereunder, shall be purchased from
23 the Department, or any person authorized by the Department, by
24 distributors. On and after July 1, 2003, payment for such
25 stamps must be made by means of electronic funds transfer. The
26 Department may refuse to sell stamps to any person who does not

1 comply with the provisions of this Act. Beginning on June 6,
2 2002 and through June 30, 2002, persons holding valid licenses
3 as distributors may purchase cigarette tax stamps up to an
4 amount equal to 115% of the distributor's average monthly
5 cigarette tax stamp purchases over the 12 calendar months prior
6 to June 6, 2002.

7 Prior to December 1, 1985, the Department shall allow a
8 distributor 21 days in which to make final payment of the
9 amount to be paid for such stamps, by allowing the distributor
10 to make payment for the stamps at the time of purchasing them
11 with a draft which shall be in such form as the Department
12 prescribes, and which shall be payable within 21 days
13 thereafter: Provided that such distributor has filed with the
14 Department, and has received the Department's approval of, a
15 bond, which is in addition to the bond required under Section 4
16 of this Act, payable to the Department in an amount equal to
17 80% of such distributor's average monthly tax liability to the
18 Department under this Act during the preceding calendar year or
19 \$500,000, whichever is less. The bond shall be joint and
20 several and shall be in the form of a surety company bond in
21 such form as the Department prescribes, or it may be in the
22 form of a bank certificate of deposit or bank letter of credit.
23 The bond shall be conditioned upon the distributor's payment of
24 the amount of any 21-day draft which the Department accepts
25 from that distributor for the delivery of stamps to that
26 distributor under this Act. The distributor's failure to pay

1 any such draft, when due, shall also make such distributor
2 automatically liable to the Department for a penalty equal to
3 25% of the amount of such draft.

4 On and after December 1, 1985 and until July 1, 2003, the
5 Department shall allow a distributor 30 days in which to make
6 final payment of the amount to be paid for such stamps, by
7 allowing the distributor to make payment for the stamps at the
8 time of purchasing them with a draft which shall be in such
9 form as the Department prescribes, and which shall be payable
10 within 30 days thereafter, and beginning on January 1, 2003 and
11 thereafter, the draft shall be payable by means of electronic
12 funds transfer: Provided that such distributor has filed with
13 the Department, and has received the Department's approval of,
14 a bond, which is in addition to the bond required under Section
15 4 of this Act, payable to the Department in an amount equal to
16 150% of such distributor's average monthly tax liability to the
17 Department under this Act during the preceding calendar year or
18 \$750,000, whichever is less, except that as to bonds filed on
19 or after January 1, 1987, such additional bond shall be in an
20 amount equal to 100% of such distributor's average monthly tax
21 liability under this Act during the preceding calendar year or
22 \$750,000, whichever is less. The bond shall be joint and
23 several and shall be in the form of a surety company bond in
24 such form as the Department prescribes, or it may be in the
25 form of a bank certificate of deposit or bank letter of credit.
26 The bond shall be conditioned upon the distributor's payment of

1 the amount of any 30-day draft which the Department accepts
2 from that distributor for the delivery of stamps to that
3 distributor under this Act. The distributor's failure to pay
4 any such draft, when due, shall also make such distributor
5 automatically liable to the Department for a penalty equal to
6 25% of the amount of such draft.

7 Beginning on the effective date of this amendatory Act of
8 the 97th General Assembly, the Department shall allow a
9 distributor 10 days in which to make final payment of the
10 amount to be paid for such stamps, by allowing the distributor
11 to make payment for the stamps at the time of purchasing them
12 with a draft, which shall be payable by means of electronic
13 funds transfer and in such form as the Department prescribes,
14 and which shall be payable within 10 days thereafter, provided
15 that such distributor has filed with the Department, and has
16 received the Department's approval of, a bond, which is in
17 addition to the bond required under Section 4 of this Act,
18 payable to the Department in an amount equal to 100% of that
19 distributor's average monthly tax liability to the Department
20 under this Act during the preceding calendar year or \$750,000,
21 whichever is less. The bond shall be joint and several and
22 shall be in the form of a surety company bond in such form as
23 the Department prescribes, or it may be in the form of a bank
24 certificate of deposit or bank letter of credit. The bond shall
25 be conditioned upon the distributor's payment of the amount of
26 any 10-day draft which the Department accepts from that

1 distributor for the delivery of stamps to that distributor
2 under this Act. The distributor's failure to pay any such
3 draft, when due, shall also make such distributor automatically
4 liable to the Department for a penalty equal to 25% of the
5 amount of such draft.

6 Every prior continuous compliance taxpayer shall be exempt
7 from all requirements under this Section concerning the
8 furnishing of such bond, as defined in this Section, as a
9 condition precedent to his being authorized to engage in the
10 business licensed under this Act. This exemption shall continue
11 for each such taxpayer until such time as he may be determined
12 by the Department to be delinquent in the filing of any
13 returns, or is determined by the Department (either through the
14 Department's issuance of a final assessment which has become
15 final under the Act, or by the taxpayer's filing of a return
16 which admits tax to be due that is not paid) to be delinquent
17 or deficient in the paying of any tax under this Act, at which
18 time that taxpayer shall become subject to the bond
19 requirements of this Section and, as a condition of being
20 allowed to continue to engage in the business licensed under
21 this Act, shall be required to furnish bond to the Department
22 in such form as provided in this Section. Such taxpayer shall
23 furnish such bond for a period of 2 years, after which, if the
24 taxpayer has not been delinquent in the filing of any returns,
25 or delinquent or deficient in the paying of any tax under this
26 Act, the Department may reinstate such person as a prior

1 continuance compliance taxpayer. Any taxpayer who fails to pay
2 an admitted or established liability under this Act may also be
3 required to post bond or other acceptable security with the
4 Department guaranteeing the payment of such admitted or
5 established liability.

6 Any person aggrieved by any decision of the Department
7 under this Section may, within the time allowed by law, protest
8 and request a hearing, whereupon the Department shall give
9 notice and shall hold a hearing in conformity with the
10 provisions of this Act and then issue its final administrative
11 decision in the matter to such person. In the absence of such a
12 protest filed within the time allowed by law, the Department's
13 decision shall become final without any further determination
14 being made or notice given.

15 The Department shall discharge any surety and shall release
16 and return any bond or security deposited, assigned, pledged,
17 or otherwise provided to it by a taxpayer under this Section
18 within 30 days after:

19 (1) such Taxpayer becomes a prior continuous
20 compliance taxpayer; or

21 (2) such taxpayer has ceased to collect receipts on
22 which he is required to remit tax to the Department, has
23 filed a final tax return, and has paid to the Department an
24 amount sufficient to discharge his remaining tax liability
25 as determined by the Department under this Act. The
26 Department shall make a final determination of the

1 taxpayer's outstanding tax liability as expeditiously as
2 possible after his final tax return has been filed. If the
3 Department cannot make such final determination within 45
4 days after receiving the final tax return, within such
5 period it shall so notify the taxpayer, stating its reasons
6 therefor.

7 At the time of purchasing such stamps from the Department
8 when purchase is required by this Act, or at the time when the
9 tax which he has collected is remitted by a distributor to the
10 Department without the purchase of stamps from the Department
11 when that method of remitting the tax that has been collected
12 is required or authorized by this Act, the distributor shall be
13 allowed a discount during any year commencing July 1 and ending
14 the following June 30 in accordance with the schedule set out
15 hereinbelow, from the amount to be paid by him to the
16 Department for such stamps, or to be paid by him to the
17 Department on the basis of monthly remittances (as the case may
18 be), to cover the cost, to such distributor, of collecting the
19 tax herein imposed by affixing such stamps to the original
20 packages of cigarettes sold by such distributor or by placing
21 tax imprints underneath the sealed transparent wrapper of
22 original packages of cigarettes sold by such distributor (as
23 the case may be): (1) Prior to December 1, 1985, a discount
24 equal to 1-2/3% of the amount of the tax up to and including
25 the first \$700,000 paid hereunder by such distributor to the
26 Department during any such year; 1-1/3% of the next \$700,000 of

1 tax or any part thereof, paid hereunder by such distributor to
2 the Department during any such year; 1% of the next \$700,000 of
3 tax, or any part thereof, paid hereunder by such distributor to
4 the Department during any such year; and 2/3 of 1% of the
5 amount of any additional tax paid hereunder by such distributor
6 to the Department during any such year or (2) On and after
7 December 1, 1985, a discount equal to 1.75% of the amount of
8 the tax payable under this Act up to and including the first
9 \$3,000,000 paid hereunder by such distributor to the Department
10 during any such year and 1.5% of the amount of any additional
11 tax paid hereunder by such distributor to the Department during
12 any such year.

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

17 Cigarette manufacturers who are distributors under Section
18 7(a) of this Act, and who place their cigarettes in original
19 packages which are contained inside a sealed transparent
20 wrapper, shall be required to remit the tax which they are
21 required to collect under this Act to the Department by
22 remitting the amount thereof to the Department by the 5th day
23 of each month, covering cigarettes shipped or otherwise
24 delivered to points in Illinois to purchasers during the
25 preceding calendar month, but a distributor need not remit to
26 the Department the tax so collected by him from purchasers

1 under this Act to the extent to which such distributor is
2 required to remit the tax imposed by the Cigarette Tax Act to
3 the Department with respect to the same cigarettes. All taxes
4 upon cigarettes under this Act are a direct tax upon the retail
5 consumer and shall conclusively be presumed to be precollected
6 for the purpose of convenience and facility only. Cigarette
7 manufacturers that are distributors licensed under Section
8 7(a) of this Act and who place their cigarettes in original
9 packages which are contained inside a sealed transparent
10 wrapper, before delivering such cigarettes or causing such
11 cigarettes to be delivered in this State to purchasers, shall
12 evidence their obligation to collect and remit the tax due with
13 respect to such cigarettes by imprinting language to be
14 prescribed by the Department on each original package of such
15 cigarettes underneath the sealed transparent outside wrapper
16 of such original package, in such place thereon and in such
17 manner as the Department may prescribe; provided (as stated
18 hereinbefore) that this requirement does not apply when such
19 distributor is required or authorized by the Cigarette Tax Act
20 to place the tax imprint provided for in the last paragraph of
21 Section 3 of that Act underneath the sealed transparent wrapper
22 of such original package of cigarettes. Such imprinted language
23 shall acknowledge the manufacturer's collection and payment of
24 or liability for the tax imposed by this Act with respect to
25 such cigarettes.

26 The Department shall adopt the design or designs of the tax

1 stamps and shall procure the printing of such stamps in such
2 amounts and denominations as it deems necessary to provide for
3 the affixation of the proper amount of tax stamps to each
4 original package of cigarettes.

5 Where tax stamps are required, the Department may authorize
6 distributors to affix revenue tax stamps by imprinting tax
7 meter stamps upon original packages of cigarettes. The
8 Department shall adopt rules and regulations relating to the
9 imprinting of such tax meter stamps as will result in payment
10 of the proper taxes as herein imposed. No distributor may affix
11 revenue tax stamps to original packages of cigarettes by
12 imprinting meter stamps thereon unless such distributor has
13 first obtained permission from the Department to employ this
14 method of affixation. The Department shall regulate the use of
15 tax meters and may, to assure the proper collection of the
16 taxes imposed by this Act, revoke or suspend the privilege,
17 theretofore granted by the Department to any distributor, to
18 imprint tax meter stamps upon original packages of cigarettes.

19 The tax hereby imposed and not paid pursuant to this
20 Section shall be paid to the Department directly by any person
21 using such cigarettes within this State, pursuant to Section 12
22 hereof.

23 A distributor shall not affix, or cause to be affixed, any
24 stamp or imprint to a package of cigarettes, as provided for in
25 this Section, if the tobacco product manufacturer, as defined
26 in Section 10 of the Tobacco Product Manufacturers' Escrow Act,

1 that made or sold the cigarettes has failed to become a
2 participating manufacturer, as defined in subdivision (a)(1)
3 of Section 15 of the Tobacco Product Manufacturers' Escrow Act,
4 or has failed to create a qualified escrow fund for any
5 cigarettes manufactured by the tobacco product manufacturer
6 and sold in this State or otherwise failed to bring itself into
7 compliance with subdivision (a)(2) of Section 15 of the Tobacco
8 Product Manufacturers' Escrow Act.

9 (Source: P.A. 96-782, eff. 1-1-10; 96-1027, eff. 7-12-10.)

10 (35 ILCS 135/12) (from Ch. 120, par. 453.42)

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

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

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

25 (c) The return referred to in paragraph (a) shall contain

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

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

9 (e) The provisions of this Section are not subject to the
10 Uniform Penalty and Interest Act.

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

12 Section 20. The Tobacco Products Tax Act of 1995 is amended
13 by changing Sections 10-5, 10-10, and 10-30 as follows:

14 (35 ILCS 143/10-5)

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

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

19 "Cigarette" has the meaning ascribed to the term in Section
20 1 of the Cigarette Tax Act.

21 "Correctional Industries program" means a program run by a
22 State penal institution in which residents of the penal
23 institution produce tobacco products for sale to persons
24 incarcerated in penal institutions or resident patients of a

1 State operated mental health facility.

2 "Department" means the Illinois Department of Revenue.

3 "Distributor" means any of the following:

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

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

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

23 "Distributor" does not include any person, wherever
24 resident or located, who makes, manufactures, or fabricates
25 tobacco products as part of a Correctional Industries program
26 for sale to residents incarcerated in penal institutions or

1 resident patients of a State operated mental health facility.

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

8 "Moist snuff" means any finely cut, ground, or powdered
9 tobacco that is not intended to be smoked, but shall not
10 include any finely cut, ground, or powdered tobacco that is
11 intended to be placed in the nasal 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 "Place of business" means and includes any place where
19 tobacco products are sold or where tobacco products are
20 manufactured, stored, or kept for the purpose of sale or
21 consumption, including any vessel, vehicle, airplane, train,
22 or vending machine.

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

26 "Sale" means any transfer, exchange, or barter in any

1 manner or by any means whatsoever for a consideration and
2 includes all sales made by persons.

3 "Tobacco products" means any cigars; cheroots; stogies;
4 periques; granulated, plug cut, crimp cut, ready rubbed, and
5 other smoking tobacco; snuff (including moist snuff) or snuff
6 flour; cavendish; plug and twist tobacco; fine-cut and other
7 chewing tobaccos; shorts; refuse scraps, clippings, cuttings,
8 and sweeping of tobacco; and other kinds and forms of tobacco,
9 prepared in such manner as to be suitable for chewing or
10 smoking in a pipe or otherwise, or both for chewing and
11 smoking; but does not include cigarettes or tobacco purchased
12 for the manufacture of cigarettes by cigarette distributors and
13 manufacturers defined in the Cigarette Tax Act and persons who
14 make, manufacture, or fabricate cigarettes as a part of a
15 Correctional Industries program for sale to residents
16 incarcerated in penal institutions or resident patients of a
17 State operated mental health facility.

18 "Wholesale price" means the established list price for
19 which a manufacturer sells tobacco products to a distributor,
20 before the allowance of any discount, trade allowance, rebate,
21 or other reduction. In the absence of such an established list
22 price, the manufacturer's invoice price at which the
23 manufacturer sells the tobacco product to unaffiliated
24 distributors, before any discounts, trade allowances, rebates,
25 or other reductions, shall be presumed to be the wholesale
26 price.

1 "Wholesaler" means any person, wherever resident or
2 located, engaged in the business of selling tobacco products to
3 others for the purpose of resale.

4 (Source: P.A. 92-231, eff. 8-2-01.)

5 (35 ILCS 143/10-10)

6 Sec. 10-10. Tax imposed. On the first day of the third
7 month after the month in which this Act becomes law and until
8 March 1, 2011, a tax is imposed on any person engaged in
9 business as a distributor of tobacco products, as defined in
10 Section 10-5, at the rate of 18% of the wholesale price of
11 tobacco products sold or otherwise disposed of to retailers or
12 consumers located in this State. Beginning on March 1, 2011, a
13 tax is imposed on any person engaged in business as a
14 distributor of tobacco products, as defined in Section 10-5, at
15 the rate of (i) 18% of the wholesale price of tobacco products,
16 other than moist snuff, sold or otherwise disposed of to
17 retailers or consumers located in this State and (ii) \$0.20 per
18 ounce of moist snuff, and a proportionate tax at the like rate
19 on all fractional parts of an ounce, sold or otherwise disposed
20 of to retailers or consumers located in this State. The tax is
21 in addition to all other occupation or privilege taxes imposed
22 by the State of Illinois, by any political subdivision thereof,
23 or by any municipal corporation. However, the tax is not
24 imposed upon any activity in that business in interstate
25 commerce or otherwise, to the extent to which that activity may

1 not, under the Constitution and Statutes of the United States,
2 be made the subject of taxation by this State. The tax is also
3 not imposed on sales made to the United States or any entity
4 thereof.

5 Beginning on March 1, 2011, the tax rate imposed per ounce
6 of moist snuff may not exceed 11% of the tax imposed upon a
7 package of 20 cigarettes pursuant to the Cigarette Tax Act.

8 All moneys received by the Department under this Act shall
9 be paid into the Long-Term Care Provider Fund of the State
10 Treasury.

11 (Source: P.A. 92-231, eff. 8-2-01.)

12 (35 ILCS 143/10-30)

13 Sec. 10-30. Returns. Every distributor shall, on or before
14 the 15th day of each month, file a return with the Department
15 covering the preceding calendar month. The return shall
16 disclose the wholesale price for all tobacco products and the
17 quantity of moist snuff sold or otherwise disposed of and other
18 information that the Department may reasonably require. The
19 return shall be filed upon a form prescribed and furnished by
20 the Department.

21 At the time when any return of any distributor is due to be
22 filed with the Department, the distributor shall also remit to
23 the Department the tax liability that the distributor has
24 incurred for transactions occurring in the preceding calendar
25 month.

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

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 30 ILCS 105/5.786 new

4 30 ILCS 105/6z-87 new

5 35 ILCS 130/2 from Ch. 120, par. 453.2

6 35 ILCS 130/3 from Ch. 120, par. 453.3

7 35 ILCS 135/2 from Ch. 120, par. 453.32

8 35 ILCS 135/3 from Ch. 120, par. 453.33

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

10 35 ILCS 143/10-5

11 35 ILCS 143/10-10

12 35 ILCS 143/10-30