

1 AN ACT in relation to taxation.

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

4 Section 5. The Cigarette Tax Act is amended by changing
5 Sections 3, 4, 5, 9, 9a, 9b, and 24 and by adding Section 18c
6 as follows:

7 (35 ILCS 130/3) (from Ch. 120, par. 453.3)

8 Sec. 3. Affixing tax stamp; remitting tax to the
9 Department. Payment of the taxes imposed by Section 2 of
10 this Act shall (except as hereinafter provided) be evidenced
11 by revenue tax stamps affixed to each original package of
12 cigarettes. Each distributor of cigarettes, before delivering
13 or causing to be delivered any original package of cigarettes
14 in this State to a purchaser, shall firmly affix a proper
15 stamp or stamps to each such package, or (in case of
16 manufacturers of cigarettes in original packages which are
17 contained inside a sealed transparent wrapper) shall imprint
18 the required language on the original package of cigarettes
19 beneath such outside wrapper, as hereinafter provided.

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

1 in compliance with Section 290.185 of Title 27 of the Code of
2 Federal Regulations. It is not a defense to a proceeding for
3 violation of this paragraph that the label or notice has been
4 removed, mutilated, obliterated, or altered in any manner.

5 The Department, or any person authorized by the
6 Department, shall sell such stamps only to persons holding
7 valid licenses as distributors under this Act. The Department
8 may refuse to sell stamps to any person who does not comply
9 with the provisions of this Act.

10 Prior to December 1, 1985, the Department shall allow a
11 distributor 21 days in which to make final payment of the
12 amount to be paid for such stamps, by allowing the
13 distributor to make payment for the stamps at the time of
14 purchasing them with a draft which shall be in such form as
15 the Department prescribes, and which shall be payable within
16 21 days thereafter: Provided that such distributor has filed
17 with the Department, and has received the Department's
18 approval of, a bond, which is in addition to the bond
19 required under Section 4 of this Act, payable to the
20 Department in an amount equal to 80% of such distributor's
21 average monthly tax liability to the Department under this
22 Act during the preceding calendar year or \$500,000, whichever
23 is less. The Bond shall be joint and several and shall be in
24 the form of a surety company bond in such form as the
25 Department prescribes, or it may be in the form of a bank
26 certificate of deposit or bank letter of credit. The bond
27 shall be conditioned upon the distributor's payment of amount
28 of any 21-day draft which the Department accepts from that
29 distributor for the delivery of stamps to that distributor
30 under this Act. The distributor's failure to pay any such
31 draft, when due, shall also make such distributor
32 automatically liable to the Department for a penalty equal to
33 25% of the amount of such draft.

34 On and after December 1, 1985, the Department shall allow

1 a distributor 30 days in which to make final payment of the
2 amount to be paid for such stamps, by allowing the
3 distributor to make payment for the stamps at the time of
4 purchasing them with a draft which shall be in such form as
5 the Department prescribes, and which shall be payable within
6 30 days thereafter, and beginning on January 1, 2003 and
7 thereafter, the draft shall be payable by means of electronic
8 funds transfer: Provided that such distributor has filed
9 with the Department, and has received the Department's
10 approval of, a bond, which is in addition to the bond
11 required under Section 4 of this Act, payable to the
12 Department in an amount equal to 150% of such distributor's
13 average monthly tax liability to the Department under this
14 Act during the preceding calendar year or \$750,000, whichever
15 is less, except that as to bonds filed on or after January 1,
16 1987, such additional bond shall be in an amount equal to
17 100% of such distributor's average monthly tax liability
18 under this Act during the preceding calendar year or
19 \$750,000, 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
23 credit. The bond shall be conditioned upon the distributor's
24 payment of the amount of any 30-day draft which the
25 Department accepts from that distributor for the delivery of
26 stamps to that distributor under this Act. The distributor's
27 failure to pay any such draft, when due, shall also make such
28 distributor automatically liable to the Department for a
29 penalty equal to 25% of the amount of such draft.

30 Every prior continuous compliance taxpayer shall be
31 exempt from all requirements under this Section concerning
32 the furnishing of such bond, as defined in this Section, as a
33 condition precedent to his being authorized to engage in the
34 business licensed under this Act. This exemption shall

1 continue for each such taxpayer until such time as he may be
2 determined by the Department to be delinquent in the filing
3 of any returns, or is determined by the Department (either
4 through the Department's issuance of a final assessment which
5 has become final under the Act, or by the taxpayer's filing
6 of a return which admits tax to be due that is not paid) to
7 be delinquent or deficient in the paying of any tax under
8 this Act, at which time that taxpayer shall become subject to
9 the bond requirements of this Section and, as a condition of
10 being allowed to continue to engage in the business licensed
11 under this Act, shall be required to furnish bond to the
12 Department in such form as provided in this Section. Such
13 taxpayer shall furnish such bond for a period of 2 years,
14 after which, if the taxpayer has not been delinquent in the
15 filing of any returns, or delinquent or deficient in the
16 paying of any tax under this Act, the Department may
17 reinstate such person as a prior continuance compliance
18 taxpayer. Any taxpayer who fails to pay an admitted or
19 established liability under this Act may also be required to
20 post bond or other acceptable security with the Department
21 guaranteeing the payment of such admitted or established
22 liability.

23 Any person aggrieved by any decision of the Department
24 under this Section may, within the time allowed by law,
25 protest and request a hearing, whereupon the Department shall
26 give notice and shall hold a hearing in conformity with the
27 provisions of this Act and then issue its final
28 administrative decision in the matter to such person. In the
29 absence of such a protest filed within the time allowed by
30 law, the Department's decision shall become final without any
31 further determination being made or notice given.

32 The Department shall discharge any surety and shall
33 release and return any bond or security deposited, assigned,
34 pledged, or otherwise provided to it by a taxpayer under this

1 Section within 30 days after:

2 (1) Such taxpayer becomes a prior continuous compliance
3 taxpayer; or

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

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

30 Illinois cigarette manufacturers who place their
31 cigarettes in original packages which are contained inside a
32 sealed transparent wrapper, and similar out-of-State
33 cigarette manufacturers who elect to qualify and are accepted
34 by the Department as distributors under Section 4b of this

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

18 (Source: P.A. 91-246, eff. 7-22-99.)

19 (35 ILCS 130/4) (from Ch. 120, par. 453.4)

20 Sec. 4. Distributor's license. No person may engage in
21 business as a distributor of cigarettes in this State within
22 the meaning of the first 2 definitions of distributor in
23 Section 1 of this Act without first having obtained a license
24 therefor from the Department. Application for license shall
25 be made to the Department in form as furnished and prescribed
26 by the Department. Each applicant for a license under this
27 Section shall furnish to the Department on the form signed
28 and verified by the applicant the following information:

29 (a) The name and address of the applicant;

30 (b) The address of the location at which the
31 applicant proposes to engage in business as a distributor
32 of cigarettes in this State;

33 (c) Such other additional information as the

1 Department may lawfully require by its rules and
2 regulations.

3 The annual license fee payable to the Department for each
4 distributor's license shall be \$250. The purpose of such
5 annual license fee is to defray the cost, to the Department,
6 of ~~encoding, serializing or encoding--and~~ serializing cigarette
7 tax stamps. Each applicant for license shall pay such fee to
8 the Department at the time of submitting his application for
9 license to the Department.

10 Every applicant who is required to procure a
11 distributor's license shall file with his application a joint
12 and several bond. Such bond shall be executed to the
13 Department of Revenue, with good and sufficient surety or
14 sureties residing or licensed to do business within the State
15 of Illinois, in the amount of \$2,500, conditioned upon the
16 true and faithful compliance by the licensee with all of the
17 provisions of this Act. Such bond, or a reissue thereof, or a
18 substitute therefor, shall be kept in effect during the
19 entire period covered by the license. A separate application
20 for license shall be made, a separate annual license fee
21 paid, and a separate bond filed, for each place of business
22 at which a person who is required to procure a distributor's
23 license under this Section proposes to engage in business as
24 a distributor in Illinois under this Act.

25 The following are ineligible to receive a distributor's
26 license under this Act:

27 (1) a person who is not of good character and
28 reputation in the community in which he resides;

29 (2) a person who has been convicted of a
30 felony under any Federal or State law, if the
31 Department, after investigation and a hearing, if
32 requested by the applicant, determines that such
33 person has not been sufficiently rehabilitated to
34 warrant the public trust;

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

6 The Department, upon receipt of an application, license
 7 fee and bond in proper form, from a person who is eligible to
 8 receive a distributor's license under this Act, shall issue
 9 to such applicant a license in form as prescribed by the
 10 Department, which license shall permit the applicant to which
 11 it is issued to engage in business as a distributor at the
 12 place shown in his application. All licenses issued by the
 13 Department under this Act shall be valid for not to exceed
 14 one year after issuance unless sooner revoked, canceled or
 15 suspended as provided in this Act. No license issued under
 16 this Act is transferable or assignable. Such license shall be
 17 conspicuously displayed in the place of business conducted by
 18 the licensee in Illinois under such license.

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

30 (Source: P.A. 91-901, eff. 1-1-01.)

31 (35 ILCS 130/5) (from Ch. 120, par. 453.5)

32 Sec. 5. Printing tax stamps. The Department shall adopt
 33 the design or designs of the tax stamps or alternative tax

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

6 (Source: Laws 1943, vol. 1, p. 1063.)

7 (35 ILCS 130/9) (from Ch. 120, par. 453.9)

8 Sec. 9. Returns; remittance. Every distributor who is
9 required to procure a license under this Act, but who is not
10 a manufacturer of cigarettes in original packages which are
11 contained in a sealed transparent wrapper, shall, on or
12 before the 15th day of each calendar month, file a return
13 with the Department, showing the quantity of cigarettes
14 manufactured during the preceding calendar month, the
15 quantity of cigarettes brought into this State or caused to
16 be brought into this State from outside this State during the
17 preceding calendar month without authorized evidence on the
18 original packages of such cigarettes underneath the sealed
19 transparent wrapper thereof that the tax liability imposed by
20 this Act has been assumed by the out-of-State seller of such
21 cigarettes, the quantity of cigarettes purchased tax-paid
22 during the preceding calendar month either within or outside
23 this State, and the quantity of cigarettes sold or otherwise
24 disposed of during the preceding calendar month. Such return
25 shall be filed upon forms furnished and prescribed by the
26 Department and shall contain such other information as the
27 Department may reasonably require. The Department may
28 promulgate rules to require that the distributor's return be
29 accompanied by appropriate computer-generated magnetic media
30 supporting schedule data in the format required by the
31 Department, unless, as provided by rule, the Department
32 grants an exception upon petition of a distributor.

33 Illinois manufacturers of cigarettes in original packages

1 which are contained inside a sealed transparent wrapper shall
2 file a return by the 5th day of each month covering the
3 preceding calendar month. Each such return shall be
4 accompanied by the appropriate remittance for tax as provided
5 in the last paragraph of Section 3 of this Act. Each such
6 return shall show the quantity of such cigarettes
7 manufactured during the period covered by the return, the
8 quantity of cigarettes sold or otherwise disposed of during
9 the period covered by the return and such other information
10 as the Department may lawfully require. Such returns shall be
11 filed on forms prescribed and furnished by the Department.
12 Each such return shall be accompanied by a copy of each
13 invoice rendered by such manufacturer to any purchaser to
14 whom such manufacturer delivered cigarettes (or caused
15 cigarettes to be delivered) during the period covered by the
16 return. The Department may promulgate rules to require that
17 the manufacturer's return be accompanied by appropriate
18 computer-generated magnetic media supporting schedule data in
19 the format required by the Department, unless, as provided by
20 rule, the Department grants an exception upon petition of a
21 manufacturer.

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

23 (35 ILCS 130/9a) (from Ch. 120, par. 453.9a)

24 Sec. 9a. Examination and correction of returns.

25 (1) As soon as practicable after any return is filed,
26 the Department shall examine such return and shall correct
27 such return according to its best judgment and information,
28 which return so corrected by the Department shall be prima
29 facie correct and shall be prima facie evidence of the
30 correctness of the amount of tax due, as shown therein.
31 Instead of requiring the distributor to file an amended
32 return, the Department may simply notify the distributor of
33 the correction or corrections it has made. Proof of such

1 correction by the Department may be made at any hearing
2 before the Department or in any legal proceeding by a
3 reproduced copy of the Department's record relating thereto
4 in the name of the Department under the certificate of the
5 Director of Revenue. Such reproduced copy shall, without
6 further proof, be admitted into evidence before the
7 Department or in any legal proceeding and shall be prima
8 facie proof of the correctness of the amount of tax due, as
9 shown therein. If the Department finds that any amount of tax
10 is due from the distributor, the Department shall issue the
11 distributor a notice of tax liability for the amount of tax
12 claimed by the Department to be due, together with a penalty
13 in an amount determined in accordance with Sections 3-3, 3-5
14 and 3-6 of the Uniform Penalty and Interest Act. If, in
15 administering the provisions of this Act, comparison of a
16 return or returns of a distributor with the books, records
17 and inventories of such distributor discloses a deficiency
18 which cannot be allocated by the Department to a particular
19 month or months, the Department shall issue the distributor a
20 notice of tax liability for the amount of tax claimed by the
21 Department to be due for a given period, but without any
22 obligation upon the Department to allocate such deficiency to
23 any particular month or months, together with a penalty in an
24 amount determined in accordance with Sections 3-3, 3-5 and
25 3-6 of the Uniform Penalty and Interest Act, under which
26 circumstances the aforesaid notice of tax liability shall be
27 prima facie correct and shall be prima facie evidence of the
28 correctness of the amount of tax due, as shown therein; and
29 proof of such correctness may be made in accordance with, and
30 the admissibility of a reproduced copy of such notice of tax
31 liability shall be governed by, all the provisions of this
32 Act applicable to corrected returns. If any distributor
33 filing any return dies or becomes a person under legal
34 disability at any time before the Department issues its

1 notice of tax liability, such notice shall be issued to the
2 administrator, executor or other legal representative, as
3 such, of such distributor.

4 (2) If, within 60 20 days after such notice of tax
5 liability, the distributor or his or her legal representative
6 files a protest to such notice of tax liability and requests
7 a hearing thereon, the Department shall give notice to such
8 distributor or legal representative of the time and place
9 fixed for such hearing, and shall hold a hearing in
10 conformity with the provisions of this Act, and pursuant
11 thereto shall issue a final assessment to such distributor or
12 legal representative for the amount found to be due as a
13 result of such hearing. If a protest to the notice of tax
14 liability and a request for a hearing thereon is not filed
15 within 60 20 days after such notice of tax liability, such
16 notice of tax liability shall become final without the
17 necessity of a final assessment being issued and shall be
18 deemed to be a final assessment.

19 (3) In case of failure to pay the tax, or any portion
20 thereof, or any penalty provided for in this Act, when due,
21 the Department may bring suit to recover the amount of such
22 tax, or portion thereof, or penalty; or, if the taxpayer dies
23 or becomes incompetent, by filing claim therefor against his
24 estate; provided that no such action with respect to any tax,
25 or portion thereof, or penalty, shall be instituted more than
26 2 years after the cause of action accrues, except with the
27 consent of the person from whom such tax or penalty is due.

28 After the expiration of the period within which the
29 person assessed may file an action for judicial review under
30 the Administrative Review Law without such an action being
31 filed, a certified copy of the final assessment or revised
32 final assessment of the Department may be filed with the
33 Circuit Court of the county in which the taxpayer has his or
34 her principal place of business, or of Sangamon County in

1 those cases in which the taxpayer does not have his principal
2 place of business in this State. The certified copy of the
3 final assessment or revised final assessment shall be
4 accompanied by a certification which recites facts that are
5 sufficient to show that the Department complied with the
6 jurisdictional requirements of the Law in arriving at its
7 final assessment or its revised final assessment and that the
8 taxpayer had his or her opportunity for an administrative
9 hearing and for judicial review, whether he availed himself
10 or herself of either or both of these opportunities or not.
11 If the court is satisfied that the Department complied with
12 the jurisdictional requirements of the Law in arriving at its
13 final assessment or its revised final assessment and that the
14 taxpayer had his or her opportunity for an administrative
15 hearing and for judicial review, whether he or she availed
16 himself or herself of either or both of these opportunities
17 or not, the court shall enter judgment in favor of the
18 Department and against the taxpayer for the amount shown to
19 be due by the final assessment or the revised final
20 assessment, and such judgment shall be filed of record in the
21 court. Such judgment shall bear the rate of interest set in
22 the Uniform Penalty and Interest Act, but otherwise shall
23 have the same effect as other judgments. The judgment may be
24 enforced, and all laws applicable to sales for the
25 enforcement of a judgment shall be applicable to sales made
26 under such judgments. The Department shall file the certified
27 copy of its assessment, as herein provided, with the Circuit
28 Court within 2 years after such assessment becomes final
29 except when the taxpayer consents in writing to an extension
30 of such filing period.

31 If, when the cause of action for a proceeding in court
32 accrues against a person, he or she is out of the State, the
33 action may be commenced within the times herein limited,
34 after his or her coming into or return to the State; and if,

1 after the cause of action accrues, he or she departs from and
2 remains out of the State, the time of his or her absence is
3 no part of the time limited for the commencement of the
4 action; but the foregoing provisions concerning absence from
5 the State shall not apply to any case in which, at the time
6 the cause of action accrues, the party against whom the cause
7 of action accrues is not a resident of this State. The time
8 within which a court action is to be commenced by the
9 Department hereunder shall not run while the taxpayer is a
10 debtor in any proceeding under the Federal Bankruptcy Act nor
11 thereafter until 90 days after the Department is notified by
12 such debtor of being discharged in bankruptcy.

13 No claim shall be filed against the estate of any
14 deceased person or a person under legal disability for any
15 tax or penalty or part of either except in the manner
16 prescribed and within the time limited by the Probate Act of
17 1975, as amended.

18 The remedies provided for herein shall not be exclusive,
19 but all remedies available to creditors for the collection of
20 debts shall be available for the collection of any tax or
21 penalty due hereunder.

22 The collection of tax or penalty by any means provided
23 for herein shall not be a bar to any prosecution under this
24 Act.

25 The certificate of the Director of the Department to the
26 effect that a tax or amount required to be paid by this Act
27 has not been paid, that a return has not been filed, or that
28 information has not been supplied pursuant to the provisions
29 of this Act, shall be prima facie evidence thereof.

30 All of the provisions of Sections 5a, 5b, 5c, 5d, 5e, 5f,
31 5g, 5i and 5j of the Retailers' Occupation Tax Act, which are
32 not inconsistent with this Act, and Section 3-7 of the
33 Uniform Penalty and Interest Act shall apply, as far as
34 practicable, to the subject matter of this Act to the same

1 extent as if such provisions were included herein. References
2 in such incorporated Sections of the "Retailers' Occupation
3 Tax Act" to retailers, to sellers or to persons engaged in
4 the business of selling tangible personal property shall mean
5 distributors when used in this Act.

6 (Source: P.A. 87-205.)

7 (35 ILCS 130/9b) (from Ch. 120, par. 453.9b)

8 Sec. 9b. Failure to file return; penalty; protest. In
9 case any person who is required to file a return under this
10 Act fails to file such return, the Department shall determine
11 the amount of tax due from him according to its best judgment
12 and information, which amount so fixed by the Department
13 shall be prima facie correct and shall be prima facie
14 evidence of the correctness of the amount of tax due, as
15 shown in such determination. Proof of such determination by
16 the Department may be made at any hearing before the
17 Department or in any legal proceeding by a reproduced copy of
18 the Department's record relating thereto in the name of the
19 Department under the certificate of the Director of Revenue.
20 Such reproduced copy shall, without further proof, be
21 admitted into evidence before the Department or in any legal
22 proceeding and shall be prima facie proof of the correctness
23 of the amount of tax due, as shown therein. The Department
24 shall issue such person a notice of tax liability for the
25 amount of tax claimed by the Department to be due, together
26 with a penalty in an amount determined in accordance with
27 Sections 3-3, 3-5 and 3-6 of the Uniform Penalty and Interest
28 Act. If such person or the legal representative of such
29 person, within 60 20 days after such notice, files a protest
30 to such notice of tax liability and requests a hearing
31 thereon, the Department shall give notice to such person or
32 the legal representative of such person of the time and place
33 fixed for such hearing and shall hold a hearing in conformity

1 with the provisions of this Act, and pursuant thereto shall
2 issue a final assessment to such person or to the legal
3 representative of such person for the amount found to be due
4 as a result of such hearing. If a protest to the notice of
5 tax liability and a request for a hearing thereon is not
6 filed within 60 20 days after such notice of tax liability,
7 such notice of tax liability shall become final without the
8 necessity of a final assessment being issued and shall be
9 deemed to be a final assessment.

10 (Source: P.A. 87-205.)

11 (35 ILCS 130/18c new)

12 Sec. 18c. Possession of not less than 10 and not more
13 than 100 original packages not tax stamped or improperly tax
14 stamped; penalty. With the exception of licensed
15 distributors, anyone possessing not less than 10 and not more
16 than 100 packages of cigarettes contained in original
17 packages that are not tax stamped as required by this Act, or
18 that are improperly tax stamped, is liable to pay to the
19 Department, for deposit into the Tax Compliance and
20 Administration Fund, a penalty of \$10 for each such package
21 of cigarettes, unless reasonable cause can be established by
22 the person upon whom the penalty is imposed. Reasonable
23 cause shall be determined in each situation in accordance
24 with rules adopted by the Department.

25 (35 ILCS 130/24) (from Ch. 120, par. 453.24)

26 Sec. 24. Punishment for sale or possession of unstamped
27 packages.

28 (a) Any person other than a licensed distributor who
29 sells, offers for sale, or has in his possession with intent
30 to sell or offer for sale, more than 100 an original packages
31 package, not tax stamped or tax imprinted underneath the
32 sealed transparent wrapper of such original package in

1 accordance with this Act, shall be guilty of a Class 4
2 felony.

3 (a-5) Any person other than a licensed distributor who
4 sells, offers for sale, or has in his possession with intent
5 to sell or offer for sale, 100 or fewer original packages,
6 not tax stamped or tax imprinted underneath the sealed
7 transparent wrapper of the original package in accordance
8 with this Act, is guilty of a Class A misdemeanor for the
9 first offense and a Class 4 felony for each subsequent
10 offense.

11 (b) Any distributor who sells an original package of
12 cigarettes, not tax stamped or tax imprinted underneath the
13 sealed transparent wrapper of such original package in
14 accordance with this Act, except when the sale is made under
15 such circumstances that the tax imposed by this Act may not
16 legally be levied because of the Constitution or laws of the
17 United States, shall be guilty of a Class 3 felony.

18 (Source: P.A. 83-1528.)

19 Section 10. The Cigarette Use Tax Act is amended by
20 changing Sections 3, 4, 11, 12, 13, 13a, and 30 and by adding
21 Section 25b as follows:

22 (35 ILCS 135/3) (from Ch. 120, par. 453.33)

23 Sec. 3. Stamp payment. The tax hereby imposed shall be
24 collected by a distributor maintaining a place of business in
25 this State or a distributor authorized by the Department
26 pursuant to Section 7 hereof to collect the tax, and the
27 amount of the tax shall be added to the price of the
28 cigarettes sold by such distributor. Collection of the tax
29 shall be evidenced by a stamp or stamps affixed to each
30 original package of cigarettes or by an authorized substitute
31 for such stamp imprinted on each original package of such
32 cigarettes underneath the sealed transparent outside wrapper

1 of such original package, except as hereinafter provided.
2 Each distributor who is required or authorized to collect the
3 tax herein imposed, before delivering or causing to be
4 delivered any original packages of cigarettes in this State
5 to any purchaser, shall firmly affix a proper stamp or stamps
6 to each such package, or (in the case of manufacturers of
7 cigarettes in original packages which are contained inside a
8 sealed transparent wrapper) shall imprint the required
9 language on the original package of cigarettes beneath such
10 outside wrapper as hereinafter provided. Such stamp or stamps
11 need not be affixed to the original package of any cigarettes
12 with respect to which the distributor is required to affix a
13 like stamp or stamps by virtue of the Cigarette Tax Act,
14 however, and no tax imprint need be placed underneath the
15 sealed transparent wrapper of an original package of
16 cigarettes with respect to which the distributor is required
17 or authorized to employ a like tax imprint by virtue of the
18 Cigarette Tax Act.

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

1 Stamps, when required hereunder, shall be purchased from
2 the Department, or any person authorized by the Department,
3 by distributors. The Department may refuse to sell stamps to
4 any person who does not comply with the provisions of this
5 Act.

6 Prior to December 1, 1985, the Department shall allow a
7 distributor 21 days in which to make final payment of the
8 amount to be paid for such stamps, by allowing the
9 distributor to make payment for the stamps at the time of
10 purchasing them with a draft which shall be in such form as
11 the Department prescribes, and which shall be payable within
12 21 days thereafter: Provided that such distributor has filed
13 with the Department, and has received the Department's
14 approval of, a bond, which is in addition to the bond
15 required under Section 4 of this Act, payable to the
16 Department in an amount equal to 80% of such distributor's
17 average monthly tax liability to the Department under this
18 Act during the preceding calendar year or \$500,000, whichever
19 is less. The bond shall be joint and several and shall be in
20 the form of a surety company bond in such form as the
21 Department prescribes, or it may be in the form of a bank
22 certificate of deposit or bank letter of credit. The bond
23 shall be conditioned upon the distributor's payment of the
24 amount of any 21-day draft which the Department accepts from
25 that distributor for the delivery of stamps to that
26 distributor under this Act. The distributor's failure to pay
27 any such draft, when due, shall also make such distributor
28 automatically liable to the Department for a penalty equal to
29 25% of the amount of such draft.

30 On and after December 1, 1985, the Department shall allow
31 a distributor 30 days in which to make final payment of the
32 amount to be paid for such stamps, by allowing the
33 distributor to make payment for the stamps at the time of
34 purchasing them with a draft which shall be in such form as

1 the Department prescribes, and which shall be payable within
2 30 days thereafter, and beginning on January 1, 2003 and
3 thereafter, the draft shall be payable by means of electronic
4 funds transfer: Provided that such distributor has filed
5 with the Department, and has received the Department's
6 approval of, a bond, which is in addition to the bond
7 required under Section 4 of this Act, payable to the
8 Department in an amount equal to 150% of such distributor's
9 average monthly tax liability to the Department under this
10 Act during the preceding calendar year or \$750,000, whichever
11 is less, except that as to bonds filed on or after January 1,
12 1987, such additional bond shall be in an amount equal to
13 100% of such distributor's average monthly tax liability
14 under this Act during the preceding calendar year or
15 \$750,000, whichever is less. The bond shall be joint and
16 several and shall be in the form of a surety company bond in
17 such form as the Department prescribes, or it may be in the
18 form of a bank certificate of deposit or bank letter of
19 credit. The bond shall be conditioned upon the distributor's
20 payment of the amount of any 30-day draft which the
21 Department accepts from that distributor for the delivery of
22 stamps to that distributor under this Act. The distributor's
23 failure to pay any such draft, when due, shall also make such
24 distributor automatically liable to the Department for a
25 penalty equal to 25% of the amount of such draft.

26 Every prior continuous compliance taxpayer shall be
27 exempt from all requirements under this Section concerning
28 the furnishing of such bond, as defined in this Section, as a
29 condition precedent to his being authorized to engage in the
30 business licensed under this Act. This exemption shall
31 continue for each such taxpayer until such time as he may be
32 determined by the Department to be delinquent in the filing
33 of any returns, or is determined by the Department (either
34 through the Department's issuance of a final assessment which

1 has become final under the Act, or by the taxpayer's filing
2 of a return which admits tax to be due that is not paid) to
3 be delinquent or deficient in the paying of any tax under
4 this Act, at which time that taxpayer shall become subject to
5 the bond requirements of this Section and, as a condition of
6 being allowed to continue to engage in the business licensed
7 under this Act, shall be required to furnish bond to the
8 Department in such form as provided in this Section. Such
9 taxpayer shall furnish such bond for a period of 2 years,
10 after which, if the taxpayer has not been delinquent in the
11 filing of any returns, or delinquent or deficient in the
12 paying of any tax under this Act, the Department may
13 reinstate such person as a prior continuance compliance
14 taxpayer. Any taxpayer who fails to pay an admitted or
15 established liability under this Act may also be required to
16 post bond or other acceptable security with the Department
17 guaranteeing the payment of such admitted or established
18 liability.

19 Any person aggrieved by any decision of the Department
20 under this Section may, within the time allowed by law,
21 protest and request a hearing, whereupon the Department shall
22 give notice and shall hold a hearing in conformity with the
23 provisions of this Act and then issue its final
24 administrative decision in the matter to such person. In the
25 absence of such a protest filed within the time allowed by
26 law, the Department's decision shall become final without any
27 further determination being made or notice given.

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

32 (1) Such Taxpayer becomes a prior continuous compliance
33 taxpayer; or

34 (2) Such taxpayer has ceased to collect receipts on

1 which he is required to remit tax to the Department, has
2 filed a final tax return, and has paid to the Department an
3 amount 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
6 outstanding tax liability as expeditiously as possible after
7 his final tax return has been filed. If the Department
8 cannot make such final determination within 45 days after
9 receiving the final tax return, within such period it shall
10 so notify the taxpayer, stating its reasons therefor.

11 At the time of purchasing such stamps from the Department
12 when purchase is required by this Act, or at the time when
13 the tax which he has collected is remitted by a distributor
14 to the Department without the purchase of stamps from the
15 Department when that method of remitting the tax that has
16 been collected is required or authorized by this Act, the
17 distributor shall be allowed a discount during any year
18 commencing July 1 and ending the following June 30 in
19 accordance with the schedule set out hereinbelow, from the
20 amount to be paid by him to the Department for such stamps,
21 or to be paid by him to the Department on the basis of
22 monthly remittances (as the case may be), to cover the cost,
23 to such distributor, of collecting the tax herein imposed by
24 affixing such stamps to the original packages of cigarettes
25 sold by such distributor or by placing tax imprints
26 underneath the sealed transparent wrapper of original
27 packages of cigarettes sold by such distributor (as the case
28 may be): (1) Prior to December 1, 1985, a discount equal to
29 1-2/3% of the amount of the tax up to and including the first
30 \$700,000 paid hereunder by such distributor to the Department
31 during any such year; 1-1/3% of the next \$700,000 of tax or
32 any part thereof, paid hereunder by such distributor to the
33 Department during any such year; 1% of the next \$700,000 of
34 tax, or any part thereof, paid hereunder by such distributor

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

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

14 Cigarette manufacturers who are distributors under this
15 Act, and who place their cigarettes in original packages
16 which are contained inside a sealed transparent wrapper,
17 shall be required to remit the tax which they are required to
18 collect under this Act to the Department by remitting the
19 amount thereof to the Department by the 5th day of each
20 month, covering cigarettes shipped or otherwise delivered to
21 points in Illinois to purchasers during the preceding
22 calendar month, but a distributor need not remit to the
23 Department the tax so collected by him from purchasers under
24 this Act to the extent to which such distributor is required
25 to remit the tax imposed by the Cigarette Tax Act to the
26 Department with respect to the same cigarettes. All taxes
27 upon cigarettes under this Act are a direct tax upon the
28 retail consumer and shall conclusively be presumed to be
29 precollected for the purpose of convenience and facility
30 only. Distributors who are manufacturers of cigarettes in
31 original packages which are contained inside a sealed
32 transparent wrapper, before delivering such cigarettes or
33 causing such cigarettes to be delivered in this State to
34 purchasers, shall evidence their obligation to collect and

1 remit the tax due with respect to such cigarettes by
2 imprinting language to be prescribed by the Department on
3 each original package of such cigarettes underneath the
4 sealed transparent outside wrapper of such original package,
5 in such place thereon and in such manner as the Department
6 may prescribe; provided (as stated hereinbefore) that this
7 requirement does not apply when such distributor is required
8 or authorized by the Cigarette Tax Act to place the tax
9 imprint provided for in the last paragraph of Section 3 of
10 that Act underneath the sealed transparent wrapper of such
11 original package of cigarettes. Such imprinted language shall
12 acknowledge the manufacturer's collection and payment of or
13 liability for the tax imposed by this Act with respect to
14 such cigarettes.

15 The Department shall adopt the design or designs of the
16 tax stamps and shall procure the printing of such stamps in
17 such amounts and denominations as it deems necessary to
18 provide for the affixation of the proper amount of tax stamps
19 to each original package of cigarettes.

20 Where tax stamps are required, the Department may
21 authorize distributors to affix revenue tax stamps by
22 imprinting tax meter stamps upon original packages of
23 cigarettes. The Department shall adopt rules and regulations
24 relating to the imprinting of such tax meter stamps as will
25 result in payment of the proper taxes as herein imposed. No
26 distributor may affix revenue tax stamps to original packages
27 of cigarettes by imprinting meter stamps thereon unless such
28 distributor has first obtained permission from the Department
29 to employ this method of affixation. The Department shall
30 regulate the use of tax meters and may, to assure the proper
31 collection of the taxes imposed by this Act, revoke or
32 suspend the privilege, theretofore granted by the Department
33 to any distributor, to imprint tax meter stamps upon original
34 packages of cigarettes.

1 The tax hereby imposed and not paid pursuant to this
2 Section shall be paid to the Department directly by any
3 person using such cigarettes within this State, pursuant to
4 Section 12 hereof.

5 (Source: P.A. 91-246, eff. 7-22-99.)

6 (35 ILCS 135/4) (from Ch. 120, par. 453.34)

7 Sec. 4. Distributor's license. A distributor maintaining
8 a place of business in this State, if required to procure a
9 license or allowed to obtain a permit as a distributor under
10 the Cigarette Tax Act, need not obtain an additional license
11 or permit under this Act, but shall be deemed to be
12 sufficiently licensed or registered by virtue of his being
13 licensed or registered under the Cigarette Tax Act.

14 Every distributor maintaining a place of business in this
15 State, if not required to procure a license or allowed to
16 obtain a permit as a distributor under the Cigarette Tax Act,
17 shall make a verified application to the Department (upon a
18 form prescribed and furnished by the Department) for a
19 license to act as a distributor under this Act. In completing
20 such application, the applicant shall furnish such
21 information as the Department may reasonably require.

22 The annual license fee payable to the Department for each
23 distributor's license shall be \$250. The purpose of such
24 annual license fee is to defray the cost, to the Department,
25 of ~~encoding, serializing or encoding--and~~ serializing cigarette
26 tax stamps. The applicant for license shall pay such fee to
27 the Department at the time of submitting the application for
28 license to the Department.

29 Such applicant shall file, with his application, a joint
30 and several bond. Such bond shall be executed to the
31 Department of Revenue, with good and sufficient surety or
32 sureties residing or licensed to do business within the State
33 of Illinois, in the amount of \$2,500, conditioned upon the

1 true and faithful compliance by the licensee with all of the
2 provisions of this Act. Such bond, or a reissue thereof, or a
3 substitute therefor, shall be kept in effect during the
4 entire period covered by the license. A separate application
5 for license shall be made, a separate annual license fee
6 paid, and a separate bond filed, for each place of business
7 at or from which the applicant proposes to act as a
8 distributor under this Act and for which the applicant is not
9 required to procure a license or allowed to obtain a permit
10 as a distributor under the Cigarette Tax Act.

11 The following are ineligible to receive a distributor's
12 license under this Act:

13 (1) a person who is not of good character and
14 reputation in the community in which he resides;

15 (2) a person who has been convicted of a felony
16 under any Federal or State law, if the Department, after
17 investigation and a hearing, if requested by the
18 applicant, determines that such person has not been
19 sufficiently rehabilitated to warrant the public trust;

20 (3) a corporation, if any officer, manager or
21 director thereof, or any stockholder or stockholders
22 owning in the aggregate more than 5% of the stock of such
23 corporation, would not be eligible to receive a license
24 hereunder for any reason.

25 Upon approval of such application and bond and payment of
26 the required annual license fee, the Department shall issue a
27 license to the applicant. Such license shall permit the
28 applicant to engage in business as a distributor at or from
29 the place shown in his application. All licenses issued by
30 the Department under this Act shall be valid for not to
31 exceed one year after issuance unless sooner revoked,
32 canceled or suspended as in this Act provided. No license
33 issued under this Act is transferable or assignable. Such
34 license shall be conspicuously displayed at the place of

1 business for which it is issued.

2 Any person aggrieved by any decision of the Department
3 under this Section may, within 20 days after notice of the
4 decision, protest and request a hearing. Upon receiving a
5 request for a hearing, the Department shall give notice to
6 the person requesting the hearing of the time and place fixed
7 for the hearing and shall hold a hearing in conformity with
8 the provisions of this Act and then issue its final
9 administrative decision in the matter to that person. In the
10 absence of a protest and request for a hearing within 20
11 days, the Department's decision shall become final without
12 any further determination being made or notice given.

13 (Source: P.A. 91-901, eff. 1-1-01.)

14 (35 ILCS 135/11) (from Ch. 120, par. 453.41)

15 Sec. 11. Return by distributor or manufacturer. Every
16 distributor, who is required or authorized to collect tax
17 under this Act, but who is not a manufacturer of cigarettes
18 in original packages which are contained in a sealed
19 transparent wrapper, shall, on or before the 15th day of each
20 calendar month, file a return with the Department, showing
21 such information as the Department may reasonably require.
22 The Department may promulgate rules to require that the
23 distributor's return be accompanied by appropriate
24 computer-generated magnetic media supporting schedule data in
25 the format required by the Department, unless, as provided by
26 rule, the Department grants an exception upon petition of a
27 distributor.

28 Illinois manufacturers of cigarettes in original packages
29 which are contained inside a sealed transparent wrapper shall
30 file a return by the 5th day of each month covering the
31 preceding calendar month. Each such return shall be
32 accompanied by the appropriate remittance for tax as provided
33 in Section 3 of this Act. Each such return shall disclose

1 such information as the Department may lawfully require. Each
2 such return shall be accompanied by a copy of each invoice
3 rendered by such manufacturer to any purchaser to whom such
4 manufacturer delivered cigarettes (or caused cigarettes to be
5 delivered) during the period covered by the return. The
6 Department may promulgate rules to require that the
7 manufacturer's return be accompanied by appropriate
8 computer-generated magnetic media supporting schedule data in
9 the format required by the Department, unless, as provided by
10 rule, the Department grants an exception upon petition of a
11 manufacturer.

12 No distributor shall be required to return information to
13 the extent to which the reporting of such information would
14 be a duplication of such distributor's reporting of
15 information in any return which he is required to file with
16 the Department under the Cigarette Tax Act. Returns shall be
17 filed on forms prescribed by the Department.

18 (Source: Laws 1953, p. 265.)

19 (35 ILCS 135/12) (from Ch. 120, par. 453.42)

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

22 (a) When cigarettes are acquired for use in this State
23 by a person (including a distributor as well as any other
24 person), who did not pay the tax herein imposed to a
25 distributor, the such person, within 30 3 days after
26 acquiring the such cigarettes, shall file with the Department
27 a return declaring the possession of the such cigarettes and
28 shall transmit with the return to the Department the tax
29 imposed by this Act.

30 (b) On receipt of the return and payment of the tax as
31 required by paragraph (a), the Department may ~~shall~~-~~issue-a~~
32 ~~receipt-to-the-person-paying-the-tax-and--shall~~ furnish the
33 such person with a suitable tax stamp to be affixed to the

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

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

8 (Source: Laws 1957, p. 1196.)

9 (35 ILCS 135/13) (from Ch. 120, par. 453.43)

10 Sec. 13. Examination and correction of return. As soon
11 as practicable after any return is filed, the Department
12 shall examine such return and shall correct such return
13 according to its best judgment and information, which return
14 so corrected by the Department shall be prima facie correct
15 and shall be prima facie evidence of the correctness of the
16 amount of tax due, as shown therein. Proof of such correction
17 by the Department may be made at any hearing before the
18 Department or in any legal proceeding by a reproduced copy of
19 the Department's record relating thereto in the name of the
20 Department under the certificate of the Director of Revenue.
21 Such reproduced copy shall, without further proof, be
22 admitted into evidence before the Department or in any legal
23 proceeding and shall be prima facie proof of the correctness
24 of the amount of tax due, as shown therein. If the tax as
25 fixed by the Department is greater than the amount of the tax
26 due under the return as filed, the Department shall issue the
27 person filing such return a notice of tax liability for the
28 amount of tax claimed by the Department to be due, together
29 with a penalty in an amount determined in accordance with
30 Sections 3-3, 3-5 and 3-6 of the Uniform Penalty and Interest
31 Act. If, in administering the provisions of this Act,
32 comparison of a return or returns of a distributor with the
33 books, records and inventories of such distributor discloses

1 a deficiency which cannot be allocated by the Department to a
2 particular month or months, the Department shall issue the
3 distributor a notice of tax liability for the amount of tax
4 claimed by the Department to be due for a given period, but
5 without any obligation upon the Department to allocate such
6 deficiency to any particular month or months, together with a
7 penalty in an amount determined in accordance with Sections
8 3-3, 3-5 and 3-6 of the Uniform Penalty and Interest Act,
9 under which circumstances the aforesaid notice of tax
10 liability shall be prima facie correct and shall be prima
11 facie evidence of the correctness of the amount of tax due,
12 as shown therein; and proof of such correctness may be made
13 in accordance with, and the admissibility of a reproduced
14 copy of such notice of tax liability shall be governed by,
15 all the provisions of this Act applicable to corrected
16 returns.

17 If any person filing any return dies or becomes a person
18 under legal disability at any time before the Department
19 issues its notice of tax liability, such notice shall be
20 issued to the administrator, executor or other legal
21 representative, as such, of such person.

22 If within 60 20 days after such notice of tax liability,
23 the person to whom such notice is issued or his legal
24 representative files a protest to such notice of tax
25 liability and requests a hearing thereon, the Department
26 shall give notice to such person or legal representative of
27 the time and place fixed for such hearing, and shall hold a
28 hearing in conformity with the provisions of this Act, and
29 pursuant thereto shall issue a final assessment to such
30 person or legal representative for the amount found to be due
31 as a result of such hearing. If a protest to the notice of
32 tax liability and a request for a hearing thereon is not
33 filed within 60 20 days after such notice of tax liability,
34 such notice of tax liability shall become final without the

1 necessity of a final assessment being issued and shall be
2 deemed to be a final assessment.

3 (Source: P.A. 87-205.)

4 (35 ILCS 135/13a) (from Ch. 120, par. 453.43a)

5 Sec. 13a. Failure to file return. In case any person who
6 is required to file a return under this Act fails to file
7 such return, the Department shall determine the amount of tax
8 due from him according to its best judgment and information,
9 which amount so fixed by the Department shall be prima facie
10 correct and shall be prima facie evidence of the correctness
11 of the amount of tax due, as shown in such determination.
12 Proof of such determination by the Department may be made at
13 any hearing before the Department or in any legal proceeding
14 by a reproduced copy of the Department's record relating
15 thereto in the name of the Department under the certificate
16 of the Director of Revenue. Such reproduced copy shall,
17 without further proof, be admitted into evidence before the
18 Department or in any legal proceeding and shall be prima
19 facie proof of the correctness of the amount of tax due, as
20 shown therein. The Department shall issue such person a
21 notice of tax liability for the amount of tax claimed by the
22 Department to be due, together with a penalty in an amount
23 determined in accordance with Sections 3-3, 3-5 and 3-6 of
24 the Uniform Penalty and Interest Act. If such person or the
25 legal representative of such person, within 60 20 days after
26 such notice, files a protest to such notice of tax liability
27 and requests a hearing thereon, the Department shall give
28 notice to such person or the legal representative of such
29 person of the time and place fixed for such hearing, and
30 shall hold a hearing in conformity with the provisions of
31 this Act, and pursuant thereto shall issue a final assessment
32 to such person or to the legal representative of such person
33 for the amount found to be due as a result of such hearing.

1 If a protest to the notice of tax liability and a request for
 2 a hearing thereon is not filed within 60 20 days after such
 3 notice of tax liability, such notice of tax liability shall
 4 become final without the necessity of a final assessment
 5 being issued and shall be deemed to be a final assessment.

6 (Source: P.A. 87-205.)

7 (35 ILCS 135/25b new)

8 Sec. 25b. Possession of not less than 10 and not more
 9 than 100 original packages not tax stamped or improperly tax
 10 stamped; penalty. With the exception of licensed
 11 distributors, anyone possessing not less than 10 and not more
 12 than 100 packages of cigarettes contained in original
 13 packages that are not tax stamped as required by this Act, or
 14 that are improperly tax stamped, is liable to pay to the
 15 Department, for deposit into the Tax Compliance and
 16 Administration Fund, a penalty of \$10 for each such package
 17 of cigarettes, unless reasonable cause can be established by
 18 the person upon whom the penalty is imposed. Reasonable
 19 cause shall be determined in each situation in accordance
 20 with rules adopted by the Department.

21 (35 ILCS 135/30) (from Ch. 120, par. 453.60)

22 Sec. 30. Punishment for sale or possession of unstamped
 23 packages. Any person other than a licensed distributor who
 24 sells, offers for sale, or has in his possession with intent
 25 to sell or offer for sale, more than 100 an original packages
 26 package, not tax stamped or tax imprinted underneath the
 27 sealed transparent wrapper of such original package in
 28 accordance with this Act, shall be guilty of a Class 4
 29 felony.

30 Any person other than a licensed distributor who sells,
 31 offers for sale, or has in his possession with intent to sell
 32 or offer for sale, 100 or fewer original packages, not tax

1 stamped or tax imprinted underneath the sealed transparent
2 wrapper of the original package in accordance with this Act,
3 is guilty of a Class A misdemeanor for the first offense and
4 a Class 4 felony for each subsequent offense.

5 Any distributor who sells an original package of
6 cigarettes, not tax stamped or tax imprinted underneath the
7 sealed transparent wrapper of such original package in
8 accordance with this Act, except when the sale is made under
9 such circumstances that the tax imposed by this Act may not
10 legally be levied because of the Constitution or laws of the
11 United States, shall be guilty of a Class 3 felony.

12 (Source: P.A. 83-1528.)

13 Section 99. Effective date. This Act takes effect on
14 January 1, 2002.

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