

1 AN ACT concerning taxation.

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 Section 5.570 as follows:

6 (30 ILCS 105/5.570 new)

7 Sec. 5.570. The Human Services Providers Fund.

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

10 (35 ILCS 130/2) (from Ch. 120, par. 453.2)

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

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

1 Revenue pursuant to this Act shall be paid each month into
2 the Common School Fund. On and after the effective date of
3 this amendatory Act of 1989, in addition to any other tax
4 imposed by this Act, a tax is imposed upon any person engaged
5 in business as a retailer of cigarettes at the rate of 5
6 mills per cigarette sold or otherwise disposed of in the
7 course of such business in this State. On and after the
8 effective date of this amendatory Act of 1993, in addition to
9 any other tax imposed by this Act, a tax is imposed upon any
10 person engaged in business as a retailer of cigarettes at the
11 rate of 7 mills per cigarette sold or otherwise disposed of
12 in the course of such business in this State. On and after
13 December 15, 1997, in addition to any other tax imposed by
14 this Act, a tax is imposed upon any person engaged in
15 business as a retailer of cigarettes at the rate of 7 mills
16 per cigarette sold or otherwise disposed of in the course of
17 such business of this State. All of the moneys received by
18 the Department of Revenue pursuant to this Act and the
19 Cigarette Use Tax Act from the additional taxes imposed by
20 this amendatory Act of 1997, shall be paid each month into
21 the Common School Fund. On and after the effective date of
22 this amendatory Act of the 92nd General Assembly, in addition
23 to any other tax imposed by this Act, a tax is imposed upon
24 any person engaged in business as a retailer of cigarettes at
25 the rate of 37.5 mills per cigarette sold or otherwise
26 disposed of in the course of such business in this State. The
27 payment of such taxes shall be evidenced by a stamp affixed
28 to each original package of cigarettes, or an authorized
29 substitute for such stamp imprinted on each original package
30 of such cigarettes underneath the sealed transparent outside
31 wrapper of such original package, as hereinafter provided.
32 However, such taxes are not imposed upon any activity in such
33 business in interstate commerce or otherwise, which activity
34 may not under the Constitution and statutes of the United

1 States be made the subject of taxation by this State.

2 Beginning on the effective date of this amendatory Act of
3 1998, all of the moneys received by the Department of Revenue
4 pursuant to this Act and the Cigarette Use Tax Act, other
5 than the moneys that are dedicated to the Metropolitan Fair
6 and Exposition Authority Reconstruction Fund and the Common
7 School Fund, shall be distributed each month as follows:
8 first, there shall be paid into the General Revenue Fund an
9 amount which, when added to the amount paid into the Common
10 School Fund for that month, equals \$33,300,000; then, from
11 the moneys remaining, if any amounts required to be paid into
12 the General Revenue Fund in previous months remain unpaid,
13 those amounts shall be paid into the General Revenue Fund;
14 then the moneys remaining, if any, shall be paid into the
15 Long-Term Care Provider Fund. To the extent that more than
16 \$25,000,000 has been paid into the General Revenue Fund and
17 Common School Fund per month for the period of July 1, 1993
18 through the effective date of this amendatory Act of 1994
19 from combined receipts of the Cigarette Tax Act and the
20 Cigarette Use Tax Act, notwithstanding the distribution
21 provided in this Section, the Department of Revenue is hereby
22 directed to adjust the distribution provided in this Section
23 to increase the next monthly payments to the Long Term Care
24 Provider Fund by the amount paid to the General Revenue Fund
25 and Common School Fund in excess of \$25,000,000 per month and
26 to decrease the next monthly payments to the General Revenue
27 Fund and Common School Fund by that same excess amount.
28 Notwithstanding any other provisions in this Act, 25% of the
29 increase in moneys received by the Department pursuant to
30 this Act and the Cigarette Use Tax Act as a result of the
31 37.5 mill increase in the tax imposed by this amendatory Act
32 of the 92nd General Assembly shall be deposited into the
33 Human Services Providers Fund, a special fund in the State
34 treasury. Subject to appropriation, moneys in the Human

1 Services Providers Fund shall be used only to fund those
2 entities that receive funding from the State to provide human
3 services to residents of Illinois. The additional moneys
4 appropriated to human services providers from the Human
5 Services Providers Fund shall not replace funds appropriated
6 in the previous year to human services providers but shall be
7 in addition to those moneys.

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

17 The impact of the tax levied by this Act is imposed upon
18 the retailer and shall be prepaid or pre-collected by the
19 distributor for the purpose of convenience and facility only,
20 and the amount of the tax shall be added to the price of the
21 cigarettes sold by such distributor. Collection of the tax
22 shall be evidenced by a stamp or stamps affixed to each
23 original package of cigarettes, as hereinafter provided.

24 Each distributor shall collect the tax from the retailer
25 at or before the time of the sale, shall affix the stamps as
26 hereinafter required, and shall remit the tax collected from
27 retailers to the Department, as hereinafter provided. Any
28 distributor who fails to properly collect and pay the tax
29 imposed by this Act shall be liable for the tax. Any
30 distributor having cigarettes to which stamps have been
31 affixed in his possession for sale on the effective date of
32 this amendatory Act of 1989 shall not be required to pay the
33 additional tax imposed by this amendatory Act of 1989 on such
34 stamped cigarettes. Any distributor having cigarettes to

1 which stamps have been affixed in his or her possession for
2 sale at 12:01 a.m. on the effective date of this amendatory
3 Act of 1993, is required to pay the additional tax imposed by
4 this amendatory Act of 1993 on such stamped cigarettes. This
5 payment, less the discount provided in subsection (b), shall
6 be due when the distributor first makes a purchase of
7 cigarette tax stamps after the effective date of this
8 amendatory Act of 1993, or on the first due date of a return
9 under this Act after the effective date of this amendatory
10 Act of 1993, whichever occurs first. Any distributor having
11 cigarettes to which stamps have been affixed in his
12 possession for sale on December 15, 1997 shall not be
13 required to pay the additional tax imposed by this amendatory
14 Act of 1997 on such stamped cigarettes. Any distributor
15 having cigarettes to which stamps have been affixed in his
16 possession for sale on the effective date of this amendatory
17 Act of the 92nd General Assembly shall not be required to pay
18 the additional tax imposed by this amendatory Act of the 92nd
19 General Assembly on such stamped cigarettes.

20 The amount of the Cigarette Tax imposed by this Act shall
21 be separately stated, apart from the price of the goods, by
22 both distributors and retailers, in all advertisements, bills
23 and sales invoices.

24 (b) The distributor shall be required to collect the
25 taxes provided under paragraph (a) hereof, and, to cover the
26 costs of such collection, shall be allowed a discount during
27 any year commencing July 1st and ending the following June
28 30th in accordance with the schedule set out hereinbelow,
29 which discount shall be allowed at the time of purchase of
30 the stamps when purchase is required by this Act, or at the
31 time when the tax is remitted to the Department without the
32 purchase of stamps from the Department when that method of
33 paying the tax is required or authorized by this Act. Prior
34 to December 1, 1985, a discount equal to 1 2/3% of the amount

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

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

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

24 (Source: P.A. 90-548, eff. 12-4-97; 90-587, eff. 7-1-98.)

25 Section 15. The Cigarette Use Tax Act is amended by
26 changing Section 2 as follows:

27 (35 ILCS 135/2) (from Ch. 120, par. 453.32)

28 Sec. 2. A tax is imposed upon the privilege of using
29 cigarettes in this State, at the rate of 6 mills per
30 cigarette so used. On and after December 1, 1985, in addition
31 to any other tax imposed by this Act, a tax is imposed upon
32 the privilege of using cigarettes in this State at a rate of

1 4 mills per cigarette so used. On and after the effective
2 date of this amendatory Act of 1989, in addition to any other
3 tax imposed by this Act, a tax is imposed upon the privilege
4 of using cigarettes in this State at the rate of 5 mills per
5 cigarette so used. On and after the effective date of this
6 amendatory Act of 1993, in addition to any other tax imposed
7 by this Act, a tax is imposed upon the privilege of using
8 cigarettes in this State at a rate of 7 mills per cigarette
9 so used. On and after December 15, 1997, in addition to any
10 other tax imposed by this Act, a tax is imposed upon the
11 privilege of using cigarettes in this State at a rate of 7
12 mills per cigarette so used. On and after the effective date
13 of this amendatory Act of the 92nd General Assembly, in
14 addition to any other tax imposed by this Act, a tax is
15 imposed upon the privilege of using cigarettes in this State
16 at a rate of 37.5 mills per cigarette so used. The taxes
17 herein imposed shall be in addition to all other occupation
18 or privilege taxes imposed by the State of Illinois or by
19 any political subdivision thereof or by any municipal
20 corporation.

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

30 When the word "tax" is used in this Act, it shall include
31 any tax or tax rate imposed by this Act and shall mean the
32 singular of "tax" or the plural "taxes" as the context may
33 require.

34 Any distributor having cigarettes to which stamps have

1 been affixed in his possession for sale on the effective date
2 of this amendatory Act of 1989 shall not be required to pay
3 the additional tax imposed by this amendatory Act of 1989 on
4 such stamped cigarettes. Any distributor having cigarettes to
5 which stamps have been affixed in his or her possession for
6 sale at 12:01 a.m. on the effective date of this amendatory
7 Act of 1993, is required to pay the additional tax imposed by
8 this amendatory Act of 1993 on such stamped cigarettes. This
9 payment shall be due when the distributor first makes a
10 purchase of cigarette tax stamps after the effective date of
11 this amendatory Act of 1993, or on the first due date of a
12 return under this Act after the effective date of this
13 amendatory Act of 1993, whichever occurs first. Once a
14 distributor tenders payment of the additional tax to the
15 Department, the distributor may purchase stamps from the
16 Department. Any distributor having cigarettes to which
17 stamps have been affixed in his possession for sale on
18 December 15, 1997 shall not be required to pay the additional
19 tax imposed by this amendatory Act of 1997 on such stamped
20 cigarettes. Any distributor having cigarettes to which stamps
21 have been affixed in his possession for sale on the effective
22 date of this amendatory Act of the 92nd General Assembly
23 shall not be required to pay the additional tax imposed by
24 this amendatory Act of the 92nd General Assembly on such
25 stamped cigarettes.

26 (Source: P.A. 90-548, eff. 12-4-97.)

27 Section 99. Effective date. This Act takes effect on
28 January 1, 2003.