

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 Cigarette Tax Act is amended by changing
5 Section 1 as follows:

6 (35 ILCS 130/1) (from Ch. 120, par. 453.1)

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

8 "Brand Style" means a variety of cigarettes distinguished
9 by the tobacco used, tar and nicotine content, flavoring used,
10 size of the cigarette, filtration on the cigarette or
11 packaging.

12 "Cigarette", means any roll for smoking made wholly or in
13 part of tobacco irrespective of size or shape and whether or
14 not such tobacco is flavored, adulterated or mixed with any
15 other ingredient, and the wrapper or cover of which is made of
16 paper or any other substance or material except tobacco.

17 "Cigarette" also includes little cigars.

18 "Little cigar" means any roll for smoking, made wholly or
19 in part of tobacco, if such product uses an integrated
20 cellulose acetate or other similar filter and is wrapped in any
21 substance containing tobacco, other than natural leaf tobacco.

22 "Contraband cigarettes" means:

23 (a) cigarettes that do not bear a required tax stamp

1 under this Act;

2 (b) cigarettes for which any required federal taxes
3 have not been paid;

4 (c) cigarettes that bear a counterfeit tax stamp;

5 (d) cigarettes that are manufactured, fabricated,
6 assembled, processed, packaged, or labeled by any person
7 other than (i) the owner of the trademark rights in the
8 cigarette brand or (ii) a person that is directly or
9 indirectly authorized by such owner;

10 (e) cigarettes imported into the United States, or
11 otherwise distributed, in violation of the federal
12 Imported Cigarette Compliance Act of 2000 (Title IV of
13 Public Law 106-476);

14 (f) cigarettes that have false manufacturing labels;

15 (g) cigarettes identified in Section 3-10(a)(1) of
16 this Act; or

17 (h) cigarettes that are improperly tax stamped,
18 including cigarettes that bear a tax stamp of another state
19 or taxing jurisdiction.

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

26 "Prior Continuous Compliance Taxpayer" means any person

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

16 "Department" means the Department of Revenue.

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

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

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

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

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

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

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

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

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

26 "Retailer" means any person who engages in the making of

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

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

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

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

23 "Secondary distributor" means any person engaged in the
24 business of selling cigarettes who purchases stamped original
25 packages of cigarettes from a licensed distributor under this
26 Act or the Cigarette Use Tax Act, sells 75% or more of those

1 cigarettes to retailers for resale, and maintains an
2 established business where a substantial stock of cigarettes is
3 available to retailers for resale.

4 "Stamp" or "stamps" mean the indicia required to be affixed
5 on a pack of cigarettes that evidence payment of the tax on
6 cigarettes under Section 2 of this Act.

7 "Related party" means any person that is associated with
8 any other person because he or she:

9 (a) is an officer or director of a business; or

10 (b) is legally recognized as a partner in business.

11 (Source: P.A. 95-462, eff. 8-27-07; 95-1053, eff. 1-1-10;
12 96-782, eff. 1-1-10; 96-1027, eff. 7-12-10.)

13 Section 10. The Cigarette Use Tax Act is amended by
14 changing Section 1 as follows:

15 (35 ILCS 135/1) (from Ch. 120, par. 453.31)

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

18 "Use" means the exercise by any person of any right or
19 power over cigarettes incident to the ownership or possession
20 thereof, other than the making of a sale thereof in the course
21 of engaging in a business of selling cigarettes and shall
22 include the keeping or retention of cigarettes for use, except
23 that "use" does not include the use of cigarettes by a
24 not-for-profit research institution conducting tests

1 concerning the health effects of tobacco products, provided the
2 cigarettes are not offered for resale.

3 "Brand Style" means a variety of cigarettes distinguished
4 by the tobacco used, tar and nicotine content, flavoring used,
5 size of the cigarette, filtration on the cigarette or
6 packaging.

7 "Cigarette" means any roll for smoking made wholly or in
8 part of tobacco irrespective of size or shape and whether or
9 not such tobacco is flavored, adulterated or mixed with any
10 other ingredient, and the wrapper or cover of which is made of
11 paper or any other substance or material except tobacco.
12 "Cigarette" also includes little cigars.

13 "Little cigar" means any roll for smoking, made wholly or
14 in part of tobacco, if such product uses an integrated
15 cellulose acetate or other similar filter and is wrapped in any
16 substance containing tobacco, other than natural leaf tobacco.

17 "Contraband cigarettes" means:

18 (a) cigarettes that do not bear a required tax stamp
19 under this Act;

20 (b) cigarettes for which any required federal taxes
21 have not been paid;

22 (c) cigarettes that bear a counterfeit tax stamp;

23 (d) cigarettes that are manufactured, fabricated,
24 assembled, processed, packaged, or labeled by any person
25 other than (i) the owner of the trademark rights in the
26 cigarette brand or (ii) a person that is directly or

1 indirectly authorized by such owner;

2 (e) cigarettes imported into the United States, or
3 otherwise distributed, in violation of the federal
4 Imported Cigarette Compliance Act of 2000 (Title IV of
5 Public Law 106-476);

6 (f) cigarettes that have false manufacturing labels;

7 (g) cigarettes identified in Section 3-10(a)(1) of
8 this Act; or

9 (h) cigarettes that are improperly tax stamped,
10 including cigarettes that bear a tax stamp of another state
11 or taxing jurisdiction.

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

18 "Department" means the Department of Revenue.

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

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

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

26 a. Any person engaged in the business of selling

1 cigarettes in this State who brings or causes to be brought
2 into this State from without this State any original
3 packages of cigarettes, on which original packages there is
4 no authorized evidence underneath a sealed transparent
5 wrapper showing that the tax liability imposed by this Act
6 has been paid or assumed by the out-of-State seller of such
7 cigarettes, for sale in the course of such business.

8 b. Any person who makes, manufactures or fabricates
9 cigarettes in this State for sale, except a person who
10 makes, manufactures or fabricates cigarettes for sale to
11 residents incarcerated in penal institutions or resident
12 patients or a State-operated mental health facility.

13 c. Any person who makes, manufactures or fabricates
14 cigarettes outside this State, which cigarettes are placed
15 in original packages contained in sealed transparent
16 wrappers, for delivery or shipment into this State, and who
17 elects to qualify and is accepted by the Department as a
18 distributor under Section 7 of this Act.

19 "Distributor" does not include any person who transfers
20 cigarettes to a not-for-profit research institution that
21 conducts tests concerning the health effects of tobacco
22 products and who does not offer the cigarettes for resale.

23 "Distributor maintaining a place of business in this
24 State", or any like term, means any distributor having or
25 maintaining within this State, directly or by a subsidiary, an
26 office, distribution house, sales house, warehouse or other

1 place of business, or any agent operating within this State
2 under the authority of the distributor or its subsidiary,
3 irrespective of whether such place of business or agent is
4 located here permanently or temporarily, or whether such
5 distributor or subsidiary is licensed to transact business
6 within this State.

7 "Business" means any trade, occupation, activity or
8 enterprise engaged in or conducted in this State for the
9 purpose of selling cigarettes.

10 "Prior Continuous Compliance Taxpayer" means any person
11 who is licensed under this Act and who, having been a licensee
12 for a continuous period of 5 years, is determined by the
13 Department not to have been either delinquent or deficient in
14 the payment of tax liability during that period or otherwise in
15 violation of this Act. Also, any taxpayer who has, as verified
16 by the Department, continuously complied with the condition of
17 his bond or other security under provisions of this Act of a
18 period of 5 consecutive years shall be considered to be a
19 "prior continuous compliance taxpayer". In calculating the
20 consecutive period of time described herein for qualification
21 as a "prior continuous compliance taxpayer", a consecutive
22 period of time of qualifying compliance immediately prior to
23 the effective date of this amendatory Act of 1987 shall be
24 credited to any licensee who became licensed on or before the
25 effective date of this amendatory Act of 1987.

26 "Secondary distributor" means any person engaged in the

1 business of selling cigarettes who purchases stamped original
2 packages of cigarettes from a licensed distributor under this
3 Act or the Cigarette Tax Act, sells 75% or more of those
4 cigarettes to retailers for resale, and maintains an
5 established business where a substantial stock of cigarettes is
6 available to retailers for resale.

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

17 "Stamp" or "stamps" mean the indicia required to be affixed
18 on a pack of cigarettes that evidence payment of the tax on
19 cigarettes under Section 2 of this Act.

20 "Related party" means any person that is associated with
21 any other person because he or she:

22 (a) is an officer or director of a business; or

23 (b) is legally recognized as a partner in business.

24 (Source: P.A. 95-462, eff. 8-27-07; 95-1053, eff. 1-1-10;
25 96-782, eff. 1-1-10; 96-1027, eff. 7-12-10.)