

1 AN ACT concerning taxes.

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

4 Section 5. The Tobacco Products Tax Act of 1995 is
5 amended by changing Sections 10-5 and 10-10 as follows:

6 (35 ILCS 143/10-5)

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

8 "Business" means any trade, occupation, activity, or
9 enterprise engaged in for the purpose of selling tobacco
10 products in this State.

11 "Cigarette" has the meaning ascribed to the term in
12 Section 1 of the Cigarette Tax Act.

13 "Correctional Industries program" means a program run by
14 a State penal institution in which residents of the penal
15 institution produce tobacco products for sale to persons
16 incarcerated in penal institutions or resident patients of a
17 State operated mental health facility.

18 "Department" means the Department of Revenue.

19 "Distributor" means any of the following:

20 (1) Any manufacturer or wholesaler in this State
21 engaged in the business of selling tobacco products who
22 sells, exchanges, or distributes tobacco products to
23 retailers or consumers in this State.

24 (2) Any manufacturer or wholesaler located outside
25 of Illinois engaged in the business of selling tobacco
26 products who sells, exchanges, distributes, ships, or
27 transports tobacco products to retailers or consumers in
28 this State, so long as that manufacturer or wholesaler
29 has or maintains within this State, directly or by
30 subsidiary, an office, sales house, or other place of
31 business, or any agent or other representative operating

1 within this State under the authority of the person or
2 subsidiary, irrespective of whether the place of business
3 or agent or other representative is located here
4 permanently or temporarily.

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

8 "Distributor" does not include any person, wherever
9 resident or located, who makes, manufactures, or fabricates
10 tobacco products as part of a Correctional Industries program
11 for sale to residents incarcerated in penal institutions or
12 resident patients of a State operated mental health facility.

13 "Manufacturer" means any person, wherever resident or
14 located, who manufactures and sells tobacco products, except
15 a person who makes, manufactures, or fabricates tobacco
16 products as a part of a Correctional Industries program for
17 sale to persons incarcerated in penal institutions or
18 resident patients of a State operated mental health facility.

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

25 "Place of business" means and includes any place where
26 tobacco products are sold or where tobacco products are
27 manufactured, stored, or kept for the purpose of sale or
28 consumption, including any vessel, vehicle, airplane, train,
29 or vending machine.

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

33 "Sale" means any transfer, exchange, or barter in any
34 manner or by any means whatsoever for a consideration and

1 includes all sales made by persons.

2 "Snuff" means any finely cut, ground, or powdered tobacco
3 that is intended to be placed in the oral cavity.

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

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

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

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

32 (35 ILCS 143/10-10)

33 Sec. 10-10. Tax imposed. On the first day of the third

1 month after the month in which this Act becomes law, a tax is
2 imposed on any person engaged in business as a distributor of
3 tobacco products other than snuff, as defined in Section
4 10-5, at the rate of 18% of the wholesale price of tobacco
5 products sold or otherwise disposed of in this State. A tax
6 is imposed on any person engaged in business as a distributor
7 of snuff, as defined in Section 10-5, at the rate of 37 cents
8 per ounce of snuff, with a proportionate tax at the like rate
9 on all fractional parts of an ounce of snuff. For purposes
10 of the tax on snuff, the tax shall be computed based on the
11 net weight as listed by the manufacturer. The tax is in
12 addition to all other occupation or privilege taxes imposed
13 by the State of Illinois, by any political subdivision
14 thereof, or by any municipal corporation. However, the tax
15 is not imposed upon any activity in that business in
16 interstate commerce or otherwise, to the extent to which that
17 activity may not, under the Constitution and Statutes of the
18 United States, be made the subject of taxation by this State.
19 The tax is also not imposed on sales made to the United
20 States or any entity thereof.

21 All moneys received by the Department under this Act
22 shall be paid into the Long-Term Care Provider Fund of the
23 State Treasury.

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

25 Section 99. Effective date. This Act takes effect on
26 January 1, 2002.