

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 Cigarette Tax Act is amended by changing
5 Sections 2 and 3 as follows:

6 (35 ILCS 130/2) (from Ch. 120, par. 453.2)

7 Sec. 2. Tax imposed; rate; collection, payment, and
8 distribution; discount.

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

1 course of such business in this State. On and after the
2 effective date of this amendatory Act of 1993, in addition to
3 any other tax imposed by this Act, a tax is imposed upon any
4 person engaged in business as a retailer of cigarettes at the
5 rate of 7 mills per cigarette sold or otherwise disposed of
6 in the course of such business in this State. On and after
7 December 15, 1997, in addition to any other tax imposed by
8 this Act, a tax is imposed upon any person engaged in
9 business as a retailer of cigarettes at the rate of 7 mills
10 per cigarette sold or otherwise disposed of in the course of
11 such business of this State. All of the moneys received by
12 the Department of Revenue pursuant to this Act and the
13 Cigarette Use Tax Act from the additional taxes imposed by
14 this amendatory Act of 1997, shall be paid each month into
15 the Common School Fund. On and after July 1, 2002, in
16 addition to any other tax imposed by this Act, a tax is
17 imposed upon any person engaged in business as a retailer of
18 cigarettes at the rate of 20.0 mills per cigarette sold or
19 otherwise disposed of in the course of such business in this
20 State. The payment of such taxes shall be evidenced by a
21 stamp affixed to each original package of cigarettes, or an
22 authorized substitute for such stamp imprinted on each
23 original package of such cigarettes underneath the sealed
24 transparent outside wrapper of such original package, as
25 hereinafter provided. However, such taxes are not imposed
26 upon any activity in such business in interstate commerce or
27 otherwise, which activity may not under the Constitution and
28 statutes of the United States be made the subject of taxation
29 by this State.

30 Beginning on the effective date of this amendatory Act of
31 the 92nd General Assembly 1998, all of the moneys received by
32 the Department of Revenue pursuant to this Act and the
33 Cigarette Use Tax Act, other than the moneys that are
34 dedicated to the Metropolitan Fair and Exposition Authority

1 Reconstruction Fund and the Common School Fund, shall be
2 distributed each month as follows: first, there shall be paid
3 into the General Revenue Fund an amount which, when added to
4 the amount paid into the Common School Fund for that month,
5 equals \$33,300,000; then, from the moneys remaining, if any
6 amounts required to be paid into the General Revenue Fund in
7 previous months remain unpaid, those amounts shall be paid
8 into the General Revenue Fund; then, beginning on April 1,
9 2003, from the moneys remaining, \$5,000,000 per month shall
10 be paid into the School Infrastructure Fund; then, if any
11 amounts required to be paid into the School Infrastructure
12 Fund in previous months remain unpaid, those amounts shall be
13 paid into the School Infrastructure Fund; then the moneys
14 remaining, if any, shall be paid into the Long-Term Care
15 Provider Fund. To the extent that more than \$25,000,000 has
16 been paid into the General Revenue Fund and Common School
17 Fund per month for the period of July 1, 1993 through the
18 effective date of this amendatory Act of 1994 from combined
19 receipts of the Cigarette Tax Act and the Cigarette Use Tax
20 Act, notwithstanding the distribution provided in this
21 Section, the Department of Revenue is hereby directed to
22 adjust the distribution provided in this Section to increase
23 the next monthly payments to the Long Term Care Provider Fund
24 by the amount paid to the General Revenue Fund and Common
25 School Fund in excess of \$25,000,000 per month and to
26 decrease the next monthly payments to the General Revenue
27 Fund and Common School Fund by that same excess amount.

28 When any tax imposed herein terminates or has terminated,
29 distributors who have bought stamps while such tax was in
30 effect and who therefore paid such tax, but who can show, to
31 the Department's satisfaction, that they sold the cigarettes
32 to which they affixed such stamps after such tax had
33 terminated and did not recover the tax or its equivalent from
34 purchasers, shall be allowed by the Department to take credit

1 for such absorbed tax against subsequent tax stamp purchases
2 from the Department by such distributor.

3 The impact of the tax levied by this Act is imposed upon
4 the retailer and shall be prepaid or pre-collected by the
5 distributor for the purpose of convenience and facility only,
6 and the amount of the tax shall be added to the price of the
7 cigarettes sold by such distributor. Collection of the tax
8 shall be evidenced by a stamp or stamps affixed to each
9 original package of cigarettes, as hereinafter provided.

10 Each distributor shall collect the tax from the retailer
11 at or before the time of the sale, shall affix the stamps as
12 hereinafter required, and shall remit the tax collected from
13 retailers to the Department, as hereinafter provided. Any
14 distributor who fails to properly collect and pay the tax
15 imposed by this Act shall be liable for the tax. Any
16 distributor having cigarettes to which stamps have been
17 affixed in his possession for sale on the effective date of
18 this amendatory Act of 1989 shall not be required to pay the
19 additional tax imposed by this amendatory Act of 1989 on such
20 stamped cigarettes. Any distributor having cigarettes to
21 which stamps have been affixed in his or her possession for
22 sale at 12:01 a.m. on the effective date of this amendatory
23 Act of 1993, is required to pay the additional tax imposed by
24 this amendatory Act of 1993 on such stamped cigarettes. This
25 payment, less the discount provided in subsection (b), shall
26 be due when the distributor first makes a purchase of
27 cigarette tax stamps after the effective date of this
28 amendatory Act of 1993, or on the first due date of a return
29 under this Act after the effective date of this amendatory
30 Act of 1993, whichever occurs first. Any distributor having
31 cigarettes to which stamps have been affixed in his
32 possession for sale on December 15, 1997 shall not be
33 required to pay the additional tax imposed by this amendatory
34 Act of 1997 on such stamped cigarettes.

1 Any distributor having cigarettes to which stamps have
 2 been affixed in his or her possession for sale on July 1,
 3 2002 shall not be required to pay the additional tax imposed
 4 by this amendatory Act of the 92nd General Assembly on those
 5 stamped cigarettes.

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

10 (b) The distributor shall be required to collect the
 11 taxes provided under paragraph (a) hereof, and, to cover the
 12 costs of such collection, shall be allowed a discount during
 13 any year commencing July 1st and ending the following June
 14 30th in accordance with the schedule set out hereinbelow,
 15 which discount shall be allowed at the time of purchase of
 16 the stamps when purchase is required by this Act, or at the
 17 time when the tax is remitted to the Department without the
 18 purchase of stamps from the Department when that method of
 19 paying the tax is required or authorized by this Act. Prior
 20 to December 1, 1985, a discount equal to 1 2/3% of the amount
 21 of the tax up to and including the first \$700,000 paid
 22 hereunder by such distributor to the Department during any
 23 such year; 1 1/3% of the next \$700,000 of tax or any part
 24 thereof, paid hereunder by such distributor to the Department
 25 during any such year; 1% of the next \$700,000 of tax, or any
 26 part thereof, paid hereunder by such distributor to the
 27 Department during any such year, and 2/3 of 1% of the amount
 28 of any additional tax paid hereunder by such distributor to
 29 the Department during any such year shall apply. On and after
 30 December 1, 1985, a discount equal to 1.75% of the amount of
 31 the tax payable under this Act up to and including the first
 32 \$3,000,000 paid hereunder by such distributor to the
 33 Department during any such year and 1.5% of the amount of any
 34 additional tax paid hereunder by such distributor to the

1 Department during any such year shall apply.

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

6 (c) The taxes herein imposed are in addition to all
7 other occupation or privilege taxes imposed by the State of
8 Illinois, or by any political subdivision thereof, or by any
9 municipal corporation.

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

11 (35 ILCS 130/3) (from Ch. 120, par. 453.3)

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

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

1 wrappers, or tubes if that individual package has been marked
2 for export outside the United States with a label or notice
3 in compliance with Section 290.185 of Title 27 of the Code of
4 Federal Regulations. It is not a defense to a proceeding for
5 violation of this paragraph that the label or notice has been
6 removed, mutilated, obliterated, or altered in any manner.

7 The Department, or any person authorized by the
8 Department, shall sell such stamps only to persons holding
9 valid licenses as distributors under this Act. The Department
10 may refuse to sell stamps to any person who does not comply
11 with the provisions of this Act. Beginning on the effective
12 date of this amendatory Act of the 92nd General Assembly and
13 through June 30, 2002, persons holding valid licenses as
14 distributors may purchase cigarette tax stamps up to an
15 amount equal to 115% of the distributor's average monthly
16 cigarette tax stamp purchases over the 12 calendar months
17 prior to the effective date of this amendatory Act of the
18 92nd General Assembly.

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

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

9 On and after December 1, 1985, the Department shall allow
10 a distributor 30 days in which to make final payment of the
11 amount to be paid for such stamps, by allowing the
12 distributor to make payment for the stamps at the time of
13 purchasing them with a draft which shall be in such form as
14 the Department prescribes, and which shall be payable within
15 30 days thereafter, and beginning on January 1, 2003 and
16 thereafter, the draft shall be payable by means of electronic
17 funds transfer: Provided that such distributor has filed
18 with the Department, and has received the Department's
19 approval of, a bond, which is in addition to the bond
20 required under Section 4 of this Act, payable to the
21 Department in an amount equal to 150% of such distributor's
22 average monthly tax liability to the Department under this
23 Act during the preceding calendar year or \$750,000, whichever
24 is less, except that as to bonds filed on or after January 1,
25 1987, such additional bond shall be in an amount equal to
26 100% of such distributor's average monthly tax liability
27 under this Act during the preceding calendar year or
28 \$750,000, whichever is less. The bond shall be joint and
29 several and shall be in the form of a surety company bond in
30 such form as the Department prescribes, or it may be in the
31 form of a bank certificate of deposit or bank letter of
32 credit. The bond shall be conditioned upon the distributor's
33 payment of the amount of any 30-day draft which the
34 Department accepts from that distributor for the delivery of

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

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

32 Any person aggrieved by any decision of the Department
33 under this Section may, within the time allowed by law,
34 protest and request a hearing, whereupon the Department shall

1 give notice and shall hold a hearing in conformity with the
2 provisions of this Act and then issue its final
3 administrative decision in the matter to such person. In the
4 absence of such a protest filed within the time allowed by
5 law, the Department's decision shall become final without any
6 further determination being made or notice given.

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

11 (1) Such taxpayer becomes a prior continuous compliance
12 taxpayer; or

13 (2) Such taxpayer has ceased to collect receipts on
14 which he is required to remit tax to the Department, has
15 filed a final tax return, and has paid to the Department an
16 amount sufficient to discharge his remaining tax liability as
17 determined by the Department under this Act. The Department
18 shall make a final determination of the taxpayer's
19 outstanding tax liability as expeditiously as possible after
20 his final tax return has been filed. If the Department
21 cannot make such final determination within 45 days after
22 receiving the final tax return, within such period it shall
23 so notify the taxpayer, stating its reasons therefor.

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

1 imposed by this Act, revoke or suspend the privilege,
2 theretofore granted by the Department to any distributor, to
3 imprint tax meter stamps upon original packages of
4 cigarettes.

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

27 (Source: P.A. 91-246, eff. 7-22-99; 92-322, eff. 1-1-02.)

28 Section 10. The Cigarette Use Tax Act is amended by
29 changing Sections 2 and 3 as follows:

30 (35 ILCS 135/2) (from Ch. 120, par. 453.32)

31 Sec. 2. A tax is imposed upon the privilege of using
32 cigarettes in this State, at the rate of 6 mills per

1 cigarette so used. On and after December 1, 1985, in addition
2 to any other tax imposed by this Act, a tax is imposed upon
3 the privilege of using cigarettes in this State at a rate of
4 4 mills per cigarette so used. On and after the effective
5 date of this amendatory Act of 1989, in addition to any other
6 tax imposed by this Act, a tax is imposed upon the privilege
7 of using cigarettes in this State at the rate of 5 mills per
8 cigarette so used. On and after the effective date of this
9 amendatory Act of 1993, in addition to any other tax imposed
10 by this Act, a tax is imposed upon the privilege of using
11 cigarettes in this State at a rate of 7 mills per cigarette
12 so used. On and after December 15, 1997, in addition to any
13 other tax imposed by this Act, a tax is imposed upon the
14 privilege of using cigarettes in this State at a rate of 7
15 mills per cigarette so used. On and after July 1, 2002, in
16 addition to any other tax imposed by this Act, a tax is
17 imposed upon the privilege of using cigarettes in this State
18 at a rate of 20.0 mills per cigarette so used. The taxes
19 herein imposed shall be in addition to all other occupation
20 or privilege taxes imposed by the State of Illinois or by any
21 political subdivision thereof or by any municipal
22 corporation.

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

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

1 require.

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

23 Any distributor having cigarettes to which stamps have
24 been affixed in his or her possession for sale on July 1,
25 2002 shall not be required to pay the additional tax imposed
26 by this amendatory Act of the 92nd General Assembly on those
27 stamped cigarettes.

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

29 (35 ILCS 135/3) (from Ch. 120, par. 453.33)

30 Sec. 3. Stamp payment. The tax hereby imposed shall be
31 collected by a distributor maintaining a place of business in
32 this State or a distributor authorized by the Department
33 pursuant to Section 7 hereof to collect the tax, and the

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

25 No stamp or imprint may be affixed to, or made upon, any
26 package of cigarettes unless that package complies with all
27 requirements of the federal Cigarette Labeling and
28 Advertising Act, 15 U.S.C. 1331 and following, for the
29 placement of labels, warnings, or any other information upon
30 a package of cigarettes that is sold within the United
31 States. Under the authority of Section 6, the Department
32 shall revoke the license of any distributor that is
33 determined to have violated this paragraph. A person may not
34 affix a stamp on a package of cigarettes, cigarette papers,

1 wrappers, or tubes if that individual package has been marked
2 for export outside the United States with a label or notice
3 in compliance with Section 290.185 of Title 27 of the Code of
4 Federal Regulations. It is not a defense to a proceeding for
5 violation of this paragraph that the label or notice has been
6 removed, mutilated, obliterated, or altered in any manner.

7 Stamps, when required hereunder, shall be purchased from
8 the Department, or any person authorized by the Department,
9 by distributors. The Department may refuse to sell stamps to
10 any person who does not comply with the provisions of this
11 Act. Beginning on the effective date of this amendatory Act
12 of the 92nd General Assembly and through June 30, 2002,
13 persons holding valid licenses as distributors may purchase
14 cigarette tax stamps up to an amount equal to 115% of the
15 distributor's average monthly cigarette tax stamp purchases
16 over the 12 calendar months prior to the effective date of
17 this amendatory Act of the 92nd General Assembly.

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

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

8 On and after December 1, 1985, the Department shall allow
9 a distributor 30 days in which to make final payment of the
10 amount to be paid for such stamps, by allowing the
11 distributor to make payment for the stamps at the time of
12 purchasing them with a draft which shall be in such form as
13 the Department prescribes, and which shall be payable within
14 30 days thereafter, and beginning on January 1, 2003 and
15 thereafter, the draft shall be payable by means of electronic
16 funds transfer: 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 150% of such distributor's
21 average monthly tax liability to the Department under this
22 Act during the preceding calendar year or \$750,000, whichever
23 is less, except that as to bonds filed on or after January 1,
24 1987, such additional bond shall be in an amount equal to
25 100% of such distributor's average monthly tax liability
26 under this Act during the preceding calendar year or
27 \$750,000, whichever is less. The bond shall be joint and
28 several and shall be in the form of a surety company bond in
29 such form as the Department prescribes, or it may be in the
30 form of a bank certificate of deposit or bank letter of
31 credit. The bond shall be conditioned upon the distributor's
32 payment of the amount of any 30-day draft which the
33 Department accepts from that distributor for the delivery of
34 stamps to that distributor under this Act. The distributor's

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

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

31 Any person aggrieved by any decision of the Department
32 under this Section may, within the time allowed by law,
33 protest and request a hearing, whereupon the Department shall
34 give notice and shall hold a hearing in conformity with the

1 provisions of this Act and then issue its final
2 administrative decision in the matter to such person. In the
3 absence of such a protest filed within the time allowed by
4 law, the Department's decision shall become final without any
5 further determination being made or notice given.

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

10 (1) such Taxpayer becomes a prior continuous
11 compliance taxpayer; or

12 (2) such taxpayer has ceased to collect receipts on
13 which he is required to remit tax to the Department, has
14 filed a final tax return, and has paid to the Department
15 an amount sufficient to discharge his remaining tax
16 liability as determined by the Department under this Act.
17 The Department shall make a final determination of the
18 taxpayer's outstanding tax liability as expeditiously as
19 possible after his final tax return has been filed. If
20 the Department cannot make such final determination
21 within 45 days after receiving the final tax return,
22 within such period it shall so notify the taxpayer,
23 stating its reasons therefor.

24 At the time of purchasing such stamps from the Department
25 when purchase is required by this Act, or at the time when
26 the tax which he has collected is remitted by a distributor
27 to the Department without the purchase of stamps from the
28 Department when that method of remitting the tax that has
29 been collected is required or authorized by this Act, the
30 distributor shall be allowed a discount during any year
31 commencing July 1 and ending the following June 30 in
32 accordance with the schedule set out hereinbelow, from the
33 amount to be paid by him to the Department for such stamps,
34 or to be paid by him to the Department on the basis of

1 monthly remittances (as the case may be), to cover the cost,
2 to such distributor, of collecting the tax herein imposed by
3 affixing such stamps to the original packages of cigarettes
4 sold by such distributor or by placing tax imprints
5 underneath the sealed transparent wrapper of original
6 packages of cigarettes sold by such distributor (as the case
7 may be): (1) Prior to December 1, 1985, a discount equal to
8 1-2/3% of the amount of the tax up to and including the first
9 \$700,000 paid hereunder by such distributor to the Department
10 during any such year; 1-1/3% of the next \$700,000 of tax or
11 any part thereof, paid hereunder by such distributor to the
12 Department during any such year; 1% of the next \$700,000 of
13 tax, or any part thereof, paid hereunder by such distributor
14 to the Department during any such year; and 2/3 of 1% of the
15 amount of any additional tax paid hereunder by such
16 distributor to the Department during any such year or (2) On
17 and after December 1, 1985, a discount equal to 1.75% of the
18 amount of the tax payable under this Act up to and including
19 the first \$3,000,000 paid hereunder by such distributor to
20 the Department during any such year and 1.5% of the amount of
21 any additional tax paid hereunder by such distributor to the
22 Department during any such year.

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

27 Cigarette manufacturers who are distributors under this
28 Act, and who place their cigarettes in original packages
29 which are contained inside a sealed transparent wrapper,
30 shall be required to remit the tax which they are required to
31 collect under this Act to the Department by remitting the
32 amount thereof to the Department by the 5th day of each
33 month, covering cigarettes shipped or otherwise delivered to
34 points in Illinois to purchasers during the preceding

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

28 The Department shall adopt the design or designs of the
29 tax stamps and shall procure the printing of such stamps in
30 such amounts and denominations as it deems necessary to
31 provide for the affixation of the proper amount of tax stamps
32 to each original package of cigarettes.

33 Where tax stamps are required, the Department may
34 authorize distributors to affix revenue tax stamps by

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

14 The tax hereby imposed and not paid pursuant to this
15 Section shall be paid to the Department directly by any
16 person using such cigarettes within this State, pursuant to
17 Section 12 hereof.

18 (Source: P.A. 91-246, eff. 7-22-99; 92-322, eff. 1-1-02.)

19 Section 15. The Property Tax Code is amended by changing
20 Section 31-35 as follows:

21 (35 ILCS 200/31-35)

22 Sec. 31-35. Deposit of tax revenue. Beginning on the
23 effective date of this amendatory Act of the 92nd General
24 Assembly July-17-1994, 50% of the moneys monies collected
25 under Section 31-15, 50% shall be deposited into the Illinois
26 Affordable Housing Trust Fund, 20% 35% into the Open Space
27 Lands Acquisition and Development Fund, 5% and 15% into the
28 Natural Areas Acquisition Fund, and 25% into the General
29 Revenue Fund.

30 (Source: P.A. 91-555, eff. 1-1-00.)

31 Section 99. Effective date. This Act takes effect upon

1 becoming law.