

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 Cigarette Tax Act is amended by changing
5 Section 2 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. The payment of such taxes shall be
16 evidenced by a stamp affixed to each original package of
17 cigarettes, or an authorized substitute for such stamp
18 imprinted on each original package of such cigarettes
19 underneath the sealed transparent outside wrapper of such
20 original package, as hereinafter provided. However, such
21 taxes are not imposed upon any activity in such business in
22 interstate commerce or otherwise, which activity may not
23 under the Constitution and statutes of the United States be
24 made the subject of taxation by this State.

25 Beginning on the effective date of this amendatory Act of
26 1998, all of the moneys received by the Department of Revenue
27 pursuant to this Act and the Cigarette Use Tax Act, other
28 than the moneys that are dedicated to the Metropolitan Fair
29 and Exposition Authority Reconstruction Fund and the Common
30 School Fund, shall be distributed each month as follows:
31 first, there shall be paid into the General Revenue Fund an
32 amount which, when added to the amount paid into the Common
33 School Fund for that month, equals \$33,300,000; then, from
34 the moneys remaining, if any amounts required to be paid into

1 the General Revenue Fund in previous months remain unpaid,
2 those amounts shall be paid into the General Revenue Fund;
3 then the moneys remaining, if any, shall be paid into the
4 Long-Term Care Provider Fund. To the extent that more than
5 \$25,000,000 has been paid into the General Revenue Fund and
6 Common School Fund per month for the period of July 1, 1993
7 through the effective date of this amendatory Act of 1994
8 from combined receipts of the Cigarette Tax Act and the
9 Cigarette Use Tax Act, notwithstanding the distribution
10 provided in this Section, the Department of Revenue is hereby
11 directed to adjust the distribution provided in this Section
12 to increase the next monthly payments to the Long Term Care
13 Provider Fund by the amount paid to the General Revenue Fund
14 and Common School Fund in excess of \$25,000,000 per month and
15 to decrease the next monthly payments to the General Revenue
16 Fund and Common School Fund by that same excess amount.

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

26 The impact of the tax levied by this Act is imposed upon
27 the retailer and shall be prepaid or pre-collected by the
28 distributor for the purpose of convenience and facility only,
29 and the amount of the tax shall be added to the price of the
30 cigarettes sold by such distributor. Collection of the tax
31 shall be evidenced by a stamp or stamps affixed to each
32 original package of cigarettes, as hereinafter provided.

33 Each distributor shall collect the tax from the retailer
34 at or before the time of the sale, shall affix the stamps as

1 hereinafter required, and shall remit the tax collected from
2 retailers to the Department, as hereinafter provided. Any
3 distributor who fails to properly collect and pay the tax
4 imposed by this Act shall be liable for the tax. Any
5 distributor having cigarettes to which stamps have been
6 affixed in his possession for sale on the effective date of
7 this amendatory Act of 1989 shall not be required to pay the
8 additional tax imposed by this amendatory Act of 1989 on such
9 stamped cigarettes. Any distributor having cigarettes to
10 which stamps have been affixed in his or her possession for
11 sale at 12:01 a.m. on the effective date of this amendatory
12 Act of 1993, is required to pay the additional tax imposed by
13 this amendatory Act of 1993 on such stamped cigarettes. This
14 payment, less the discount provided in subsection (b), shall
15 be due when the distributor first makes a purchase of
16 cigarette tax stamps after the effective date of this
17 amendatory Act of 1993, or on the first due date of a return
18 under this Act after the effective date of this amendatory
19 Act of 1993, whichever occurs first. Any distributor having
20 cigarettes to which stamps have been affixed in his
21 possession for sale on December 15, 1997 shall not be
22 required to pay the additional tax imposed by this amendatory
23 Act of 1997 on such stamped cigarettes.

24 The amount of the Cigarette Tax imposed by this Act shall
25 be separately stated, apart from the price of the goods, by
26 both distributors and retailers, in all advertisements, bills
27 and sales invoices.

28 If the tax imposed under this Section is increased by any
29 amendatory Act of the 92nd General Assembly, that tax
30 increase shall expire and shall no longer be imposed or
31 collected beginning on July 1, 2004.

32 (b) The distributor shall be required to collect the
33 taxes provided under paragraph (a) hereof, and, to cover the
34 costs of such collection, shall be allowed a discount during

1 any year commencing July 1st and ending the following June
2 30th in accordance with the schedule set out hereinbelow,
3 which discount shall be allowed at the time of purchase of
4 the stamps when purchase is required by this Act, or at the
5 time when the tax is remitted to the Department without the
6 purchase of stamps from the Department when that method of
7 paying the tax is required or authorized by this Act. Prior
8 to December 1, 1985, a discount equal to $1\frac{2}{3}\%$ of the amount
9 of the tax up to and including the first \$700,000 paid
10 hereunder by such distributor to the Department during any
11 such year; $1\frac{1}{3}\%$ of the next \$700,000 of tax or any part
12 thereof, paid hereunder by such distributor to the Department
13 during any such year; 1% of the next \$700,000 of tax, or any
14 part thereof, paid hereunder by such distributor to the
15 Department during any such year, and $\frac{2}{3}$ of 1% of the amount
16 of any additional tax paid hereunder by such distributor to
17 the Department during any such year shall apply. On and after
18 December 1, 1985, a discount equal to 1.75% of the amount of
19 the tax payable under this Act up to and including the first
20 \$3,000,000 paid hereunder by such distributor to the
21 Department during any such year and 1.5% of the amount of any
22 additional tax paid hereunder by such distributor to the
23 Department during any such year shall apply.

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

28 (c) The taxes herein imposed are in addition to all
29 other occupation or privilege taxes imposed by the State of
30 Illinois, or by any political subdivision thereof, or by any
31 municipal corporation.

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

33 Section 10. The Cigarette Use Tax Act is amended by

1 changing Section 2 as follows:

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

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

1 singular of "tax" or the plural "taxes" as the context may
2 require.

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

24 If the tax imposed under this Section is increased by any
25 amendatory Act of the 92nd General Assembly, that tax
26 increase shall expire and shall no longer be imposed or
27 collected beginning on July 1, 2004.

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