

ILLINOIS REGISTER
DEPARTMENT OF REVENUE
NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Cannabis Cultivation Privilege Tax

- 2) Code Citation: 86 Ill. Adm. Code 422

- 3)

<u>Section Numbers</u> :	<u>Emergency Actions</u> :
422.100	New Section
422.105	New Section
422.110	New Section
422.115	New Section
422.120	New Section
422.125	New Section
422.130	New Section
422.135	New Section
422.140	New Section
422.145	New Section
422.150	New Section

- 4) Statutory Authority: 410 ILCS 705/60-45

- 5) Effective Date of Emergency Rules:

- 6) If the Emergency Rules are to expire before the end of the 150-day period, please specify the date on which they are to expire: The Emergency Rules expire 180 days after the effective date. Pursuant to Section 900-5 of P.A. 101-0027, Section 5-45 of the Illinois Administrative Procedure Act is amended to provide that the Department of Revenue may adopt emergency rules to implement the Cannabis Regulation and Tax Act (which includes the Cannabis Cultivation Privilege Tax), and the rules are effective for 180 days. 5 ILCS 100/5-45(gg).

- 7) Date filed with the Index Department:

- 8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: P.A. 101-0027 enacted the Cannabis Regulation and Tax Act. 410 ILCS 705/. The Act permits the cultivation and sale of adult cannabis to cannabis dispensaries beginning September 1, 2019. The first sale of adult cannabis by cultivators is subject to the Cannabis Cultivation Privilege Tax. 410 ILCS 705/60-10. The Emergency Amendments implement the Cannabis Cultivation Privilege Tax. In order to provide for the expeditious and timely implementation of the Cannabis Regulation and Tax Act and P.A. 101-0027 (including the Cannabis Cultivation Privilege Tax), the Department of Revenue is authorized to adopt emergency rules. The adoption of emergency rules authorized by P.A. 101-0027 is deemed to be necessary for the public interest, safety, and welfare. See Section 900-5 of P.A. 101-0027 and 5 ILCS 100/5-45(gg).
- 10) A Complete Description of the Subjects and Issues Involved: The proposed rulemaking implements P.A. 101-0027, codified at 410 ILCS 705/. Beginning September 1, 2019, a tax is imposed upon the privilege of cultivating cannabis at the rate of 7% of the gross receipts from the first sale of cannabis by a cultivator to a cultivator, craft grower, infuser or dispensing organization. The sale of any product that contains any amount of cannabis or any derivative thereof is subject to the tax on the full selling price of the product.
- 11) Are there any proposed rules to this Part pending? No
- 12) Statement of Statewide Policy Objectives: This rulemaking neither imposes a State mandate, nor modifies an existing mandate.
- 13) Information and questions regarding the Emergency Rules shall be directed to:

Richard S. Wolters
Illinois Department of Revenue
101 West Jefferson
Springfield, Illinois 62794

(217) 782-2844

The full text of the Emergency Rules begins on the next page:

Section 422.105 Definitions

EMERGENCY

"Act" means the Cannabis Regulation and Tax Act (410 ILCS 705/).

"Cannabis" means marijuana, hashish, and other substances that are identified as including any parts of the plant Cannabis sativa and including derivatives or subspecies, such as indica, of all strains of cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of the plant; and any compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other naturally produced cannabinol derivatives, whether produced directly or indirectly by extraction; however, "cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted from it), fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination. "Cannabis" does not include industrial hemp as defined and authorized under the Industrial Hemp Act and cannabis that is subject to tax under the Compassionate Use of Medical Cannabis Program Act. "Cannabis" also means cannabis flower, concentrate, and cannabis-infused products. [410 ILCS 705/1-10 and 705/60-5]

"Cannabis business establishment" means a cultivation center, craft grower, processing organization, infuser organization, dispensing organization, or transporting organization [410 ILCS 705/1-10].

"Cannabis concentrate" means a product derived from cannabis that is produced by extracting cannabinoids, including tetrahydrocannabinol (THC), from the plant through the use of propylene glycol, glycerin, butter, olive oil or other typical cooking fats; water, ice, or dry ice; or butane, propane, CO₂, ethanol, or isopropanol and with the intended use of smoking or making a cannabis-infused product [410 ILCS 705/1-10].

"Cannabis flower" means marijuana, hashish, and other substances that are identified as including any parts of the plant Cannabis sativa and including derivatives or subspecies, such as indica, of all strains of cannabis; including raw kief leaves, and buds, but not resin that has been extracted from any part of such plant; nor any compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin [410 ILCS 705/1-10].

"Cannabis-infused product" means a beverage, food, oil, ointment, tincture, topical formulation, or another product containing cannabis or cannabis concentrate that is not intended to be smoked [410 ILCS 705/1-10].

"Craft grower" means a facility operated by an organization or business that is licensed by the Department of Agriculture to cultivate, dry, cure, and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization. A craft grower may contain up to 5,000 square feet of canopy space on its premises for plants in the flowering state. The Department of Agriculture may authorize an increase or decrease of flowering stage cultivation space in increments of 3,000 square feet by rule based on market need, craft grower capacity, and the licensee's history of compliance or noncompliance, with a maximum space of 14,000 square feet for cultivating plants in the flowering stage, which must be cultivated in all stages of growth in an enclosed and secure area. A craft grower may share premises with a processing organization or a dispensing organization, or both, provided each licensee stores currency and cannabis or cannabis-infused products in a

separate secured vault to which the other licensee does not have access or all licensees sharing a vault share more than 50% of the same ownership. [410 ILCS 705/1-10]

"Cultivation center" means a facility operated by an organization or business that is licensed by the Department of Agriculture to cultivate, process, transport (unless otherwise limited by the Act), and perform other necessary activities to provide cannabis and cannabis-infused products to cannabis business establishments. [410 ILCS 705/1-10]

"Cultivator" or "taxpayer" means a cultivation center or craft grower who is subject to tax under this Part.

"Department" means the Department of Revenue.

"Director" means the Director of Revenue.

"Dispensary" means a facility operated by a dispensing organization at which activities licensed by the Act may occur. [410 ILCS 705/1-10]

"Dispensing organization" means a facility operated by an organization or business that is licensed by the Department of Financial and Professional Regulation to acquire cannabis from a cultivation center, craft grower, processing organization, infuser, or another dispensary for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia, or related supplies under the Act to purchasers or to qualified registered medical cannabis patients and caregivers. As used in the Act, dispensing organization includes a registered medical cannabis organization as defined in the Compassionate Use of Medical Cannabis Program Act or its successor Act that has obtained an Early Approval Adult Use Dispensing Organization License. [410 ILCS 705/1-10]

"Gross receipts" from the sales of cannabis by a cultivator means the total selling price or the amount of such sales, as defined in this Section. In the case of charges and time sales, the amount thereof shall be included only when payments are received by the cultivator. [410 ILCS 705/60-5]

"Infuser organization" or "infuser" means a facility operated by an organization or business that is licensed by the Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product. [410 ILCS 705/1-10]

"Law" means the Cannabis Cultivation Privilege Tax Law (410 ILCS 705/60-1 through 60-45).

"Person" means a natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, limited liability company, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court. [410 ILCS 705/60-5]

"Selling price" or "amount of sale" means the consideration for a sale valued in money whether received in money or otherwise, including cash, credits, property, and services, and shall be determined without any deduction on account of the cost of the property sold, the cost of materials used, labor or service cost, or any other expense whatsoever, but does not include separately stated charges identified on the invoice by cultivators to reimburse themselves for their tax liability under the Law. [410 ILCS 705/60-5]

**Section 422.110 Tax Imposed
EMERGENCY**

- a) *Beginning September 1, 2019, a tax is imposed upon the privilege of cultivating cannabis at the rate of 7% of the gross receipts from the first sale of cannabis by a cultivator. [410 ILCS 705/60-10(a)]*

EXAMPLE 1: A cultivator grows cannabis and sells the grown cannabis to an infuser for \$200. The cultivator owes \$14 in tax on the cannabis sold to the infuser.

EXAMPLE 2: A craft grower grows cannabis and sells 100 quarter ounces of the grown cannabis to a cultivator for \$5000. The craft grower is liable for tax in the amount of \$350. The cultivator subsequently sells 50 quarter ounces of this cannabis to a dispensary for \$55 per quarter ounce. The cultivator has no tax liability on the sale of cannabis to the dispensary.

- b) *The sale of any product by a cultivator that contains any amount of cannabis or any derivative thereof is subject to the tax under the Law on the full selling price of the product. [410 ILCS 705/60-10(a)]*

EXAMPLE 1: A cultivator grows cannabis and sells the cannabis for \$200 to an infuser. The cultivator has \$14 in tax liability on the sale of the cannabis to the infuser. The infuser creates cannabis-infused products and sells the products to a dispensary. The infuser has no tax liability.

EXAMPLE 2: A cultivator grows cannabis, processes a pound of cannabis into cannabis-infused products and sells the cannabis-infused products to a dispensary for \$500. It normally sells the cannabis at wholesale for \$200 an ounce. The cultivator has \$35 ($\$500 \times .07$) in tax liability on the sale of the cannabis-infused products to the dispensary.

- c) It shall be presumed that all sales of cannabis are subject to tax under the Law until the contrary is established, and the burden of proving that a transaction is not taxable shall be upon the cultivator.
- d) In computing Cannabis Cultivation Privilege Tax liability, no deductions shall be made by a taxpayer from gross receipts or selling prices on account of the cost of property sold, the cost of materials used, labor or service costs, incoming freight or transportation costs, overhead costs, processing charges, salesmen's commissions, interest paid by the taxpayer, or any other expenses whatsoever. Costs of doing business are an element of the cultivator's gross receipts and are subject to tax even if separately stated on the bill to the customer. See 86 Ill. Adm. Code 130.415 for rules regarding the treatment of transportation and delivery charges.

EXAMPLE: A cultivation center sells 500 ounces of cannabis to a dispensing organization for \$100,000 plus a delivery charge of \$250 and a fuel surcharge of \$50. The fuel surcharge is a cost of doing business and is part of the "selling price". The cultivation center delivers the cannabis to the dispensing organization. The cultivation center does not provide the dispensing organization with the option to pick up the cannabis. As a result, the cost of the delivery service is part of the "selling price" of the cannabis. The selling price for purposes of determining the tax is \$100,300.

- e) The tax is computed on the selling price of the cannabis after the application of any applicable discounts.

EXAMPLE: A cultivation center sells 500 ounces of cannabis to a dispensing organization for \$200 an ounce. The cultivation center provides a nondiscriminatory 10% discount for sales over 300 ounces. The total price with the discount is \$90,000. The tax is computed on the gross receipts of \$90,000.

- f) *The Department may determine the selling price of the cannabis when the seller and purchaser are affiliated persons, when the sale and purchase of cannabis is not an arm's length transaction, or when cannabis is transferred by a cultivator to the cultivator's dispensing organization or infuser and a value is not established for the cannabis. The value determined by the Department shall be commensurate with the actual price received for products of like quality, character, and use in the area. If there are no sales of cannabis of like quality, character, and use in the same area, then the Department shall establish a reasonable value based on sales of products of like quality, character, and use in other areas of the State, taking into consideration any other relevant factors. [410 ILCS 705/60-10(a)]*
- g) *The Cannabis Cultivation Privilege Tax imposed under the Law is solely the responsibility of the cultivator who makes the first sale and is not the responsibility of a subsequent purchaser, a dispensing organization, or an infuser. Cultivators subject to the tax imposed under the Law may, however, reimburse themselves for their tax liability hereunder by separately stating reimbursement for their tax liability as an additional charge. [410 ILCS 705/60-10(b)] The charge for reimbursement may not be identified on the invoice as a tax.*
- h) *A cultivator may not either directly or indirectly discriminate in price between different cannabis business establishments that are purchasing a like grade, strain, brand, and quality of cannabis or cannabis-infused product. Nothing in this subsection (h) prevents a cultivator from pricing cannabis differently based on differences in the cost of manufacturing or processing, the quantities sold, such as volume discounts, or the way the products are delivered. [410 ILCS 705/20-30(e) and 30-30(f)]*
- i) *The tax imposed under the Law shall be in addition to all other occupation, privilege, or excise taxes imposed by the State of Illinois or by any unit of local government. [410 ILCS 705/60-10(c)]*

Section 422.115 Returns and Payment of Tax EMERGENCY

- a) *Each person who is required to pay the tax imposed by the Law shall make a return to the Department on or before the 20th day of each month for the preceding calendar month stating the following:*
 - 1) *the taxpayer's name;*
 - 2) *the address of the taxpayer's principal place of business and the address of the principal place of business (if that is a different address) from which the taxpayer is engaged in the business of cultivating cannabis subject to tax under the Law;*

- 3) *the total amount of receipts received by the taxpayer during the preceding calendar month from sales of cannabis subject to tax under the Law by the taxpayer during the preceding calendar month;*
 - 4) *the total amount received by the taxpayer during the preceding calendar month on charge and time sales of cannabis subject to tax imposed under the Law by the taxpayer before the month for which the return is filed;*
 - 5) *deductions allowed by law;*
 - 6) *gross receipts that were received by the taxpayer during the preceding calendar month and upon the basis of which the tax is imposed;*
 - 7) *the amount of tax due;*
 - 8) *the signature of the taxpayer; and*
 - 9) *any other information the Department may reasonably require.*
- b) *All returns required to be filed and payments required to be made under the Law shall be by electronic means. Taxpayers who demonstrate hardship in paying electronically may petition the Department to waive the electronic payment requirement. Taxpayers may not petition the Department for a waiver of the requirement to file all returns by electronic means.*
- c) *The taxpayer making the return provided for in this Section shall also pay to the Department, in accordance with this Section, the amount of tax imposed by the Law, less a discount of 1.75%, but not to exceed \$1,000 per return period, which is allowed to reimburse the taxpayer for the expenses incurred in keeping records, collecting tax, preparing and filing returns, remitting the tax, and supplying data to the Department upon request. No discount may be claimed by a taxpayer on returns not timely filed and for taxes not timely remitted. No discount may be claimed by a taxpayer for any return that is not filed electronically. No discount may be claimed by a taxpayer for any payment that is not made electronically, unless a waiver has been granted under this Section.*
- d) *Any amount that is required to be shown or reported on any return or other document under the Law shall, if the amount is not a whole-dollar amount, be increased to the nearest whole-dollar amount if the fractional part of a dollar is \$0.50 or more and decreased to the nearest whole-dollar amount if the fractional part of a dollar is less than \$0.50. If a total amount of less than \$1 is payable, refundable, or creditable, the amount shall be disregarded if it is less than \$0.50 and shall be increased to \$1 if it is \$0.50 or more.*
- e) *Notwithstanding any other provision of the Law concerning the time within which a taxpayer may file a return, any such taxpayer who ceases to engage in the kind of business that makes the person responsible for filing returns under the Law shall file a final return under the Law with the Department within one month after discontinuing such business.*
- f) *Each taxpayer under the Law shall make estimated payments to the Department on or before the 7th, 15th, 22nd, and last day of the month during which tax liability to the Department is incurred. The payments shall be in an amount not less than the lower of*

either 22.5% of the taxpayer's actual tax liability for the month or 25% of the taxpayer's actual tax liability for the same calendar month of the preceding year. The amount of the quarter-monthly payments shall be credited against the final tax liability of the taxpayer's return for that month. If any quarter-monthly payment is not paid at the time or in the amount required by this Section, then the taxpayer shall be liable for penalties and interest on the difference between the minimum amount due as a payment and the amount of the quarter-monthly payment actually and timely paid, except insofar as the taxpayer has previously made payments for that month to the Department in excess of the minimum payments previously due as provided in this Section.

- g) If any payment provided for in this Section exceeds the taxpayer's liabilities under the Law, as shown on an original monthly return, the Department shall, if requested by the taxpayer, issue to the taxpayer a credit memorandum no later than 30 days after the date of payment. The credit evidenced by the credit memorandum may be assigned by the taxpayer to a similar taxpayer under the Law, in accordance with 86 Ill. Adm. Code 130.1505. If no such request is made, the taxpayer may credit the excess payment against tax liability subsequently to be remitted to the Department under the Law. If the Department subsequently determines that all or any part of the credit taken was not actually due to the taxpayer, the taxpayer's discount shall be reduced, if necessary, to reflect the difference between the credit taken and that actually due, and that taxpayer shall be liable for penalties and interest on the difference.*
- h) If a taxpayer fails to sign a return within 30 days after the proper notice and demand for signature by the Department is received by the taxpayer, the return shall be considered valid and any amount shown to be due on the return shall be deemed assessed. [410 ILCS 705/60-20]*

Section 422.120 Infuser Information Returns and Books and Records
EMERGENCY

- a) Upon request of the Department, an infuser shall file an information return with the Department, no later than the 20th day of the month for the preceding month, by electronic means and in a format prescribed by the Department, showing the names of the suppliers of cannabis and cannabis concentrates, the suppliers' license numbers issued by the Department of Agriculture, the quantities purchased from suppliers, and amounts paid for cannabis and cannabis concentrate during the preceding month, and such other information as is reasonably required by the Department.
- b) Upon request of the Department, an infuser shall file an information return with the Department, no later than the 20th day of the month for the preceding month, by electronic means, showing the total amount of cannabis-infused products sold to dispensaries, the gross receipts from the sale of cannabis-infused products sold to dispensaries during the preceding month; the identities of the dispensaries to whom it was sold; the dispensaries' license numbers issued by the Department of Financial and Professional Regulation; and such other information reasonably required by the Department.
- c) Every infuser shall keep books and records of all purchases of cannabis and cannabis concentrate, all sales of cannabis-infused products, together with invoices, bills of lading, sales records, copies of bills of sale, monthly inventories, inventories prepared as of December 31 of each year, and other pertinent papers and documents.

- d) All books and records and other papers and documents that are required to be maintained by this Section shall be kept in the English language and shall, at all times during business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees.

**Section 422.125 Registration of Cultivators
EMERGENCY**

- a) It shall be unlawful for any cultivator to engage in the business of selling cannabis to cannabis business establishments in this State without a certificate of registration from the Department. *Every cultivator and craft grower subject to the tax under the Law shall apply to the Department for a certificate of registration under the Law. All applications for registration under the Law shall be made by electronic means.* [35 ILCS 705/60-15]
- b) Each application shall be signed and verified and shall state:
 - 1) the name and social security number of the applicant;
 - 2) the address of the cultivator's principal place of business;
 - 3) the address of the place of business from which the cultivator engages in the business of selling cannabis in this State and the addresses of all other places of business, if any (enumerating such addresses, if any, in a separate list attached to and made a part of the application), from which the cultivator engages in the business of selling cannabis in this State;
 - 4) the name and address of the person or persons who will be responsible for filing returns and payment of taxes due under the Law (See 35 ILCS 735/3-7);
 - 5) in the case of a publicly traded corporation, the name and title of the Chief Financial Officer, Chief Operating Officer, and any other officer or employee with responsibility for preparing tax returns under the Law; and, in the case of all other corporations, the name, title and, social security number of each corporate officer;
 - 6) in the case of a limited liability company, the name, social security number, and FEIN of each manager and member; and
 - 7) such other information as the Department may reasonably require.
- c) Upon completion of the application for certificate of registration in proper form, the Department shall issue to the applicant a certificate of registration that shall permit the person to whom it is issued to engage in business as a cultivator of cannabis in this State. If an applicant engages in the business of cultivating cannabis at another location in this State, the Department shall furnish him or her with a sub-certificate of registration for that place of business, and the applicant shall display the appropriate sub-certificate of registration at that place of business. The sub-certificate of registration shall bear the same registration number as that appearing upon the certificate of registration to which the sub-certificate relates. *No certificate of registration shall be issued under the Law unless the applicant has obtained a license from the Department of Agriculture under the Act.* [35 ILCS 705/60-15]

- d) A certificate of registration shall automatically be renewed, subject to revocation as provided by the Law and subsection (g), for an additional 1 year from the date of its expiration, unless otherwise notified by the Department as provided by this Section.
- e) The Department may require an applicant for a certificate of registration, at the time of filing the application, to furnish a bond. No certificate of registration under the Law will be issued by the Department until the applicant provides the Department with satisfactory security, if required.
- f) *The Department may refuse to issue, reissue, or renew a certificate of registration authorized to be issued by the Department if a person who is named as the owner, a partner, a corporate officer, or, in the case of a limited liability company, a manager or member, of the applicant on the application for the certificate of registration is or has been named as the owner, a partner, a corporate officer, or in the case of a limited liability company, a manager or member, on the application for the certificate of registration of a person that is in default for moneys due under the Law or any other tax or fee Act administered by the Department. For purposes of this Section only, in determining whether a person is in default for moneys due, the Department shall include only amounts established as a final liability within the 20 years prior to the date of the Department's notice of refusal to issue or reissue the certificate of registration, permit, or license. [20 ILCS 2505/2505-380(b)]*
- g) When a taxpayer to whom a certificate of registration is issued under the Law is in default to the State of Illinois for delinquent returns or for moneys due under the Law or any other State tax law or municipal or county ordinance administered or enforced by the Department, the Department shall, not less than 60 days before the expiration of the certificate of registration, give notice to the taxpayer to whom the certificate was issued of the account period of the delinquent returns, the amount of tax, penalty and interest due and owing from the taxpayer, and that the certificate of registration shall not be automatically renewed upon its expiration date unless the taxpayer, on or before the date of expiration, has filed and paid the delinquent returns or paid the defaulted amount in full.
- h) The Department may, in its discretion, approve renewal by a taxpayer who is in default if, at the time of renewal, the taxpayer files all of the delinquent returns or pays to the Department the percentage of the defaulted amount as may be determined by the Department and agrees in writing to a payment plan for paying the balance of the defaulted amount.
- i) Any person aggrieved by any decision of the Department under this Section may, within 20 days after notice of the decision, protest and request a hearing. After receipt of the request for a hearing, the Department shall give notice to the person of the time and place fixed for the hearing, shall hold a hearing, and shall issue its final administrative decision in the matter to the person. In the absence of a protest within 20 days, the Department's decision shall become final without any further determination being made or notice given.
- j) The Department shall notify the Department of Agriculture upon a decision not to issue, reissue or renew a certificate of registration to a cultivator under the Law.

Section 422.130 Revocation of Certificate of Registration
EMERGENCY

- a) *The Department has the power, after notice and an opportunity for a hearing, to revoke a certificate of registration issued by the Department if the holder of the certificate of registration fails to file a return, or to pay the tax, fee, penalty, or interest shown in a filed return, or to pay any final assessment of tax, fee, penalty, or interest, as required by the Law or any other tax or fee Act administered by the Department. [20 ILCS 2505/2505-380(a)]*
- b) The Department, after notice and hearing, shall revoke the certificate of registration (including all sub-certificates of registration, if any, issued hereunder) of any cultivator who violates any of the provisions of the Law or this Part. Before revocation of a certificate of registration the Department shall, within 90 days after non-compliance and at least 7 days prior to the date of the hearing, give the cultivator notice in writing of the charge against him or her, and on the date designated shall conduct a hearing upon this matter. The lapse of such 90-day period shall not preclude the Department from conducting revocation proceedings at a later date if necessary.
- c) The Department shall notify the Department of Agriculture upon revocation of a certificate of registration issued to a cultivator.
- d) No certificate of registration can be issued under the Law unless the cultivator is licensed by the Department of Agriculture under the Act. 410 ILCS 705/60-15. If the Department receives notice that a license issued to a cultivator by the Department of Agriculture under the Act has been revoked, the Department shall commence proceedings to revoke the cultivator's certificate of registration

**Section 422.135 Books and Records
EMERGENCY**

- a) *Every cultivator shall keep books and records of all sales of cannabis, together with invoices, bills of lading, sales records, copies of bills of sale, monthly inventories, inventories prepared as of December 31 of each year, and other pertinent papers and documents. [35 ILCS 120/7]*
- b) *All books and records and other papers and documents that are required by this Section and the Law to be kept shall be kept in the English language and shall, at all times during business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees. [35 ILCS 120/7] Records shall be maintained at the physical location of the cultivator. All books and records kept by a cultivator pursuant to rules adopted by the Department of Agriculture to implement the Act shall, at all times during business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees. The Department shall also have access to the cultivator's automated data processing and/or point of sale system.*
- c) *Books and records and other papers reflecting gross receipts received during any period with respect to which the Department is authorized to issue notices of tax liability shall, for purposes of this Part, be preserved until the expiration of that period unless the Department, in writing, authorizes their destruction or disposal prior to that expiration. The Department may not issue a notice of tax liability on and after each July 1 and January 1 covering gross receipts received during any month or period of time more than 3 years prior to such July 1 and January 1, respectively. [35 ILCS 120/7] However, if the Department allows a cultivator to destroy books and records prior to the expiration of the preservation period, the cultivator is not relieved of any obligation to maintain books and*

records under any rule or regulation adopted by another State agency to implement the Act.

- d) *Any cultivator who fails to keep books and records or fails to produce books and records for examination, as required by this Section is liable to pay to the Department, for deposit into the Tax Compliance and Administration Fund, a penalty of \$1,000 for the first failure to keep books and records or produce books and records for examination and a penalty of \$3,000 for each subsequent failure to keep books and records or produce books and records for examination as required by this Section. The penalties imposed under this Section shall not apply if the taxpayer shows that he or she acted with ordinary business care and prudence. [35 ILCS 120/7]*

Section 422.140 Invoices Issued by a Cultivator EMERGENCY

Every sales invoice for cannabis issued by a cultivator to a cannabis business establishment shall contain the cultivator's certificate of registration number assigned under the Law, date, invoice number, purchaser's name and address, selling price, and the amount of cannabis, concentrate, or cannabis-infused product. Cultivators shall retain a copy of the invoices for inspection by the Department. [410 ILCS 705/60-40]

Section 422.145 Penalties and Interest EMERGENCY

- a) All provisions of the Uniform Penalty and Interest Act [35 ILCS 735] that are not inconsistent with the Law shall apply.
- b) The penalties contained in Section 13 of the Retailers' Occupation Tax Act that are not inconsistent with the Law shall apply.

Section 422.150 Administration and Enforcement; Incorporation by Reference EMERGENCY

- a) *The Department shall have full power to administer and enforce the Law, to collect all taxes, penalties, and interest due under the Law, to dispose of taxes, penalties and interest so collected in the manner provided, and to determine all rights to credit memoranda, arising on account of the erroneous payment of tax, penalty, or interest hereunder.*
- b) *In the administration of, and compliance with, the Law, the Department and persons who are subject to the Law shall have the same rights, remedies, privileges, immunities, powers, and duties, and be subject to the same conditions, restrictions, limitations, penalties, and definitions of terms, and employ the same modes of procedure, as are prescribed in Sections 1, 2-40, 2a, 2b, 2i, 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 6d, 7, 8, 9, 10, 11, 11a, 12, and 13 of the Retailers' Occupation Tax Act and all of the provisions of the Uniform Penalty and Interest Act, which are not inconsistent with this Article, as fully as if those provisions were set forth herein. For purposes of this Section, references in the Retailers' Occupation Tax Act to a "sale of tangible personal property at retail" mean the "sale of cannabis by a cultivator". [410 ILCS 705/60-35]*
- c) To avoid needless repetition, the substance and provisions of all Retailers' Occupation Tax Regulations (86 Ill. Adm. Code 130) which are not incompatible with the Law or any

special rules that may be promulgated by the Department under the Law, are incorporated herein by reference and made a part hereof.