

**Illinois Department of Revenue
Regulations**

Title 86 Part 423 Section 165 Violations and Penalties; Interest

**TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE**

**PART 423
CANNABIS PURCHASER EXCISE TAX**

Section 423.165 Violations and Penalties; Interest

- a) *When the amount due is under \$300, the following are guilty of a Class 4 felony:*
 - 1) *any retailer of cannabis who:*
 - A) *fails to file a return;*
 - B) *willfully fails or refuses to make any payment to the Department of the Tax imposed by the Law; or*
 - C) *files a fraudulent return; or*
 - 2) *any officer or agent of a corporation engaged in the business of selling cannabis to purchasers located in this State who signs a fraudulent return filed on behalf of the corporation; or*
 - 3) *any accountant or other agent who knowingly enters false information on the return of any taxpayer under the Law.*

- b) *When the amount due is \$300 or more, the following are guilty of a Class 3 felony:*
 - 1) *any retailer of cannabis who files, or causes to be filed, a fraudulent return; or*
 - 2) *any officer or agent of a corporation engaged in the business of selling cannabis to purchasers located in this State who files or causes to be filed or signs or causes to be signed a fraudulent return filed on behalf of the corporation; or*
 - 3) *any accountant or other agent who knowingly enters false information on the return of any taxpayer under the Law.*

- c) *Any person who violates any provision of Section 423.135, fails to keep books and records as required under the Law and this Part, or willfully violates this Part is guilty of a Class 4 felony. A person commits a separate offense on each day that he or she engages in business in violation of Section 423.135. If a person fails to produce the books and records for inspection by the Department upon request, a prima facie presumption shall arise that the person has failed to keep books and records as required under the Law and this Part. A person who is unable to rebut this presumption is in violation of the Law and this Part and is subject to the penalties provided in this Section.*

- d) *Any person who violates any provision of Section 423.135, fails to keep books and records as required under the Law, or willfully violates this Part, is guilty of a business offense and may be fined up to \$5,000. If a person fails to produce books and records for inspection by the Department upon request, a prima facie presumption shall arise that the person has failed to keep books and records as required under the Law and this Part. A person who is unable to rebut this presumption is in violation of the Law and this Part and is subject to the penalties provided in this Section. A person commits a separate offense on each day that he or she engages in business in violation of Section 423.135.*
- e) *Any taxpayer or agent of a taxpayer who, with the intent to defraud, purports to make a payment due to the Department by issuing or delivering a check or other order upon a real or fictitious depository for the payment of money, knowing that it will not be paid by the depository, is guilty of a deceptive practice in violation of Section 17-1 of the Criminal Code of 2012 [720 ILCS 5].*
- f) *Any person who fails to keep books and records or fails to produce books and records for inspection, as required by Section 423.145, is liable to pay to the Department, for deposit in the Tax Compliance and Administration Fund, a penalty of:*
- 1) *\$1,000 for the first failure to keep books and records or failure to produce books and records for inspection, as required by Section 423.145; and*
 - 2) *\$3,000 for each subsequent failure to keep books and records or failure to produce books and records for inspection, as required by Section 423.145.*
- g) *Any person who knowingly acts as a retailer of cannabis in this State without first having obtained a certificate of registration to do so in compliance with Section 423.135 shall be guilty of a Class 4 felony.*
- h) *A person commits the offense of tax evasion under the Law when he or she knowingly attempts in any manner to evade or defeat the Tax imposed on him or her or on any other person, or the payment of that Tax, and he or she commits an affirmative act in furtherance of the evasion.*
- 1) *As used in this Section, "affirmative act in furtherance of the evasion" means an act designed in whole or in part to:*
 - A) *conceal, misrepresent, falsify, or manipulate any material fact; or*
 - B) *tamper with or destroy documents or materials related to a person's Tax liability.*
 - 2) *Two or more acts of tax evasion may be charged as a single count in any indictment, information, or complaint and the amount of Tax deficiency may be aggregated for purposes of determining the amount of Tax that is attempted to be, or is, evaded and the period between the first and last acts may be alleged as the date of the offense.*
 - A) *When the amount of Tax, the assessment or payment of which is attempted to be, or is, evaded, is less than \$500, a person is guilty of a Class 4 felony.*

- B) *When the amount of Tax, the assessment or payment of which is attempted to be, or is, evaded, is \$500 or more but less than \$10,000, a person is guilty of a Class 3 felony.*
- C) *When the amount of Tax, the assessment or payment of which is attempted to be, or is, evaded, is \$10,000 or more but less than \$100,000, a person is guilty of a Class 2 felony.*
- D) *When the amount of Tax, the assessment or payment of which is attempted to be, or is, evaded, is \$100,000 or more, a person is guilty of a Class 1 felony.*

- i) *Any person who knowingly sells, purchases, installs, transfers, possesses, uses, or accesses any automated sales suppression device, zapper, or phantom-ware in this State is guilty of a Class 3 felony.*
- j) *A prosecution for any act in violation of this Section may be commenced at any time within 5 years of the commission of that act.*
- k) *Any person whose principal place of business is in this State and who is charged with a violation under this Section shall be tried in the county where his or her principal place of business is located unless he or she asserts a right to be tried in another venue.*
- l) *Except as otherwise provided in this Section, a prosecution for a violation described in this Section may be commenced within 3 years after the commission of the act constituting the violation. [410 ILCS 705/65-38]*
- m) All provisions of the Uniform Penalty and Interest Act [35 ILCS 735] that are not inconsistent with the Law shall apply.

(SOURCE: Adopted at 44 Ill. Reg.10751, effective June 02, 2020.)