

**Illinois Department of Revenue
Regulations**

Title 86 Part 440 Section 440.10 Nature and Rate of Tax

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

**PART 440
CIGARETTE TAX ACT**

Section 440.10 Nature and Rate of Tax

- a) Through June 30, 2019, the cigarette tax is imposed at the rate of 99 mills per cigarette upon any person who exercises the privilege of engaging in business as a retailer of cigarettes in this State. Beginning July 1, 2019, the tax is imposed upon any person who exercises the privilege of engaging in business as a retailer of cigarettes in this State at the rate of 149 mills per cigarette sold or otherwise disposed of in the course of business in this State, or \$2.98 per package of 20 cigarettes.
- b) The impact of these taxes is declared by the Cigarette Tax Act [35 ILCS 130] (Act) to be imposed upon the retailer, with the taxes being required to be prepaid or pre-collected by the distributor for the purpose of convenience and facility only, and the amount of the tax shall be added to the price of the cigarettes sold by the distributor. Collection of the tax shall be evidenced by a stamp or stamps affixed to each original package of cigarettes, as provided in the Act and in this Part.
- c) It shall be the duty of each distributor to collect the tax from the retailer at or before the time of the sale, to affix the required stamps and to remit the tax collected from retailers to the Department of Revenue (Department). Any distributor who shall fail to properly collect and pay the tax imposed by the Act shall be liable for the tax.
- d) The amount of the cigarette tax imposed by the Act shall be separately stated, apart from the price of the goods, by both distributors and retailers, in all advertisements, bills and sales invoices.
- e) The taxes so imposed are in addition to all other occupation or privilege taxes imposed by the State of Illinois, political subdivisions of the State or by any municipal corporation.
- f) Out of the 149 mills per cigarette tax imposed by subsection (a), the revenues received from 4 mills shall be paid into the Common School Fund each month, not to exceed \$9,000,000 per month. Out of the 149 mills per cigarette tax imposed by subsection (a), all of the revenues received from 7 mills shall be paid into the Common School Fund each month. Out of the 149 mills per cigarette tax imposed by subsection (a), 50 mills per cigarette each month shall be paid into the Healthcare Provider Relief Fund.
- g) All moneys received by the Department under the Act, the Cigarette Use Tax Act [35 ILCS 135] , and the Tobacco Products Tax Act of 1995 [35 ILCS 143] from the

additional tax of 50 mills per cigarette imposed by P.A. 101-0031 shall be paid each month into the Capital Projects Fund.

h) Distributions

1) Cigarettes

All of the moneys received by the Department pursuant to the Act and the Cigarette Use Tax Act, other than the moneys that are dedicated to the Common School Fund, Healthcare Provider Relief Fund, and Capital Projects Fund pursuant to subsections (f) and (g), shall be distributed each month as follows: first, there shall be paid into the General Revenue Fund an amount that, when added to the amount paid into the Common School Fund for that month, equals \$29,200,000; then, from the moneys remaining, if any amounts required to be paid into the General Revenue Fund in previous months remain unpaid, those amounts shall be paid into the General Revenue Fund; then from the moneys remaining, \$5,000,000 per month shall be paid into the School Infrastructure Fund; then, if any amounts required to be paid into the School Infrastructure Fund in previous months remain unpaid, those amounts shall be paid into the School Infrastructure Fund; then the moneys remaining, if any, shall be paid into the Long-Term Care Provider Fund.

2) Little Cigars

Except for the distributions provided for in subsection (g), moneys collected from the tax imposed on little cigars under Section 10-10 of the Tobacco Products Tax Act of 1995 shall be included with the moneys collected under the Cigarette Tax Act and the Cigarette Use Tax Act when making distributions to the Common School Fund, the Healthcare Provider Relief Fund, the General Revenue Fund, the School Infrastructure Fund, and the Long-Term Care Provider Fund under Section 2 of the Cigarette Tax Act. (Section 2(a) of the Act)

- i) *Any distributor having cigarettes in his or her possession on July 1, 2019 to which tax stamps have been affixed, and any distributor having stamps in his or her possession on July 1, 2019 that have not been affixed to packages of cigarettes before July 1, 2019, is required to pay the additional tax that begins on July 1, 2019 imposed by P.A. 101-0031 to the extent that the volume of affixed and unaffixed stamps in the distributor's possession on July 1, 2019 exceeds the average monthly volume of cigarette stamps purchased by the distributor in calendar year 2018. This payment, less the discount provided in Section 2(l) of the Act, is due when the distributor first makes a purchase of cigarette stamps on or after July 1, 2019 or on the first due date of a return under the Act occurring on or after July 1, 2019, whichever occurs first. Those distributors may elect to pay the additional tax on packages of cigarettes to which stamps have been affixed and on any stamps in the distributor's possession that have not been affixed to packages of cigarettes in their possession on July 1, 2019 over a period not to exceed 12 months from the due date of the additional tax by notifying the Department in writing. The first payment for distributors making such election is due when the distributor first makes a purchase of cigarette tax stamps on or after July 1, 2019 or on the first due date of a return under the Act occurring on or after July 1, 2019, whichever occurs first. Distributors making such an election are not entitled to take the discount provided in Section 2(l) of the Act on such payments. (Section 2(l) of the Act)*

- j) *Any retailer having cigarettes in his or her possession on July 1, 2019 to which tax stamps have been affixed is not required to pay the additional 50 mill tax that begins on July 1, 2019 imposed by P.A. 101-0031. (Section 2 of the Act)*

(Source: Amended at 44 Ill. Reg.6061, effective April 3, 2020)