

**Illinois Department of Revenue
Regulations**

Title 86 Part 450 Section 450.50 Cigarette Use Tax Act

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

**PART 450
CIGARETTE USE TAX ACT**

Section 450.50 Books and Records; Invoices; Penalties

a) Books and Records

- 1) Distributors and Persons that Have Not Paid the Tax Due Under the Act. Every distributor required or authorized to collect taxes imposed by the Cigarette Use Tax Act and every person using, in this State, cigarettes purchased on or after the effective date of this Act without Illinois cigarette tax stamps affixed to the original packages and without authorized tax imprints placed underneath the sealed transparent wrapper of the original packages, shall keep the records, receipts, invoices and other pertinent books, documents, memoranda and papers as the Department shall require, in a form as the Department shall require. The books, records, papers, memoranda and documents of a distributor pertaining to business done by him or her at or from a licensed place of business, or at or from a place of business for which he or she holds a permit issued by the Department, shall be kept by the distributor at the place of business. A distributor's records of a particular purchase from a manufacturer or other distributor shall, at a minimum, include:
 - A) a copy of the distributor's purchase order (if any) to the manufacturer or other distributor;
 - B) the manufacturer's or other distributor's invoice to the distributor in duplicate (see subsection (b));
 - C) bill of lading or waybill pertaining to the shipment covered by the invoice;
 - D) receiving record (the receiving record should show the date when the cigarettes were received by the distributor);
 - E) evidence of payment by the other distributor to the manufacturer; and
 - F) other records as the Department may reasonably require.
- 2) *Secondary Distributors. Every secondary distributor of cigarettes who is required to procure, or is allowed to procure, a license under the Act shall keep, at his or her licensed address, complete and accurate records of cigarettes held, purchased, brought in from without the State, and sold, or otherwise disposed of, and shall preserve and keep within Illinois at his or her licensed address all*

invoices, bills of lading, sales records, copies of bills of sale, inventory at the close of each period for which a report is required of all cigarettes on hand, and other pertinent papers and documents relating to the purchase, sale or disposition of cigarettes. [35 ILCS 135/15a]

- 3) *For purposes of this Section, "records" means all data maintained by the secondary distributors, including data on paper, microfilm, microfiche or any type of machine sensible data compilation. (See 35 ILCS 135/15 and 15a.)*
 - 4) All books, records, papers, memoranda and documents that are required to be kept under the Act 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. *At all times during the usual business hours of the day, any duly authorized agent or employee of the Department may enter any place of business of the secondary distributor without a search warrant and may inspect the premises and the stock or packages of cigarettes in those premises to determine whether any of the provisions of the Act are being violated. If the agent or employee is denied free access or is hindered or interfered with in making the examination, the license of the secondary distributor at the premises shall be subject to revocation by the Department. [35 ILCS 135/15 and 15a]*
 - 5) The books, records, papers, memoranda and documents that are required to be kept shall be preserved for a period of at least 3 years after the date of the documents or the date of the entries appearing in the records, unless the Department, in writing, authorizes their destruction or disposal at an earlier date. (See 35 ILCS 135/15 and 15a.)
 - 6) It is not the purpose of this subsection (a) to require distributors to keep duplicate sets of books and records. Consequently, to the extent to which a distributor is required by the Cigarette Tax Act and by the Cigarette Use Tax Act to keep the same books and records, the distributor's compliance with the requirement under the Cigarette Tax Act shall be deemed to be a compliance with the same requirement under the Cigarette Use Tax Act.
- b) Invoices
- 1) Every person who purchases cigarettes for shipment into Illinois from a point outside this State, and who is required to file a return with the Department with respect to the cigarettes, shall procure invoices covering each shipment and shall furnish one copy of each invoice to the Department upon request.
 - 2) Each Illinois manufacturer of cigarettes in original packages that are contained inside a sealed transparent wrapper shall keep a copy of each invoice rendered by the manufacturer to any purchaser to whom the manufacturer delivered cigarettes (or caused cigarettes to be delivered) during the period covered by the manufacturer's return. Copies must be furnished to the Department upon request.
 - 3) Each manufacturer who holds a permit under Section 7 of the Cigarette Use Tax Act shall keep a copy of each invoice rendered by the permittee to any purchaser to whom the permittee delivered cigarettes of the type covered by the permit (or

caused cigarettes of the type covered by the permit to be delivered) in Illinois during the period covered by the return. Copies must be furnished to the Department upon request. Subsections (a)(1) through (a)(3) shall not apply to a transaction in which the same requirement applies by virtue of the provisions of 86 Ill. Adm. Code 440.110 (Cigarette Tax Act rules).

- 4) *Any licensed distributor that ships or otherwise causes to be delivered unstamped original packages of cigarettes into, within, or from this State shall ensure that the invoice or equivalent documentation and the bill of lading or freight bill for the shipment identifies the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity by brand style of the cigarettes so transported, provided that this Section shall not be construed as to impose any requirement or liability upon any common or contract carrier. [35 ILCS 135/3]*
- 5) When a permit holder or licensee under the Cigarette Use Tax Act (as distinguished from a licensee or permit holder under the Cigarette Tax Act) sells Illinois tax-stamped or tax-imprinted cigarettes to anyone other than a federal or foreign government agency or instrumentality, distributor's invoice shall state the amount of the cigarette use tax to the purchaser as a separate item from the selling price of the cigarettes. However, when a person sells cigarettes to a federal or foreign government agency or instrumentality, the invoice should omit any reference to the cigarette use tax.

c) Penalties

- 1) *Any person required by the Act to maintain or keep records of any kind whatsoever who shall fail to keep the records so required, or who shall falsify those records, shall be guilty of a Class 4 felony. If a person fails to produce the records for inspection by the Department upon request, a prima facie presumption shall arise that the person has failed to keep the records so required. A person who is unable to rebut this presumption is in violation of the Act and is subject to the penalties provided in this Section. This subsection (c)(1) shall not apply if the violation in a particular case also constitutes a criminal violation of the Cigarette Tax Act. [35 ILCS 135/22]*
- 2) *Any person who shall fail to safely preserve the records required by Sections 15 and 15a of the Act for the period of 3 years, as required in those Sections, in such manner as to insure permanency and accessibility for inspection by the Department shall be guilty of a business offense and may be fined up to \$5,000. This subsection (c)(2) shall not apply if the violation in a particular case also constitutes a criminal violation of the Cigarette Tax Act. [35 ILCS 135/23]*
- 3) The Department may, after notice and hearing as provided for by the Act, revoke, cancel or suspend the license of any distributor or secondary distributor for any noncompliance with this Section. No license so revoked shall be reissued to any such distributor or secondary distributor within a period of 6 months after the date of the final determination of the revocation. (See 35 ILCS 135/6.) Any distributor or secondary distributor aggrieved by any decision of the Department under this Section may, within 20 days after notice of the decision, protest and request a hearing. Upon receiving a request for a hearing, the

Department shall give notice in writing to the distributor or secondary distributor requesting the hearing of the time and place fixed for the hearing. If a distributor or secondary distributor protests the revocation, cancellation or suspension of a license and requests a hearing, the notice also shall contain a statement of the charges preferred against the distributor or secondary distributor. The Department shall hold the hearing in conformity with the provisions of the Act and then issue its final administrative decision in the matter to the distributor or secondary distributor. In the absence of a protest and request for a hearing within 20 days, the Department's decision shall become final without any further determination being made or notice given.

- 4) *Any person who fails to keep books and records or fails to produce books and records for inspection, as required by Sections 15 and 15a of the Act, is liable to pay to the Department, for deposit in the Tax Compliance and Administration Fund, a penalty of \$1,000 for the first failure to keep books and records or failure to produce books and records for inspection, as required by Sections 15 and 15a, and \$3,000 for each subsequent failure to keep books and records or failure to produce books and records for inspection, as required by Sections 15 and 15a. [35 ILCS 135/23a] The provisions of 86 Ill. Adm. Code 440.110(c) (Cigarette Tax Act Regulations) that are not inconsistent with the Cigarette Use Tax Act shall apply, as far as practicable, to the subject matter of this Part to the same extent as if those provisions were included in this Part.*

(Source: Amended at 43 Ill. Reg. 8915, effective July 30, 2019)