

**Illinois Department of Revenue
Regulations**

Title 86 Part 660 Section 660.25 Tobacco Products Tax Act of 1995
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**TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE**

**PART 660
TOBACCO PRODUCTS TAX ACT OF 1995**

Section 660.25 Books and Records; Invoices – Distributors

- a) Every distributor of tobacco products who is required to procure a license under the Act, including retailers who are required to procure a distributor's license under Section 660.15, shall keep within Illinois, at his or her licensed address, complete and accurate records of tobacco products held, purchased, manufactured, brought in or caused to be 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 of the following:
 - 1) Invoices.
 - 2) Bills of lading.
 - 3) Sales records.
 - 4) Copies of bills of sale.
 - 5) The wholesale price for tobacco products sold or otherwise disposed of.
 - 6) An inventory of tobacco products prepared as of December 31 of each year or as of the last day of the distributor's fiscal year if he or she files federal income tax returns on the basis of a fiscal year.
 - 7) Other pertinent papers and documents relating to the manufacture, purchase, sale, or disposition of tobacco products.
 - 8) Certificates of Resale and Certificates of Exemption.
- b) All books and records and other papers and documents that are required by the Act to be kept shall be kept in the English language, and shall, at all times during the usual business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees.
- c) Such books, records, papers, and documents shall be preserved for the period during which the Department is authorized to issue Notices of Tax Liability, which is generally for a maximum of 3½ years.
- d) Every sales invoice issued by a licensed distributor for tobacco products shall contain the distributor's Tobacco Products License number. *Every sales invoice issued by a*

licensed distributor to a retailer in this State shall contain the distributor's Tobacco Products License number unless the distributor has been granted a waiver by the Department in response to a written request in cases in which the distributor sells little cigars or other tobacco products only to licensed retailers that are wholly-owned by the distributor or owned by a wholly-owned subsidiary of the distributor, the licensed retailer obtains little cigars or other tobacco products only from the distributor requesting the waiver, and the distributor affixes the tax stamps to the original packages of little cigars or has or will pay the tax on the other tobacco products sold to the licensed retailer. The distributor shall file a written request with the Department, and, if the Department determines that the distributor meets the conditions for a waiver, the Department shall grant the waiver. [35 ILCS 143/10-35(a)] Every sales invoice for packages of little cigars containing other than 20 or 25 little cigars issued by a stamping distributor to a person who is not a stamping distributor shall contain, in addition to the stamping distributor's Tobacco Products License number, the stamping distributor's Cigarette Tax Distributor's License number or Cigarette Use Tax Distributor's License number. (See Section 660.26 for additional rules regarding invoices for little cigars.)

- e) Every sales invoice issued by a licensed distributor shall state whether:
 - 1) the tax imposed by the Act has been or will be paid in full; or
 - 2) the sale is exempt in whole or in part under Section 660.30 and the specific subsections under which the exemption is claimed.
 - A) If the sale is exempt in part, the invoice additionally shall state:
 - i) the amount of tax actually paid or what will be paid; or
 - ii) the percentage of tax actually paid based on the amount of the invoice before the allowance of any discount, trade allowance, rebate or other reduction, and including any added surcharges.
 - B) The distributor making an exempt sale of tobacco products shall document the exemption by obtaining a certification required by Section 660.30(g).
- f) Whenever any sales invoice issued by a supplier to a retailer for tobacco products sold to the retailer does not comply with the requirements of subsections (d) and (e), a prima facie presumption shall arise that the tax imposed by Section 10-10 of the Act and Section 660.5 has not been paid on the tobacco products listed on the sales invoice. A retailer that is unable to rebut this presumption is in violation of both the Act and this Part and is subject to the penalties provided in Section 10-50 of the Act.
- g) *Every licensed distributor of tobacco products in this State is required to show proof of the tax having been paid as required by the Act by displaying its Tobacco Products License number on every sales invoice issued to a retailer in this State. [35 ILCS 143/10-37]*
- h) *Every distributor who purchases tobacco products for resale for shipment into Illinois from a point outside Illinois shall procure invoices in duplicate covering each shipment and shall make the invoices available for inspection upon demand by a duly authorized employee of the Department, and shall, if the Department so requires, furnish one copy*

of each invoice to the Department at the time of filing the return required by the Act. [35 ILCS 143/10-40]

- i) Every distributor who purchases rolls, made wholly or in part of tobacco, when those rolls have an integrated cellulose acetate filter and a wrapper or cover that is made in whole or in part of tobacco and the rolls are contained in packages of 20 or 25, shall procure an invoice from the seller that states whether the rolls weigh less than 4 pounds per thousand or weigh 4 pounds or more per thousand. If a distributor fails to procure an invoice or produce an invoice for inspection by the Department upon request, a prima facie presumption shall arise that the rolls weigh less than 4 pounds per thousand. A distributor that sells these rolls must provide all purchasers with invoices that state whether the rolls weigh less than 4 pounds per thousand or weigh 4 pounds or more per thousand.

- j) *Whenever any person obtains tobacco products from an unlicensed in-state or out-of-state distributor or person, a prima facie presumption shall arise that the tax imposed by the Act on those tobacco products has not been paid in violation of the Act. Invoices or other documents kept in the normal course of business in the possession of a person reflecting purchases of tobacco products from an unlicensed in-state or out-of-state distributor or person or invoices or other documents kept in the normal course of business obtained by the Department from in-state or out-of-state distributors or persons, are sufficient to raise the presumption that the tax imposed by the Act has not been paid. If a presumption is raised, the Department may assess tax, penalty, and interest on the tobacco products. [35 ILCS 143/10-38] See Section 660.50(r) for the penalties that may be imposed for a violation of this Section.*

- k) *The Department may, after notice and a hearing, revoke, cancel, or suspend the license of any distributor who fails to keep books and records as required under the Act, fails to make books and records available for inspection upon demand by a duly authorized employee of the Department, or violates this Section. The notice shall specify the alleged violation or violations upon which the revocation, cancellation, or suspension proceeding is based. [35 ILCS 143/10-25] Any 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 requesting the hearing that contains a statement of the charges preferred against the distributor and that states the time and place fixed for the hearing. 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. 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.*

(Source: Amended at 43 Ill. Reg. 8923, effective July 30, 2019)