

**Illinois Department of Revenue
Regulations**

Title 86 Part 660 Section 660.5 Nature and Rate of Tobacco Products Tax

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

**PART 660
Tobacco Products Tax Act of 1995 Section**

Section 660.5 Nature and Rate of Tobacco Products Tax

The Tobacco Products Tax Act of 1995 imposes a tax on any person in business as a distributor of tobacco products. The tax is based on the wholesale price of tobacco products sold or otherwise disposed of to distributors located in Illinois, except moist snuff sold or otherwise disposed of on or after January 1, 2013 and little cigars sold or otherwise disposed of on or after July 1, 2013. Beginning January 1, 2013, under the Act, moist snuff is taxed by the ounce and all fractional parts of an ounce. Beginning July 1, 2013, little cigars are taxed under the Act at the same rate as cigarettes. Little cigars in packages of 20 or 25 little cigars sold by stamping distributors must have a tax stamp affixed. Stamping distributors must purchase tax stamps from the Department in same manner as licensed cigarette distributors purchase tax stamps that are affixed to packages of cigarettes. The same tax stamps are affixed to packages of little cigars and cigarettes containing 20 or 25 little cigars or cigarettes. Taxes on packages of little cigars containing other than 20 or 25 little cigars are reported on a return to be filed no later than the 15th of the month and paid on or before the date the return is due.

- a) Except as otherwise provided in this Section with respect to moist snuff, electronic cigarettes, and little cigars, the Tobacco Products Tax is imposed upon the last distributor, as defined in Section 660.10, who sells tobacco products to a retailer or consumer located in Illinois at the rate of 18% of the wholesale price of tobacco products sold or otherwise disposed of in this State *prior to July 1, 2012 and 36% of the wholesale price of tobacco products sold or otherwise disposed of to retailers or consumers located in this State beginning on July 1, 2012. Beginning on January 1, 2013, the tax on moist snuff shall be imposed at a rate of \$0.30 per ounce, and a proportionate tax at the like rate on all fractional parts of an ounce, sold or otherwise disposed of to retailers or consumers located in this State, provided that the rate of tax imposed on moist snuff after any future rate increases may not exceed 15% of the tax imposed upon a package of 20 cigarettes pursuant to the Cigarette Tax Act [35 ILCS 130]. Beginning July 1, 2013, the tax on little cigars shall be imposed at the same rate, and the proceeds shall be distributed in the same manner as the tax imposed on cigarettes under the Cigarette Tax Act. Beginning July 1, 2013, and prior to July 1, 2019, the tax on little cigars is 99 mills per little cigar sold or otherwise disposed of. Beginning July 1, 2019, the tax on little cigars is 149 mills per little cigar sold or otherwise disposed of. Beginning July 1, 2019, the tax on electronic cigarettes shall be at the rate of 15% of the wholesale price of electronic cigarettes sold or otherwise disposed of to retailers or consumers located in this State. [35 ILCS 143/10-10]*

- b) *The tax is in addition to all other occupation or privilege taxes imposed by the State of Illinois, by any political subdivision thereof, or by any municipal corporation [35 ILCS*

143/10-10(a)].

- c) A retailer is required to register as a distributor, file returns and pay the Tobacco Products Tax imposed by the Act on all sales of tobacco products on which the tax has not been paid unless the sales are exempt under Section 660.30. (See Sections 660.15, 660.20 and 660.30.) *Retailers that are not stamping distributors shall purchase stamped packages of little cigars containing 20 or 25 little cigars for resale only from stamping distributors, distributors, or wholesalers. Retailers who are not stamping distributors may not purchase or possess unstamped packages of little cigars containing 20 or 25 little cigars. Retailers who are not stamping distributors may not purchase or possess packages of little cigars containing other than 20 or 25 little cigars, unless the retailer receives an invoice from a stamping distributor, distributor, or wholesaler stating the tax on the packages has been or will be paid.* [35 ILCS 143/10-27] (See Section 660.28.)
- d) The Tobacco Products Tax is paid on the wholesale price of tobacco products, except on moist snuff and little cigars. The wholesale price is the established list price for which a manufacturer sells tobacco products to a distributor, or the established list price for which a wholesaler or distributor sells tobacco products to the last distributor, before the allowance of any discounts, trade allowances, rebates or other reductions. Surcharges added by manufacturers or distributors are considered part of the wholesale price subject to tax.
- 1) The wholesale price for purposes of imposing the Tobacco Products Tax on the last distributor is the invoice price at which tobacco products are sold by a wholesaler or distributor to the last distributor before the allowance of any discounts, trade allowances, rebates or other reductions. Surcharges added by distributors are considered part of the wholesale price subject to tax.
 - 2) The wholesale price for purposes of imposing the tax on a retailer who receives or purchases tobacco products on which the tax has not been paid or will not be paid by a licensed distributor is the invoice price paid by the retailer to an unlicensed distributor or other supplier of tobacco products before the allowance of any discounts, trade allowances, rebates or other reductions. Surcharges added by manufacturers, distributors or other suppliers are considered part of the wholesale price subject to tax.
 - 3) The wholesale price for purposes of imposing tax on a manufacturer of a tobacco product who sells the tobacco product directly to consumers is the cost to the manufacturer to manufacture the tobacco product. When determining its cost, the time period used for purpose of the study should be long enough to include all costs incurred by the manufacturer to manufacture the product.
- e) 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 Section 660.25(d), (e) and (g), a prima facie presumption shall arise that the tax imposed by Section 10-10 of the Act and this Section 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 applicable tax, penalties, and interest.
- f) *Beginning July 1, 2013, all moneys received by the Department under the Act from the tax imposed on little cigars shall be distributed as provided in*

Section 2 of the *Cigarette Tax Act* [35 ILCS 143/10-10].

(Source: Amended at 44 Ill. Reg.6079, effective April 3, 2020)