

SB2036



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2036

Introduced 2/9/2023, by Sen. Jil Tracy

SYNOPSIS AS INTRODUCED:

35 ILCS 143/10-10
35 ILCS 143/10-30

Amends the Tobacco Products Tax Act of 1995. Provides that, beginning January 1, 2024, the tax per cigar sold or otherwise disposed of shall not exceed \$0.50 per cigar, excluding little cigars. Provides that distributors are allowed a discount in the amount of 2% of the distributor's tax liability but not more than \$2,000 per return.

LRB103 30644 HLH 57102 b

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Tobacco Products Tax Act of 1995 is amended
5 by changing Sections 10-10 and 10-30 as follows:

6 (35 ILCS 143/10-10)

7 Sec. 10-10. Tax imposed.

8 (a) Except as otherwise provided in this Section with
9 respect to little cigars, on the first day of the third month
10 after the month in which this Act becomes law, a tax is imposed
11 on any person engaged in business as a distributor of tobacco
12 products, as defined in Section 10-5, at the rate of (i) 18% of
13 the wholesale price of tobacco products sold or otherwise
14 disposed of to retailers or consumers located in this State
15 prior to July 1, 2012 and (ii) 36% of the wholesale price of
16 tobacco products sold or otherwise disposed of to retailers or
17 consumers located in this State beginning on July 1, 2012;
18 except that, beginning on January 1, 2013, the tax on moist
19 snuff shall be imposed at a rate of \$0.30 per ounce, and a
20 proportionate tax at the like rate on all fractional parts of
21 an ounce, sold or otherwise disposed of to retailers or
22 consumers located in this State; and except that, beginning
23 July 1, 2019, the tax on electronic cigarettes shall be

1 imposed at the rate of 15% of the wholesale price of electronic
2 cigarettes sold or otherwise disposed of to retailers or
3 consumers located in this State. The tax is in addition to all
4 other occupation or privilege taxes imposed by the State of
5 Illinois, by any political subdivision thereof, or by any
6 municipal corporation. However, the tax is not imposed upon
7 any activity in that business in interstate commerce or
8 otherwise, to the extent to which that activity may not, under
9 the Constitution and Statutes of the United States, be made
10 the subject of taxation by this State, and except that,
11 beginning July 1, 2013, the tax on little cigars shall be
12 imposed at the same rate, and the proceeds shall be
13 distributed in the same manner, as the tax imposed on
14 cigarettes under the Cigarette Tax Act. The tax is also not
15 imposed on sales made to the United States or any entity
16 thereof.

17 (b) Notwithstanding subsection (a) of this Section,
18 stamping distributors of packages of little cigars containing
19 20 or 25 little cigars sold or otherwise disposed of in this
20 State shall remit the tax by purchasing tax stamps from the
21 Department and affixing them to packages of little cigars in
22 the same manner as stamps are purchased and affixed to
23 cigarettes under the Cigarette Tax Act, unless the stamping
24 distributor sells or otherwise disposes of those packages of
25 little cigars to another stamping distributor. Only persons
26 meeting the definition of "stamping distributor" contained in

1 Section 10-5 of this Act may affix stamps to packages of little
2 cigars containing 20 or 25 little cigars. Stamping
3 distributors may not sell or dispose of little cigars at
4 retail to consumers or users at locations where stamping
5 distributors affix stamps to packages of little cigars
6 containing 20 or 25 little cigars.

7 (c) The impact of the tax levied by this Act is imposed
8 upon distributors engaged in the business of selling tobacco
9 products to retailers or consumers in this State. Whenever a
10 stamping distributor brings or causes to be brought into this
11 State from without this State, or purchases from without or
12 within this State, any packages of little cigars containing 20
13 or 25 little cigars upon which there are no tax stamps affixed
14 as required by this Act, for purposes of resale or disposal in
15 this State to a person not a stamping distributor, then such
16 stamping distributor shall pay the tax to the Department and
17 add the amount of the tax to the price of such packages sold by
18 such stamping distributor. Payment of the tax shall be
19 evidenced by a stamp or stamps affixed to each package of
20 little cigars containing 20 or 25 little cigars.

21 Stamping distributors paying the tax to the Department on
22 packages of little cigars containing 20 or 25 little cigars
23 sold to other distributors, wholesalers or retailers shall add
24 the amount of the tax to the price of the packages of little
25 cigars containing 20 or 25 little cigars sold by such stamping
26 distributors.

1 (d) Beginning on January 1, 2013, the tax rate imposed per
2 ounce of moist snuff may not exceed 15% of the tax imposed upon
3 a package of 20 cigarettes pursuant to the Cigarette Tax Act.

4 (d-5) Notwithstanding the provisions of this Section,
5 beginning January 1, 2024, the tax per cigar sold or otherwise
6 disposed of shall not exceed \$0.50 per cigar. This subsection
7 does not apply to little cigars.

8 (e) All moneys received by the Department under this Act
9 from sales occurring prior to July 1, 2012 shall be paid into
10 the Long-Term Care Provider Fund of the State Treasury. Of the
11 moneys received by the Department from sales occurring on or
12 after July 1, 2012, except for moneys received from the tax
13 imposed on the sale of little cigars, 50% shall be paid into
14 the Long-Term Care Provider Fund and 50% shall be paid into the
15 Healthcare Provider Relief Fund. Beginning July 1, 2013, all
16 moneys received by the Department under this Act from the tax
17 imposed on little cigars shall be distributed as provided in
18 Section 2 of the Cigarette Tax Act.

19 (Source: P.A. 101-31, eff. 6-28-19.)

20 (35 ILCS 143/10-30)

21 Sec. 10-30. Returns.

22 (a) Every distributor shall, on or before the 15th day of
23 each month, file a return with the Department covering the
24 preceding calendar month. The return shall disclose the
25 wholesale price for all tobacco products other than moist

1 snuff and the quantity in ounces of moist snuff sold or
2 otherwise disposed of and other information that the
3 Department may reasonably require. The return shall be filed
4 upon a form prescribed and furnished by the Department.

5 (b) In addition to the information required under
6 subsection (a), on or before the 15th day of each month,
7 covering the preceding calendar month, each stamping
8 distributor shall, on forms prescribed and furnished by the
9 Department, report the quantity of little cigars sold or
10 otherwise disposed of, including the number of packages of
11 little cigars sold or disposed of during the month containing
12 20 or 25 little cigars.

13 (c) At the time when any return of any distributor is due
14 to be filed with the Department, the distributor shall also
15 remit to the Department the tax liability that the distributor
16 has incurred for transactions occurring in the preceding
17 calendar month, less the discount allowed.

18 (d) The Department may adopt rules to require the
19 electronic filing of any return or document required to be
20 filed under this Act. Those rules may provide for exceptions
21 from the filing requirement set forth in this paragraph for
22 persons who demonstrate that they do not have access to the
23 Internet and petition the Department to waive the electronic
24 filing requirement.

25 (e) If any payment provided for in this Section exceeds
26 the distributor's liabilities under this Act, as shown on an

1 original return, the distributor may credit such excess
2 payment against liability subsequently to be remitted to the
3 Department under this Act, in accordance with reasonable rules
4 adopted by the Department.

5 (f) The distributor required to pay the tax under Section
6 10-10 shall be entitled to a discount to reimburse the
7 distributor for the expenses incurred in keeping and
8 maintaining records, preparing and filing the returns,
9 remitting the tax, and supplying the data to the Department
10 upon request. The discount shall be 2% of the distributor's
11 tax liability under this Act but not more than \$2,000 per
12 return.

13 (Source: P.A. 100-1171, eff. 1-4-19.)