



Board of Commissioners of Cook County

118 North Clark Street
Chicago, IL

Legislation Details (With Text)

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TOBACCO TAX ORDINANCE

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 74, Taxation, Article XI, Tobacco Tax, Sections 74-430 through 74-450 of the Cook County Code is hereby amended as Follows:

Sec. 74-430. Short Title.

This article may be cited as the "Cook County Tobacco Tax Ordinance"

Sec. 74-431. Definitions.

For the purpose of this Article, whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this Section.

Altered or mutilated tax stamp means any tax stamp on which the identity information is illegible or incomplete.

Chewing tobacco means any leaf tobacco that is not intended to be smoked.

Cigar means any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco which is a cigarette as defined in this Article).

Cigarette means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether such tobacco is flavored, adulterated or mixed with any other ingredient, or not, and the wrapper of which is made of paper or any other substance or material except tobacco.

Concealment means cigarettes, other tobacco products, or cigarette tax stamps, or Consumable Products, in violation of this Article, deliberately hidden to prevent or evade discovery and offered for sale by or in the possession of a wholesale or retail tobacco dealer.

Conspicuous means easily or clearly visible.

Consumable Product means any nicotine liquid solution or other material containing nicotine that is depleted as a vapor product is used.

Consumer means a person who purchases cigarettes, or Other Tobacco Products, or Consumable Products from a wholesale tobacco dealer, retail tobacco dealer or retail cigarette manufacturer, and not for resale purposes.

Counterfeit cigarettes means any cigarette or pack of cigarettes bearing a false, forged, artificial or imitation manufacturing label.

County means the County of Cook.

Department means the Department of Revenue within the Bureau of Finance of the County of Cook.

Director means the Director of the Department of Revenue.

Improperly stamped pack means any packs of cigarettes on which is affixed an altered/mutilated; used or reused; or counterfeit tax stamp.

Large cigar means any roll of tobacco wrapped in leaf tobacco or any substance containing tobacco and weighing more than four pounds per one thousand units.

Little cigar means any roll of tobacco, other than a cigarette, wrapped in leaf tobacco or any substance containing tobacco and not weighing more than four pounds per one thousand units.

Loose cigarettes means cigarettes that are not contained within a sealed container, pack, or package as provided by the manufacturer or as a result of any wholesale or retail tobacco dealer or person breaking or otherwise opening any cigarette package to sell or distribute individual cigarettes or a number of unpackaged cigarettes that is smaller than the minimum package size of 20 cigarettes or

any quantity of cigarettes that is smaller than the smallest package distributed by the manufacturer for individual consumer use.

Loose little cigars means little cigars that are not contained within a sealed container, pack or package as provided by the manufacturer.

Manufacturer means any person, other than a Retail Cigarette Manufacturer, who makes or fabricates cigarettes, and/or other tobacco products, and/or Consumable Products and sells them.

Other Tobacco Products includes, but is not limited to, smokeless tobacco, smoking tobacco, large cigars and little cigars, but does not include cigarettes.

Package means the original packet, box, tin or container whatsoever used to contain and to convey cigarettes, or other tobacco products, or Consumable Products to the consumer.

Person means any individual, corporation, Limited Liability Corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity.

Pipe tobacco includes any tobacco which, because of its appearance, type, packaging or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco to be smoked in a pipe.

Premises means, but is not limited to, buildings, vehicles or any place where cigarette, or Other Tobacco Products, or Consumable Products inventory is possessed, stored or sold.

Purchaser means a buyer of cigarettes, or Other Tobacco Products, or Consumable Products, including, but not limited to, retail tobacco dealers, retail cigarette manufacturers and/or consumers.

Retail cigarette manufacturer means any retail tobacco dealer who provides to consumers tobacco and other material and equipment for the production and sale of cigarettes within the retail cigarette manufacturer's premises in Cook County.

Retail tobacco dealer means any person who engages in the business of selling cigarettes, or other tobacco products, or Consumable Products in the County of Cook to a consumer. A retail tobacco dealer shall not include any person who is licensed by the State of Illinois as a tobacco distributor or wholesaler.

Roll-your-own tobacco includes any tobacco which, because of its appearance, type, packaging or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes or cigars or for use as wrappers of cigars or cigarettes.

Sale, resale, selling means any transfer of ownership or possession, or both, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever for a valuable consideration.

Smokeless tobacco includes any snuff, snus, chewing tobacco, or other tobacco products not intended to be smoked.

Smoking tobacco includes granulated, plug cut, crimp cut, ready rubbed and other kinds and forms of tobacco prepared in such manner as to be suitable for smoking in a pipe or cigarette.

Snuff means any finely cut, ground or powdered tobacco that is not intended to be smoked.

Snus means any moist tobacco product that is not intended to be smoked.

Stamp means paper or other material with an imprint or decalcomania device thereon, of such size, design, color and denominations as may be prescribed and procured by the Department which, when affixed to a package of cigarettes, shall evidence payment of the tax thereon, as provided by this Article.

Tobacco products includes, but is not limited to, any cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snus, snuff or snuff flour; Cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings, and sweeping of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both chewing and smoking; but does not include cigarettes or tobacco purchased for the manufacture of cigarettes by cigarette wholesale tobacco dealers and manufacturers as defined in this Article.

Unit means any division of quantity that may be used as a standard to measure the quantity sold based on length, width, weight such as pounds, ounces and/or grams or volume or some other similar unit of measure, including, but not limited to, per item.

Unstamped pack means any pack of cigarettes on which a Cook County tax stamp is not affixed.

Use means any exercise of a right or power, actual or constructive, and shall include, but is not limited to, the receipt, storage, or any keeping or retention for any length of time, but shall not include possession for sale by a retail tobacco dealer, retail cigarette manufacturer or wholesale tobacco dealer as defined in this Article.

Used or reused tax stamp means any tax stamp previously affixed to a tobacco product, removed and subsequently affixed to any tobacco product purchased, offered for sale or sold by any person,

wholesale or retail tobacco dealer; or any removed tax stamp purchased, offered for sale, sold by, or in the possession of a wholesale or retail tobacco dealer.

Vapor product means any nonlighted, noncombustible product that employs a mechanical heating element, battery, or electronic circuit regardless of shape or size and that can be used to produce vapor from nicotine in a solution. The term includes any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. The term does not include any product regulated by the United States Food and Drug Administration under Chapter V of the federal Food, Drug, and Cosmetic Act.

Wholesale tobacco dealer means any person who engages in the business of selling or supplying cigarettes, and/or Other Tobacco Products, and/or Consumable Products, who brings or causes to be brought into the County of Cook cigarettes, and/or Other Tobacco Products, and/or Consumable Products for sale or resale to retail tobacco dealers, and/or retail cigarette manufacturers, and/or consumers in or outside the County of Cook. For the purposes of this Article, wholesale tobacco dealers also includes persons or businesses licensed as tobacco distributors, cigarette distributors or wholesalers with the State of Illinois.

Sec. 74-432. - Registration of wholesale, retail tobacco dealers and retail cigarette manufacturer. Wholesale tobacco dealers, retail tobacco dealers and retail cigarette manufacturers as defined in this Article, shall register with the Department in accordance with policies or procedures prescribed by the Department.

Sec. 74-433. - Tax imposed; cigarettes, other tobacco products; collection; remittance.

(a) Cigarette Tax rate. A tax at the rate of 150 mils or \$0.15 per cigarette is hereby imposed upon all cigarettes possessed for sale and upon the use of all cigarettes within the County of Cook, the ultimate incidence of and liability for payment of said tax to be borne by the consumer of said cigarettes. The tax imposed hereby at the rate of 150 mils or \$0.15 per cigarette shall become in force and effect on March 1, 2013. The tax herein levied shall be in addition to any and all other taxes.

(b) Cigarette Tax stamp purchases. The tax imposed in this Section shall be paid by purchase of tax stamps from the Department, except as otherwise provided in Subsections 74-446(a) and (b) of this Article. The Department shall only sell Cook County cigarette tax stamps to cigarette distributors who are licensed with the State of Illinois. It shall be the duty of every wholesale tobacco dealer, before delivering or causing to be delivered any cigarettes to a retail tobacco dealer in the County of Cook to purchase from the Department a tax stamp for each package of cigarettes and to cancel said stamps prior to the delivery of such cigarettes to any retail tobacco dealer in the County of Cook. Said stamps shall be affixed and cancelled in the manner prescribed by rules and regulations of the Department.

(c) Retail cigarette manufacturer tax rate. A tax at the rate of \$0.15 per cigarette is hereby imposed upon each cigarette sold by a retail cigarette manufacturer. The tax herein levied shall be in addition to any and all other taxes.

(d) Other tobacco product tax rate. A tax at the rates specified in this Section is hereby imposed upon the sale of all Other Tobacco Products within the County of Cook, the ultimate incidence of and liability for payment of said tax to be borne by the Consumer of said Other Tobacco Products. The tax imposed hereby at the rates listed in Subsection (1) shall come into force and effect on March 1, 2012 and Subsection (2) on January 1, 2013.

(1) A tax at the following rates is hereby imposed upon the sale of the following products through December 31, 2012:

- a. Smoking tobacco: \$0.30 per ounce or fraction thereof.
- b. Smokeless tobacco: \$0.30 per ounce or fraction thereof.
- c. Little cigars: \$0.05 per unit or cigar.
- d. Large cigars: \$0.25 per unit or cigar.

(2) A tax at the following rates is hereby imposed upon the sale of the following products effective January 1, 2013:

- a. Smoking tobacco: \$0.60 per ounce or fraction thereof.
- b. Smokeless tobacco: \$0.60 per ounce or fraction thereof.
- c. Little cigars: \$0.05 per unit or cigar.
- d. Large cigars: \$0.30 per unit or cigar.

(e) Consumable Product tax rate. Effective May 1, 2016, a tax at the rate of \$0.20 per fluid milliliter is hereby imposed upon Consumable Products sold within the County of Cook. All invoices

for vapor products issued by manufacturers and/or wholesalers must state the amount of Consumable Products in milliliters. The ultimate incidence of and liability for payment of said tax is to be borne by the Consumer of such Consumable Products.

(f) Wholesale Tobacco Dealer, Retail Tobacco Dealer and Retail Cigarette Manufacturer Tax collection. Any wholesale tobacco dealer shall collect the tax levied by this Article from any Purchaser to whom the sale of said cigarettes, and/or Other Tobacco Products, and/or Consumable Products is made within the County of Cook and shall remit to the County the tax levied by this Article. Any retail tobacco dealer and retail cigarette manufacturer also shall collect the tax from any Consumer to whom the sale of said cigarettes, and/or Other Tobacco Products, and/or Consumable Products is made within the County of Cook. Any such tax shall be collected as a trustee for and on account of the County of Cook. Nothing in this Article shall be construed to impose a tax upon the occupation of wholesale tobacco dealer, retail tobacco dealer, and retail cigarette manufacturer.

(fg) Other Tobacco Products and Consumable Products Tax remittance.

(1) Wholesale Tobacco Dealers. It shall be the duty of every wholesale tobacco dealer to remit the tax due on the sales of Other Tobacco Products and Consumable Products to retail tobacco dealers, and/or retail cigarette manufacturers and/or consumers in Cook County on forms prescribed by the Department, on or before the twentieth day of the month following the month in which the sales of Other Tobacco Products and/or Consumable Products occurred.

(2) Retail Cigarette Manufacturers. It shall be the duty of every retail cigarette manufacturer to remit the tax due on cigarettes produced and sold on the premises, on forms prescribed by the Department, on or before the twentieth day of the month following the month in which the cigarette sales occurred.

(3) Retail tobacco dealers and/or retail cigarette manufacturers untaxed Other Tobacco Products and Consumable Products. It shall be the duty of every retail tobacco dealer and/or retail cigarette manufacturer that purchases or acquires Other Tobacco Products and/or Consumable Products on which the tax set forth in this Article on Other Tobacco Products has not been paid, to remit the tax due, on forms prescribed by the Department, on or before the twentieth day following the month in which the Other Tobacco Products and/or Consumable Products for which taxes were not paid were sold in Cook County to a consumer.

(gh) Tax included in sales price. It shall be deemed a violation of this Article for a wholesale tobacco dealer, retail tobacco dealer or retail cigarette manufacturer to fail to include the tax imposed in this Article in the sale price of cigarettes, and other tobacco products, and Consumable Products to otherwise absorb such tax. The tax levied in this Article shall be in addition to any and all other taxes.

(hi) Tax debt owed to County. The tax required in this Article to be remitted to the County shall constitute a debt owed by any wholesale tobacco dealer, retail tobacco dealer or retail cigarette manufacturer.

Sec. 74-434. - Tax-free sales.

Wholesale tobacco dealers doing business in Cook County shall not pay or collect a tax with respect to cigarettes, and/or other tobacco products, and/or Consumable Products which are otherwise subject to the tax when the cigarettes, and/or other tobacco products, and/or Consumable Products are being sold to the following:

(a) Another wholesale tobacco dealer holding a valid Cook County tobacco wholesaler's registration certificate; or

(b) A wholesale tobacco dealer or a retail tobacco dealer when the selling wholesale tobacco dealer, or its agent, delivers the cigarettes, or other tobacco products, and/or Consumable Products to a location outside of Cook County.

Additionally, a wholesale tobacco dealer's sale of other tobacco products and/or Consumable Products to a consumer shall not be taxed so long as the sale occurs outside of Cook County.

Sec. 74-435. - Sales, possession, use or hindrance violations and penalties.

(a) It shall be a violation of this Article to engage in the sale, possession, or use of any cigarettes, and/or other tobacco products, and/or Consumable Products subject to any tax provided by this Article upon which said tax has not been paid or the stamps affixed and cancelled as herein required, including, as described in this Article:

(1) Counterfeit cigarettes or counterfeit other tobacco products.

(2) Counterfeit tax stamps.

(3) Improperly stamped packs.

(4) Unstamped packs.

- (5) Other tobacco products and Consumable Products.
- (b) It shall be a violation of this Article for any wholesale tobacco dealer, retail tobacco dealer, or retail cigarette manufacturer to engage in any of the following:
- (1) Utilization of used or reused tax stamps by possessing or offering for sale or resale packs of cigarettes affixed with a used or reused tax stamp.
- (2) Concealment, as described in this Article.
- (3) Sell or distribute loose cigarettes.
- (4) Sell cigarettes to any person, other than to another registered Cook County wholesale tobacco dealer, unless each package bears an unmutated Cook County tax stamp affixed, or where the selling wholesale tobacco dealer, or its agent, delivers the unstamped cigarettes to a location outside Cook County.
- (5) Hinder or prevent an authorized Department representative from performing an inspection or audit.
- (c) Prima facie presumption. The sale, resale or possession by a wholesale tobacco dealer or retail tobacco dealer of altered/mutilated, counterfeit, used or reused tax stamps; or packs of counterfeit, improperly stamped, unstamped cigarettes or loose cigarettes; and the sale or resale, by a retail tobacco dealer or retail cigarette manufacturer, of Other Tobacco Products and/or Consumable Products on which the tax provided by this Article has not been paid shall give rise to the prima facie presumption that the wholesale tobacco dealer, retail tobacco dealer or retail cigarette manufacturer is in violation of the provisions of this Article. Retail tobacco dealers and retail cigarette manufacturers shall be held strictly liable for violations of this ordinance that occur within their premises regardless of the employment status of the actual violator.
- (d) Cigarette pack, tax stamp, loose cigarettes, other tobacco products and hindrance violation penalties.

Violation Type Penalties Amount

Concealment

1st Offense \$2,000.00

2nd and each subsequent offense, an additional 4,000.00

Counterfeit packs of cigarettes

40 or less 2,000.00

41 or more, per pack 50.00

2nd and each subsequent offense, an additional 4,000.00

Counterfeit tax stamps

40 or less 2,000.00

41 or more, per stamp 50.00

2nd and each subsequent offense, an additional 4,000.00

Improperly stamped packs

40 or less 2,000.00

41 or more, per pack 50.00

2nd and each subsequent offense, an additional 2,000.00

Loose cigarettes

40 or less 1,000.00

40 or more, per cigarette 25.00

2nd and each subsequent offense, an additional 2,000.00

Other tobacco products

1st offense 1,000.00

2nd and each subsequent offense, an additional 2,000.00

Sales to unregistered wholesalers

1st offense 2,000.00

2nd and each subsequent offense, an additional 4,000.00

Unstamped packs

40 packs or less 1,000.00

41 packs or more, per pack 25.00

2nd and each subsequent offense, an additional 2,000.00

Utilization of used or reused tax stamps

40 or less packs or stamps 2,000.00

41 or more packs or stamps, per pack or stamp 50.00

2nd and each subsequent offense, an additional 4,000.00

Hinder inspection or audit

1st offense 1,000.00

2nd and each subsequent offense, an additional 2,000.00

Consumable Products

1st offense 1,000.00

2nd and each subsequent offense, an additional 2,000.00

Sec. 74-436. - Other violation penalties.

(a) Any person determined to have violated this Article, as amended, excluding the violations described in Section 74-435 (Sales, possession, use or hindrance violations and penalties), shall be subject to a fine in the amount of \$1,000.00 for the first offense, and a fine of \$2,000.00 for the second and each subsequent offense. Separate and distinct offense shall be regarded as committed each day upon which said person shall continue any such violation, or permit any such violation to exist after notification thereof. It shall be deemed a violation of this Article for any person to knowingly furnish false or inaccurate information to the Department.

(b) Criminal penalties. Every person who shall falsely make, alter, forge or counterfeit any tax stamp, or who, with intent to defraud the County, shall affix or cause to be affixed any counterfeit or altered stamp to any package of cigarettes, knowing said stamp to be counterfeit or altered, shall be guilty of a Class B misdemeanor, in addition to any other criminal penalties which may be applicable under Illinois or Federal law.

(c) Criminal prosecution. Criminal prosecution pursuant to this Article shall in no way bar the right of the County to institute civil proceedings to recover delinquent taxes, interest and penalty due and owing as well as costs incurred for such proceeding.

Sec. 74-437. - Internet, mail order and outside-of-county purchases.

(a) Cigarettes. With respect to cigarettes purchased over the internet, by mail order or outside the County, if the tax on cigarettes which is imposed pursuant to this Article, as amended, has not been paid by a wholesaler or retailer prior to use or possession of the cigarette by a person within the County of Cook, such person shall be obligated to make payment of the tax directly to the Department. Within 30 days of purchase, such person shall file a return with the Department of Revenue and pay the tax, penalties and interest due under this Article, as amended.

(b) Other Tobacco Products and Consumable Products. With respect to other tobacco products and Consumable Products purchased by a consumer over the internet, by mail order or outside the County, if the tax on such other tobacco products and/or Consumable Products imposed pursuant to this Article has not been collected and/or remitted to the County previously by a wholesale tobacco dealer, retail tobacco dealer or retail tobacco manufacturer prior to the sale of the other tobacco products to the consumer within the County of Cook, such consumer shall be obligated to remit the tax due to the County, on forms prescribed by the Department, on or before the twentieth day following the month in which any such other tobacco products and/or Consumable Products were purchased by the consumer.

Sec. 74-438. - Mutilation of tax stamps.

It is unlawful for any person to mutilate a tax stamp herein required on any package of cigarettes before it is sold by a retail tobacco dealer.

Sec. 74-439. - Books and records to be kept.

(a) Wholesale tobacco dealer records of deliveries. At the time of delivering cigarettes, or Other Tobacco Products, and/or Consumable Products to any person doing business in the County of Cook, it shall be the duty of every wholesale tobacco dealer to make a true triplicate invoice, numbered serially, showing the date of delivery, the number of packages, the number of cigarettes contained therein in each shipment of cigarettes delivered, or amount of Other Tobacco Products delivered, and/or amount, in milliliters, of Consumable Products delivered, and the name of the purchaser to whom delivery is made. The wholesale tobacco dealer shall issue one copy of the invoice to the purchaser, and shall retain one legible copy of the same for the use and inspection of the Department for the period of time as provided for in the Cook County Uniform Penalties, Interest and Procedures Ordinance (Section 34-60 et seq.).

(b) Wholesaler and Retailer inventory purchases; sales; reconciliations. It shall be the duty of every wholesale tobacco dealer and retail tobacco dealer to make or maintain cigarette, and/or Other Tobacco Products, and/or Consumable Products inventory:

(1) Purchase order documents, serially numbered, indicating the date; name, address of the

person or business from whom the cigarettes, or Other Tobacco Products, and/or Consumable Products were purchased; brand name, type and total number of packages to be purchased in sequential date order, including the amount of Consumable Product in milliliters.

(2) Delivery or receipt documents, serially numbered indicating the date; name, address of the person or business to whom the cigarettes, or Other Tobacco Products, and/or Consumable Products were delivered; brand name, type and total number of packs delivered in sequential date order, including the amount of Consumable Product in milliliters.

(3) Wholesale tobacco dealer sales documents, serially numbered indicating the date; name, address of the person or business to whom the cigarettes, or Other Tobacco Products, and/or Consumable Products were sold; brand name, type and total number of packs delivered in sequential date order, including the amount of Consumable Product in milliliters.

(4) Retail tobacco dealer sales documents, indicating in sequential date order, brand name, type and total number of packs or amounts, including the amount of Consumable Product in milliliters, of Other Tobacco Products and/or Consumable Products sold, each day.

(5) Retail tobacco dealer cigarette inventory reconciliation, indicating daily, weekly or monthly beginning inventory, purchases, sales and ending inventory, in sequential date order.

(6) Retail tobacco dealer monthly wholesaler list, indicating the name and address of each wholesaler from whom cigarette, or Other Tobacco Products, and/or Consumable Products inventory was purchased; brand name; type and total number of packs and total amount of Consumable Product in milliliters purchased from each wholesaler.

(c) Taxable and nontaxable transaction books and records. It shall be the duty of all wholesale tobacco dealers, retail tobacco dealers, retail cigarette manufacturers and persons required by this Article to collect and/or to pay the taxes herein imposed to keep and maintain all books, papers and records related to all transactions taxable and nontaxable under this Article and to make such records available to the Director or a duly authorized representative who has been appointed by the Director, on request for inspection, audit and/or copying during regular business hours. The Department shall promulgate rules and regulations specifying the records that shall be kept by wholesale tobacco dealers, retail tobacco dealers, retail cigarette manufacturers and persons required by this Article to collect and/or pay the taxes herein imposed, and may prescribe any forms appropriate in furtherance of this Article. Books, papers and records which relate to a return filed or required to be filed with the Department shall be kept for the period as provided for in the Cook County Uniform Penalties, Interest and Procedures Ordinance (Section 34-60 et seq.). The burden shall be on the wholesale tobacco dealers, retail tobacco dealers and retail cigarette manufacturers to keep records which verify the basis for any and all transactions which are claimed to be exempt from taxation pursuant to Section 74-434 of this Article.

Sec. 74-440. - Inspections; audits.

Books and records kept in compliance with Section 74-439 of this Article shall be made available to the Department upon request for inspection, audit and/or copying during regular business hours. Representatives of the Department shall be permitted to inspect or audit cigarette, or Other Tobacco Products, and/or Consumable Products inventory in or upon any premises. An audit or inspection may include the physical examination of the cigarettes, packaging, cigarette tax stamps, or Other Tobacco Products, or Consumable Products. It shall be unlawful for any person to prevent, or hinder a duly authorized Department representative from performing the enforcement duties provided in this Article. The Department shall be authorized to promulgate rules and procedures regarding hindrance violations.

Sec. 74-441. - Confiscate; seize; redemption penalty.

(a) Confiscation; seizure. Whenever the Department or any of its duly authorized representatives shall discover any cigarettes, and/or other tobacco products, and/or Consumable Products subject to any tax provided by this Article upon which said tax has not been paid or the stamps affixed and cancelled as herein required, they are hereby authorized and empowered forthwith to confiscate; seize and take possession of such cigarettes, and/or other tobacco products, and/or Consumable Products together with any vending machine; receptacle; container; vessel or holder in which they are held for sale except for money contained in such vending machine or receptacle, shall thereupon be deemed to be forfeited to the County of Cook.

(b) Cigarette redemption penalty. The Department shall either destroy the cigarettes seized or may permit the Wholesale Tobacco Dealer from whom the said cigarettes were seized, to redeem the cigarettes and/or any vending machine or receptacle seized therewith, by the payment of a

Redemption Penalty equal to 100 percent of the tax due, and including the cost incurred in such proceeding. Such seizure, destruction, and sale, or redemption shall not be deemed to relieve any person from fine or imprisonment provided herein for violation of any provision of this Article.

Sec. 74-442. - Posting of signs.

Every retail tobacco dealer shall post a sign issued by the Department, indicating the offer to sell, the sale or purchase of unstamped packs or loose cigarettes is unlawful. The sign shall be posted in a conspicuous location, to anyone purchasing cigarettes, at the retailer's place of business.

Sec. 74-443. - Wholesale tobacco dealer quarterly returns.

A sworn quarterly cigarette, and/or other tobacco products, and or Consumable Products Revenue Information return shall be filed by each wholesale tobacco dealer with the Department, on forms prescribed by the Department. The return shall be filed on or before the last day of the first month following the preceding quarter. Every wholesale tobacco dealer required to file a tax return under this Section, who does not file such tax return by its due date, or alternatively does not provide all required information on such tax return, shall be subject to the penalties that are provided for in Section 74-436 of this Article in addition to all other penalties and interest that may be due as provided in the Uniform Penalties, Interest and Procedures Ordinance (Section 34-60 et seq.). Quarterly returns, books and records, papers and original source documents that provide support for the information that is included in the return filed with the Department, shall be kept for the period as provided in the Cook County Uniform Penalties, Interest and Procedures Ordinance (Section 34-60 et seq.).

Sec. 74-444. - Failure to file a return and/or remit tax.

In case of failure to file a tax return and remit this tax when due, the Department may assess penalties and interest as provided for in this Article and/or the Cook County Uniform Penalties, Interest and Procedures Ordinance (Section 34-60 et seq.).

Sec. 74-445. - Authority to sell stamp; agents; credits/refunds.

(a) Cigarette tax stamps. The Department shall contract for and furnish tax stamps of such denominations and quantities as may be necessary for the payment of the tax imposed on cigarettes by this Article, and may, from time to time, provide for the issuance and exclusive use of stamps of a new design and forbid the use of stamps of any other design.

(b) Agents. The Department may appoint wholesale tobacco dealers of cigarettes and any other person within or without the County as agents to affix stamps to be used in paying the tax hereby imposed on cigarettes and said agent is hereby authorized to appoint other persons in his employ who are to affix said stamps to any cigarettes under his control in the manner prescribed by the rules and regulations promulgated by the Department. Whenever the Department shall sell, consign or deliver to any such agent any such stamps, such agent shall be entitled to receive compensation for his services and expenses in affixing such stamps, and to retain use of the monies to be paid by him for such stamps as a commission. The Department is hereby authorized to prescribe a schedule of commissions not exceeding five percent allowable to such agent for affixing such stamps. Such schedule shall be uniform for each type and denomination of stamp used and may be on a graduated scale with respect to the number of stamps purchased. The Department may, in its discretion, permit an agent to pay for such stamps within 30 days after the date of sale, consignment, or delivery of such stamps to such agent, provided a bond or bank letter of credit satisfactory to the Department and approved as to form and legality by the State's Attorney shall be submitted by said agent to the Department, in an amount equal to the value of such stamps. The Department, with approval from the State's Attorney, shall issue regulations pursuant to Section 74-435 regarding the use of such bonds or bank letters of credit.

(cb) Credits or Refunds. The Department may redeem unused tax stamps lawfully on the possession of any person. Any person seeking credit and/or a refund for unused tax stamps, tax stamps affixed to packages of cigarettes returned to a manufacturer, or for the replacement of tax stamps, must file a claim in writing on forms prescribed by the Department. This form must be filed with the Department no later than 12 months after the month in which the tax remittance or tax payment was made to the Department. The United States post mark date or date of physical/actual receipt is used, by the Department, to determine if a credit or refund is filed timely. No person shall sell or offer for sale any stamp issued under this Article, except by written permission of the Department. The Department may prescribe rules and regulations concerning refunds, sales of stamps and redemption under the provisions of this Article.

Sec. 74-446. - Single state and county stamp and monthly tax return.

(a) Single state and county stamp. Notwithstanding the provisions of Subsection 74-433(b), Section 74-435, and Subsection 74-445(a) of this Article, the Department may provide by regulation that the tax imposed by this Article shall, in the alternative, be collected by means of the issuance and sale of a single tax stamp to be prepared jointly with the Department of Revenue of the State of Illinois (and/or the City Comptroller of the City of Chicago) evidencing the payment of the tax imposed by this Article. Toward that end, the Department may make such arrangements and agreements with the Department of Revenue of the State of Illinois (and/or the City Comptroller of the City of Chicago) as may be required with respect to the method of acquiring, affixing, canceling and the manner of sharing the cost of such joint single tax stamps, and may establish procedures for payment of that portion of the tax revenue collected by the Department of Revenue of the State of Illinois (and/or the City Comptroller of the City of Chicago) due and payable to the County of Cook, in furtherance of the purposes of this Article. In the event such alternative method as herein provided is utilized, no other method of collecting said tax may be used within the relevant jurisdiction; however, all other applicable provisions of this Article shall nevertheless remain in full force and effect.

(b) Monthly tax return. Notwithstanding the provisions of Subsection 74-433(b), Section 74-435, Subsection 74-445(a) and subsection (a) of this Section, the Department may provide by regulation that the tax imposed on cigarettes by this Article, in the alternative, shall be collected by means of the filing of a sworn tax return to be prepared and filed by every wholesale tobacco dealer who sells cigarettes for consumption in the County of Cook. Said return shall be filed on a monthly basis and shall contain the same information required by Subsection 74-445(b) of this Article. Said return shall be filed with the Department on or before the fifteenth day of each month stating such other and further information as may be required by the Department, and said return shall be accompanied by a certified check in the amount of the tax due and payable upon such taxable sales made by said wholesale tobacco dealer in the County of Cook during the preceding month. In the event such alternative method is utilized, no other method of collecting said tax may be used; however, all other applicable provisions of this Article shall remain in full force and effect with the exception of the necessity of filing a quarterly tax return as provided in Section 74-443 of this Article, which shall not be required.

Sec. 74-447. - Rulemaking.

(a) The Department shall prescribe reasonable rules, definitions, and regulations necessary to carry out the duties imposed upon it by this Article. Such rules, definitions, and regulations shall include, but not be limited to, reasonable procedures consistent with existing practices of wholesale tobacco and retail tobacco dealers for collection and remittance of the tax herein levied.

(b) The Department may appoint wholesale tobacco dealers and any other person within or without the County of Cook as agents for the tax herein levied. The Department is hereby authorized to grant a commission not exceeding .0045 or .45 percent per cigarette tax stamp sold by the County of Cook to such agent for services rendered in connection with the tax herein levied (in Section 74-433), provided said tax is remitted, in full, by the due date.

(c) Within 30 days after the effective date of this Article every wholesale tobacco dealer doing business in the County of Cook shall file with the Department, on forms prescribed by it, a sworn inventory of cigarettes in their possession or control on March 1, 2013. With said inventory, the wholesale tobacco dealer shall submit a Department issued tax return and pay to the Cook County Collector the taxes due, including any additional taxes due as a result of this Article, as amended, with respect to all stamped cigarettes which were in such wholesale tobacco dealer's possession on March 1, 2013.

(d) Within 30 days after the effective date of this Article every retail tobacco dealer doing business in the County of Cook shall file with the Department, on forms prescribed by it, a sworn inventory of cigarettes in their possession or control on March 1, 2013. With said inventory, the retail tobacco dealer shall submit a Department issued tax return and pay to the Cook County Collector the taxes due, including any additional taxes due as a result of this Article, as amended, with respect to all cigarettes which were in such retail tobacco dealer's possession on March 1, 2013.

(e) Within 30 days after the effective date of this Article every retail tobacco dealer doing business in the County of Cook shall file with the Department, on forms prescribed by it, a sworn inventory of tobacco products in their possession or control on June 1, 2006. With said inventory, the retail tobacco dealer shall pay to the Cook County Collector the taxes due, including any additional taxes due as a result of this Article, as amended, with respect to all tobacco products which were in

such retail tobacco dealer's possession on June 1, 2006.

(f) Every retail tobacco dealer required to file a tax return under this Section who does not file such tax return by its due date, or alternatively does not provide all required information on such tax return, or fails to pay all required tax due computed thereon, shall be subject to a penalty of \$1,000.00 per business location required to be reported on the tax return, in addition to all other penalties and interest that may be due under the provisions of Chapter 34, Article III, Uniform Penalties, Interest and Procedures and Section 74-436 of this Article.

Sec. 74-448. - Transmittal of excess tax collections.

In the event a wholesale tobacco dealer, retail tobacco dealer or retail cigarette manufacturer collects an amount in excess of the tax imposed by this Article, as amended, which amount is purported to be a collection thereof, and said wholesale tobacco dealer, retail tobacco dealer or retail cigarette manufacturer fails to return the said excess amount to the purchaser who paid the tax, the said wholesale tobacco dealer, retail tobacco dealer or retail cigarette manufacturer who collected the tax shall account for and pay over all such excess amounts to the Department along with the tax properly collected.

Sec. 74-449. - Deposit of tax proceeds.

All proceeds resulting from the imposition of the tax under this Article, including penalties, shall be paid to the Department. The Department shall direct every dollar collected from the 2013 increase in the rate of the Home Rule Tobacco Tax to be deposited into the funds of the Cook County Health and Hospitals System for Fiscal Year 2013 as approved by the Budget Director. Deposit of tax proceeds following Fiscal Year 2013 shall be deposited into various funds and/or accounts as prescribed by the Budget Director.

Sec. 74-450. - Application of uniform penalties, interest and procedures ordinance.

Whenever not inconsistent with the provision of this Article or whenever this Article is silent, the provisions of the uniform penalties, interest and procedures ordinance, Article III, Chapter 34 of the Cook County Code of Ordinances shall apply and supplement this Article.

Effective date: This ordinance shall be in effect immediately upon adoption

Sponsors: TONI PRECKWINKLE (President)

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
11/18/2015	1	Board of Commissioners	approve	Pass
11/13/2015	1	Finance Committee	recommend for approval	Pass
10/14/2015	1	Board of Commissioners	refer	Pass

PROPOSED ORDINANCE AMENDMENT

TOBACCO TAX ORDINANCE

BE IT ORDAINED, by the Cook County Board of Commissioners, that Chapter 74, Taxation, Article XI, Tobacco Tax, Sections 74-430 through 74-450 of the Cook County Code is hereby amended as Follows:

Sec. 74-430. Short Title.

This article may be cited as the "Cook County Tobacco Tax Ordinance"

Sec. 74-431. Definitions.

For the purpose of this Article, whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this Section.

Altered or mutilated tax stamp means any tax stamp on which the identity information is illegible or incomplete.

Chewing tobacco means any leaf tobacco that is not intended to be smoked.

Cigar means any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco which is a cigarette as defined in this Article).

Cigarette means any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether such tobacco is flavored, adulterated or mixed with any other ingredient, or not, and the wrapper of which is made of paper or any other substance or material except tobacco.

Concealment means cigarettes, other tobacco products, ~~or~~ cigarette tax stamps, or Consumable Products, in violation of this Article, deliberately hidden to prevent or evade discovery and offered for sale by or in the possession of a wholesale or retail tobacco dealer.

Conspicuous means easily or clearly visible.

Consumable Product means any nicotine liquid solution or other material containing nicotine that is depleted as a vapor product is used.

Consumer means a person who purchases cigarettes, ~~or~~ Other Tobacco Products, or Consumable Products from a wholesale tobacco dealer, retail tobacco dealer or retail cigarette manufacturer, and not for resale purposes.

Counterfeit cigarettes means any cigarette or pack of cigarettes bearing a false, forged, artificial or imitation manufacturing label.

County means the County of Cook.

Department means the Department of Revenue within the Bureau of Finance of the County of Cook.

Director means the Director of the Department of Revenue.

Improperly stamped pack means any packs of cigarettes on which is affixed an altered/mutilated; used or reused; or counterfeit tax stamp.

Large cigar means any roll of tobacco wrapped in leaf tobacco or any substance containing tobacco and weighing more than four pounds per one thousand units.

Little cigar means any roll of tobacco, other than a cigarette, wrapped in leaf tobacco or any substance containing tobacco and not weighing more than four pounds per one thousand units.

Loose cigarettes means cigarettes that are not contained within a sealed container, pack, or package as provided by the manufacturer or as a result of any wholesale or retail tobacco dealer or person breaking or otherwise opening any cigarette package to sell or distribute individual cigarettes or a number of unpackaged cigarettes that is smaller than the minimum package size of 20 cigarettes or any quantity of cigarettes that is smaller than the smallest package distributed by the manufacturer for individual consumer use.

Loose little cigars means little cigars that are not contained within a sealed container, pack or package as provided by the manufacturer.

Manufacturer means any person, other than a Retail Cigarette Manufacturer, who makes or fabricates cigarettes, ~~and/or other~~ tobacco products, and/or Consumable Products and sells them.

Other Tobacco Products includes, but is not limited to, smokeless tobacco, smoking tobacco, large cigars and little cigars, but does not include cigarettes.

Package means the original packet, box, tin or container whatsoever used to contain and to convey cigarettes, ~~or~~ other tobacco products, or Consumable Products to the consumer.

Person means any individual, corporation, Limited Liability Corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity.

Pipe tobacco includes any tobacco which, because of its appearance, type, packaging or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco to be smoked in a pipe.

Premises means, but is not limited to, buildings, vehicles or any place where cigarette, ~~or Other Tobacco Products~~, or Consumable Products inventory is possessed, stored or sold.

Purchaser means a buyer of cigarettes, ~~or Other Tobacco Products~~, or Consumable Products, including, but not limited to, retail tobacco dealers, retail cigarette manufacturers and/or consumers.

Retail cigarette manufacturer means any retail tobacco dealer who provides to consumers tobacco and other material and equipment for the production and sale of cigarettes within the retail cigarette manufacturer's premises in Cook County.

Retail tobacco dealer means any person who engages in the business of selling cigarettes, ~~or other tobacco products~~, or Consumable Products in the County of Cook to a consumer. A retail tobacco dealer shall not include any person who is licensed by the State of Illinois as a tobacco distributor or wholesaler.

Roll-your-own tobacco includes any tobacco which, because of its appearance, type, packaging or labeling is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes or cigars or for use as wrappers of cigars or cigarettes.

Sale, resale, selling means any transfer of ownership or possession, or both, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever for a valuable consideration.

Smokeless tobacco includes any snuff, snus, chewing tobacco, or other tobacco products not intended to be smoked.

Smoking tobacco includes granulated, plug cut, crimp cut, ready rubbed and other kinds and forms of tobacco prepared in such manner as to be suitable for smoking in a pipe or cigarette.

Snuff means any finely cut, ground or powdered tobacco that is not intended to be smoked.

Snus means any moist tobacco product that is not intended to be smoked.

Stamp means paper or other material with an imprint or decalcomania device thereon, of such size, design, color and denominations as may be prescribed and procured by the Department which, when affixed to a package of cigarettes, shall evidence payment of the tax thereon, as provided by this Article.

Tobacco products includes, but is not limited to, any cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snus, snuff or snuff flour; Cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings, and sweeping of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both chewing and smoking; but does not include cigarettes or tobacco purchased for the manufacture of cigarettes by cigarette wholesale tobacco dealers and manufacturers as defined in this Article.

Unit means any division of quantity that may be used as a standard to measure the quantity sold based on length, width, weight such as pounds, ounces and/or grams or volume or some other similar unit of measure, including, but not limited to, per item.

Unstamped pack means any pack of cigarettes on which a Cook County tax stamp is not affixed.

Use means any exercise of a right or power, actual or constructive, and shall include, but is not limited to, the receipt, storage, or any keeping or retention for any length of time, but shall not include possession for sale by a retail tobacco dealer, retail cigarette manufacturer or wholesale tobacco dealer as defined in this Article.

Used or reused tax stamp means any tax stamp previously affixed to a tobacco product, removed and subsequently affixed to any tobacco product purchased, offered for sale or sold by any person, wholesale or retail tobacco dealer; or any removed tax stamp purchased, offered for sale, sold by, or in the possession of a wholesale or retail tobacco dealer.

Vapor product means any nonlighted, noncombustible product that employs a mechanical heating element, battery, or electronic circuit regardless of shape or size and that can be used to produce vapor from nicotine in a solution. The

term includes any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. The term does not include any product regulated by the United States Food and Drug Administration under Chapter V of the federal Food, Drug, and Cosmetic Act.

Wholesale tobacco dealer means any person who engages in the business of selling or supplying cigarettes, ~~and/or~~ Other Tobacco Products, ~~and/or~~ Consumable Products, who brings or causes to be brought into the County of Cook cigarettes, ~~and/or~~ Other Tobacco Products, and or Consumable Products for sale or resale to retail tobacco dealers, ~~and/or~~ retail cigarette manufacturers, ~~and/or~~ consumers in or outside the County of Cook. For the purposes of this Article, wholesale tobacco dealers also includes persons or businesses licensed as tobacco distributors, cigarette distributors or wholesalers with the State of Illinois.

Sec. 74-432. - Registration of wholesale, retail tobacco dealers and retail cigarette manufacturer.

Wholesale tobacco dealers, retail tobacco dealers and retail cigarette manufacturers as defined in this Article, shall register with the Department in accordance with policies or procedures prescribed by the Department.

Sec. 74-433. - Tax imposed; cigarettes, other tobacco products; collection; remittance.

- (a) Cigarette Tax rate. A tax at the rate of 150 mils or \$0.15 per cigarette is hereby imposed upon all cigarettes possessed for sale and upon the use of all cigarettes within the County of Cook, the ultimate incidence of and liability for payment of said tax to be borne by the consumer of said cigarettes. The tax imposed hereby at the rate of 150 mils or \$0.15 per cigarette shall become in force and effect on March 1, 2013. The tax herein levied shall be in addition to any and all other taxes.
- (b) Cigarette Tax stamp purchases. The tax imposed in this Section shall be paid by purchase of tax stamps from the Department, except as otherwise provided in Subsections 74-446(a) and (b) of this Article. The Department shall only sell Cook County cigarette tax stamps to cigarette distributors who are licensed with the State of Illinois. It shall be the duty of every wholesale tobacco dealer, before delivering or causing to be delivered any cigarettes to a retail tobacco dealer in the County of Cook to purchase from the Department a tax stamp for each package of cigarettes and to cancel said stamps prior to the delivery of such cigarettes to any retail tobacco dealer in the County of Cook. Said stamps shall be affixed and cancelled in the manner prescribed by rules and regulations of the Department.
- (c) Retail cigarette manufacturer tax rate. A tax at the rate of \$0.15 per cigarette is hereby imposed upon each cigarette sold by a retail cigarette manufacturer. The tax herein levied shall be in addition to any and all other taxes.
- (d) Other tobacco product tax rate. A tax at the rates specified in this Section is hereby imposed upon the sale of all Other Tobacco Products within the County of Cook, the ultimate incidence of and liability for payment of said tax to be borne by the Consumer of said Other Tobacco Products. The tax imposed hereby at the rates listed in Subsection (1) shall come into force and effect on March 1, 2012 and Subsection (2) on January 1, 2013.
 - (1) A tax at the following rates is hereby imposed upon the sale of the following products through December 31, 2012:
 - a. Smoking tobacco: \$0.30 per ounce or fraction thereof.
 - b. Smokeless tobacco: \$0.30 per ounce or fraction thereof.
 - c. Little cigars: \$0.05 per unit or cigar.
 - d. Large cigars: \$0.25 per unit or cigar.
 - (2) A tax at the following rates is hereby imposed upon the sale of the following products effective January 1, 2013:
 - a. Smoking tobacco: \$0.60 per ounce or fraction thereof.
 - b. Smokeless tobacco: \$0.60 per ounce or fraction thereof.

- c. Little cigars: \$0.05 per unit or cigar.
- d. Large cigars: \$0.30 per unit or cigar.
- (e) Consumable Product tax rate. Effective May 1, 2016, a tax at the rate of \$0.20 per fluid milliliter is hereby imposed upon Consumable Products sold within the County of Cook. All invoices for vapor products issued by manufacturers and/or wholesalers must state the amount of Consumable Products in milliliters. The ultimate incidence of and liability for payment of said tax is to be borne by the Consumer of such Consumable Products.
- (f) Wholesale Tobacco Dealer, Retail Tobacco Dealer and Retail Cigarette Manufacturer Tax collection. Any wholesale tobacco dealer shall collect the tax levied by this Article from any Purchaser to whom the sale of said cigarettes, ~~and/or~~ Other Tobacco Products, and/or Consumable Products is made within the County of Cook and shall remit to the County the tax levied by this Article. Any retail tobacco dealer and retail cigarette manufacturer also shall collect the tax from any Consumer to whom the sale of said cigarettes, ~~and/or~~ Other Tobacco Products, and/or Consumable Products is made within the County of Cook. Any such tax shall be collected as a trustee for and on account of the County of Cook. Nothing in this Article shall be construed to impose a tax upon the occupation of wholesale tobacco dealer, retail tobacco dealer, and retail cigarette manufacturer.
- (fg) Other Tobacco Products and Consumable Products Tax remittance.
 - (1) Wholesale Tobacco Dealers. It shall be the duty of every wholesale tobacco dealer to remit the tax due on the sales of Other Tobacco Products and Consumable Products to retail tobacco dealers, and/or retail cigarette manufacturers ~~and/or consumers~~ in Cook County on forms prescribed by the Department, on or before the twentieth day of the month following the month in which the sales of Other Tobacco Products and/or Consumable Products occurred.
 - (2) Retail Cigarette Manufacturers. It shall be the duty of every retail cigarette manufacturer to remit the tax due on cigarettes produced and sold on the premises, on forms prescribed by the Department, on or before the twentieth day of the month following the month in which the cigarette sales occurred.
 - (3) Retail tobacco dealers and/or retail cigarette manufacturers untaxed Other Tobacco Products and Consumable Products. It shall be the duty of every retail tobacco dealer and/or retail cigarette manufacturer that purchases or acquires Other Tobacco Products and/or Consumable Products on which the tax set forth in this Article ~~on Other Tobacco Products~~ has not been paid, to remit the tax due, on forms prescribed by the Department, on or before the twentieth day following the month in which the Other Tobacco Products and/or Consumable Products for which taxes were not paid were sold in Cook County to a consumer.
- (gh) Tax included in sales price. It shall be deemed a violation of this Article for a wholesale tobacco dealer, retail tobacco dealer or retail cigarette manufacturer to fail to include the tax imposed in this Article in the sale price of cigarettes, ~~and~~ other tobacco products, and Consumable Products to otherwise absorb such tax. The tax levied in this Article shall be in addition to any and all other taxes.
- (hi) Tax debt owed to County. The tax required in this Article to be remitted to the County shall constitute a debt owed by any wholesale tobacco dealer, retail tobacco dealer or retail cigarette manufacturer.

Sec. 74-434. - Tax-free sales.

Wholesale tobacco dealers doing business in Cook County shall not pay or collect a tax with respect to cigarettes, ~~and/or~~ other tobacco products, and/or Consumable Products which are otherwise subject to the tax when the cigarettes, ~~and/or~~ other tobacco products, and/or Consumable Products are being sold to the following:

- (a) Another wholesale tobacco dealer holding a valid Cook County tobacco wholesaler's registration certificate; or
- (b) A wholesale tobacco dealer or a retail tobacco dealer when the selling wholesale tobacco dealer, or its agent, delivers the cigarettes, ~~or~~ other tobacco products, and/or Consumable Products to a location outside of Cook County.

Additionally, a wholesale tobacco dealer's sale of other tobacco products and/or Consumable Products to a consumer

shall not be taxed so long as the sale occurs outside of Cook County.

Sec. 74-435. - Sales, possession, use or hindrance violations and penalties.

- (a) It shall be a violation of this Article to engage in the sale, possession, or use of any cigarettes, ~~and/or~~ other tobacco products, and or Consumable Products subject to any tax provided by this Article upon which said tax has not been paid or the stamps affixed and cancelled as herein required, including, as described in this Article:
- (1) Counterfeit cigarettes or counterfeit other tobacco products.
 - (2) Counterfeit tax stamps.
 - (3) Improperly stamped packs.
 - (4) Unstamped packs.
 - (5) Other tobacco products and Consumable Products.
- (b) It shall be a violation of this Article for any wholesale tobacco dealer, retail tobacco dealer, or retail cigarette manufacturer to engage in any of the following:
- (1) Utilization of used or reused tax stamps by possessing or offering for sale or resale packs of cigarettes affixed with a used or reused tax stamp.
 - (2) Concealment, as described in this Article.
 - (3) Sell or distribute loose cigarettes.
 - (4) Sell cigarettes to any person, other than to another registered Cook County wholesale tobacco dealer, unless each package bears an unmutilated Cook County tax stamp affixed, or where the selling wholesale tobacco dealer, or its agent, delivers the unstamped cigarettes to a location outside Cook County.
 - (5) Hinder or prevent an authorized Department representative from performing an inspection or audit.
- (c) Prima facie presumption. The sale, resale or possession by a wholesale tobacco dealer or retail tobacco dealer of altered/mutilated, counterfeit, used or reused tax stamps; or packs of counterfeit, improperly stamped, unstamped cigarettes or loose cigarettes; and the sale or resale, by a retail tobacco dealer or retail cigarette manufacturer, of Other Tobacco Products and/or Consumable Products on which the tax provided by this Article has not been paid shall give rise to the prima facie presumption that the wholesale tobacco dealer, retail tobacco dealer or retail cigarette manufacturer is in violation of the provisions of this Article. Retail tobacco dealers and retail cigarette manufacturers shall be held strictly liable for violations of this ordinance that occur within their premises regardless of the employment status of the actual violator.
- (d) Cigarette pack, tax stamp, loose cigarettes, other tobacco products and hindrance violation penalties.

Violation Type	Penalties Amount
Concealment	
1st Offense	\$2,000.00
2nd and each subsequent offense, an additional	4,000.00
Counterfeit packs of cigarettes	
40 or less	2,000.00
41 or more, per pack	50.00
2nd and each subsequent offense, an additional	4,000.00
Counterfeit tax stamps	
40 or less	2,000.00

41 or more, per stamp	50.00
2nd and each subsequent offense, an additional	4,000.00
Improperly stamped packs	
40 or less	2,000.00
41 or more, per pack	50.00
2nd and each subsequent offense, an additional	2,000.00
Loose cigarettes	
40 or less	1,000.00
40 or more, per cigarette	25.00
2nd and each subsequent offense, an additional	2,000.00
Other tobacco products	
1st offense	1,000.00
2nd and each subsequent offense, an additional	2,000.00
Sales to unregistered wholesalers	
1st offense	2,000.00
2nd and each subsequent offense, an additional	4,000.00
Unstamped packs	
40 packs or less	1,000.00
41 packs or more, per pack	25.00
2nd and each subsequent offense, an additional	2,000.00
Utilization of used or reused tax stamps	
40 or less packs or stamps	2,000.00
41 or more packs or stamps, per pack or stamp	50.00
2nd and each subsequent offense, an additional	4,000.00
Hinder inspection or audit	
1st offense	1,000.00
2nd and each subsequent offense, an additional	2,000.00
<u>Consumable Products</u>	
<u>1st offense</u>	<u>1,000.00</u>
<u>2nd and each subsequent offense, an additional</u>	<u>2,000.00</u>

Sec. 74-436. - Other violation penalties.

- (a) Any person determined to have violated this Article, as amended, excluding the violations described in Section 74-435 (Sales, possession, use or hindrance violations and penalties), shall be subject to a fine in the amount of \$1,000.00 for the first offense, and a fine of \$2,000.00 for the second and each subsequent offense. Separate and distinct offense shall be regarded as committed each day upon which said person shall continue any such violation, or permit any such violation to exist after notification thereof. It shall be deemed a violation of this Article for any person to knowingly furnish false or inaccurate information to the Department.
- (b) Criminal penalties. Every person who shall falsely make, alter, forge or counterfeit any tax stamp, or who, with

intent to defraud the County, shall affix or cause to be affixed any counterfeit or altered stamp to any package of cigarettes, knowing said stamp to be counterfeit or altered, shall be guilty of a Class B misdemeanor, in addition to any other criminal penalties which may be applicable under Illinois or Federal law.

- (c) Criminal prosecution. Criminal prosecution pursuant to this Article shall in no way bar the right of the County to institute civil proceedings to recover delinquent taxes, interest and penalty due and owing as well as costs incurred for such proceeding.

Sec. 74-437. - Internet, mail order and outside-of-county purchases.

- (a) Cigarettes. With respect to cigarettes purchased over the internet, by mail order or outside the County, if the tax on cigarettes which is imposed pursuant to this Article, as amended, has not been paid by a wholesaler or retailer prior to use or possession of the cigarette by a person within the County of Cook, such person shall be obligated to make payment of the tax directly to the Department. Within 30 days of purchase, such person shall file a return with the Department of Revenue and pay the tax, penalties and interest due under this Article, as amended.
- (b) Other Tobacco Products and Consumable Products. With respect to other tobacco products and Consumable Products purchased by a consumer over the internet, by mail order or outside the County, if the tax on such other tobacco products and/or Consumable Products imposed pursuant to this Article has not been collected and/or remitted to the County previously by a wholesale tobacco dealer, retail tobacco dealer or retail tobacco manufacturer prior to the sale of the other tobacco products to the consumer within the County of Cook, such consumer shall be obligated to remit the tax due to the County, on forms prescribed by the Department, on or before the twentieth day following the month in which any such other tobacco products and/or Consumable Products were purchased by the consumer.

Sec. 74-438. - Mutilation of tax stamps.

It is unlawful for any person to mutilate a tax stamp herein required on any package of cigarettes before it is sold by a retail tobacco dealer.

Sec. 74-439. - Books and records to be kept.

- (a) Wholesale tobacco dealer records of deliveries. At the time of delivering cigarettes, ~~or~~ Other Tobacco Products, and/or Consumable Products to any person doing business in the County of Cook, it shall be the duty of every wholesale tobacco dealer to make a true triplicate invoice, numbered serially, showing the date of delivery, the number of packages, the number of cigarettes contained therein in each shipment of cigarettes delivered, ~~or~~ amount of Other Tobacco Products delivered, and/or amount, in milliliters, of Consumable Products delivered, and the name of the purchaser to whom delivery is made. The wholesale tobacco dealer shall issue one copy of the invoice to the purchaser, and shall retain one legible copy of the same for the use and inspection of the Department for the period of time as provided for in the Cook County Uniform Penalties, Interest and Procedures Ordinance (Section 34-60 et seq.).
- (b) Wholesaler and Retailer inventory purchases; sales; reconciliations. It shall be the duty of every wholesale tobacco dealer and retail tobacco dealer to make or maintain cigarette, ~~and/or~~ Other Tobacco Products, and/or Consumable Products inventory:
- (1) Purchase order documents, serially numbered, indicating the date; name, address of the person or business from whom the cigarettes, ~~or~~ Other Tobacco Products, and/or Consumable Products were purchased; brand name, type and total number of packages to be purchased in sequential date order, including the amount of Consumable Product in milliliters.
 - (2) Delivery or receipt documents, serially numbered indicating the date; name, address of the person or business to

- whom the cigarettes, ~~or~~ Other Tobacco Products, and/or Consumable Products were delivered; brand name, type and total number of packs delivered in sequential date order, including the amount of Consumable Product in milliliters.
- (3) Wholesale tobacco dealer sales documents, serially numbered indicating the date; name, address of the person or business to whom the cigarettes, ~~or~~ Other Tobacco Products, and/or Consumable Products were sold; brand name, type and total number of packs delivered in sequential date order, including the amount of Consumable Product in milliliters.
- (4) Retail tobacco dealer sales documents, indicating in sequential date order, brand name, type and total number of packs or amounts, including the amount of Consumable Product in milliliters, of Other Tobacco Products and/or Consumable Products sold, each day.
- (5) Retail tobacco dealer cigarette inventory reconciliation, indicating daily, weekly or monthly beginning inventory, purchases, sales and ending inventory, in sequential date order.
- (6) Retail tobacco dealer monthly wholesaler list, indicating the name and address of each wholesaler from whom cigarette, ~~or~~ Other Tobacco Products, and/or Consumable Products inventory was purchased; brand name; type and total number of packs and total amount of Consumable Product in milliliters purchased from each wholesaler.
- (c) Taxable and nontaxable transaction books and records. It shall be the duty of all wholesale tobacco dealers, retail tobacco dealers, retail cigarette manufacturers and persons required by this Article to collect and/or to pay the taxes herein imposed to keep and maintain all books, papers and records related to all transactions taxable and nontaxable under this Article and to make such records available to the Director or a duly authorized representative who has been appointed by the Director, on request for inspection, audit and/or copying during regular business hours. The Department shall promulgate rules and regulations specifying the records that shall be kept by wholesale tobacco dealers, retail tobacco dealers, retail cigarette manufacturers and persons required by this Article to collect and/or pay the taxes herein imposed, and may prescribe any forms appropriate in furtherance of this Article. Books, papers and records which relate to a return filed or required to be filed with the Department shall be kept for the period as provided for in the Cook County Uniform Penalties, Interest and Procedures Ordinance (Section 34-60 et seq.). The burden shall be on the wholesale tobacco dealers, retail tobacco dealers and retail cigarette manufacturers to keep records which verify the basis for any and all transactions which are claimed to be exempt from taxation pursuant to Section 74-434 of this Article.

Sec. 74-440. - Inspections; audits.

Books and records kept in compliance with Section 74-439 of this Article shall be made available to the Department upon request for inspection, audit and/or copying during regular business hours. Representatives of the Department shall be permitted to inspect or audit cigarette, ~~or~~ Other Tobacco Products, and/or Consumable Products inventory in or upon any premises. An audit or inspection may include the physical examination of the cigarettes, packaging, cigarette tax stamps, ~~or~~ Other Tobacco Products, or Consumable Products. It shall be unlawful for any person to prevent, or hinder a duly authorized Department representative from performing the enforcement duties provided in this Article. The Department shall be authorized to promulgate rules and procedures regarding hindrance violations.

Sec. 74-441. - Confiscate; seize; redemption penalty.

- (a) Confiscation; seizure. Whenever the Department or any of its duly authorized representatives shall discover any cigarettes, ~~and/or~~ other tobacco products, and/or Consumable Products subject to any tax provided by this Article upon which said tax has not been paid or the stamps affixed and cancelled as herein required, they are hereby authorized and empowered forthwith to confiscate; seize and take possession of such cigarettes, ~~and/or~~ other tobacco products, and/or Consumable Products together with any vending machine; receptacle; container; vessel or holder in which they are held for sale except for money contained in such vending machine or receptacle, shall thereupon be

deemed to be forfeited to the County of Cook.

- (b) Cigarette redemption penalty. The Department shall either destroy the cigarettes seized or may permit the Wholesale Tobacco Dealer from whom the said cigarettes were seized, to redeem the cigarettes and/or any vending machine or receptacle seized therewith, by the payment of a Redemption Penalty equal to 100 percent of the tax due, and including the cost incurred in such proceeding. Such seizure, destruction, and sale, or redemption shall not be deemed to relieve any person from fine or imprisonment provided herein for violation of any provision of this Article.

Sec. 74-442. - Posting of signs.

Every retail tobacco dealer shall post a sign issued by the Department, indicating the offer to sell, the sale or purchase of unstamped packs or loose cigarettes is unlawful. The sign shall be posted in a conspicuous location, to anyone purchasing cigarettes, at the retailer's place of business.

Sec. 74-443. - Wholesale tobacco dealer quarterly returns.

A sworn quarterly cigarette, ~~and/or~~ other tobacco products, and or Consumable Products Revenue Information return shall be filed by each wholesale tobacco dealer with the Department, on forms prescribed by the Department. The return shall be filed on or before the last day of the first month following the preceding quarter. Every wholesale tobacco dealer required to file a tax return under this Section, who does not file such tax return by its due date, or alternatively does not provide all required information on such tax return, shall be subject to the penalties that are provided for in Section 74-436 of this Article in addition to all other penalties and interest that may be due as provided in the Uniform Penalties, Interest and Procedures Ordinance (Section 34-60 et seq.). Quarterly returns, books and records, papers and original source documents that provide support for the information that is included in the return filed with the Department, shall be kept for the period as provided in the Cook County Uniform Penalties, Interest and Procedures Ordinance (Section 34-60 et seq.).

Sec. 74-444. - Failure to file a return and/or remit tax.

In case of failure to file a tax return and remit this tax when due, the Department may assess penalties and interest as provided for in this Article and/or the Cook County Uniform Penalties, Interest and Procedures Ordinance (Section 34-60 et seq.).

Sec. 74-445. - Authority to sell stamp; agents; credits/refunds.

- (a) Cigarette tax stamps. The Department shall contract for and furnish tax stamps of such denominations and quantities as may be necessary for the payment of the tax imposed on cigarettes by this Article, and may, from time to time, provide for the issuance and exclusive use of stamps of a new design and forbid the use of stamps of any other design.
- (b) Agents. The Department may appoint wholesale tobacco dealers of cigarettes and any other person within or without the County as agents to affix stamps to be used in paying the tax hereby imposed on cigarettes and said agent is hereby authorized to appoint other persons in his employ who are to affix said stamps to any cigarettes under his control in the manner prescribed by the rules and regulations promulgated by the Department. Whenever the Department shall sell, consign or deliver to any such agent any such stamps, such agent shall be entitled to receive compensation for his services and expenses in affixing such stamps, and to retain use of the monies to be paid by him for such stamps as a commission. The Department is hereby authorized to prescribe a schedule of commissions not exceeding five percent allowable to such agent for affixing such stamps. Such schedule shall be uniform for each

type and denomination of stamp used and may be on a graduated scale with respect to the number of stamps purchased. The Department may, in its discretion, permit an agent to pay for such stamps within 30 days after the date of sale, consignment, or delivery of such stamps to such agent, provided a bond or bank letter of credit satisfactory to the Department and approved as to form and legality by the State's Attorney shall be submitted by said agent to the Department, in an amount equal to the value of such stamps. The Department, with approval from the State's Attorney, shall issue regulations pursuant to Section 74-435 regarding the use of such bonds or bank letters of credit.

- (eb) Credits or Refunds. The Department may redeem unused tax stamps lawfully on the possession of any person. Any person seeking credit and/or a refund for unused tax stamps, tax stamps affixed to packages of cigarettes returned to a manufacturer, or for the replacement of tax stamps, must file a claim in writing on forms prescribed by the Department. This form must be filed with the Department no later than 12 months after the month in which the tax remittance or tax payment was made to the Department. The United States post mark date or date of physical/actual receipt is used, by the Department, to determine if a credit or refund is filed timely. No person shall sell or offer for sale any stamp issued under this Article, except by written permission of the Department. The Department may prescribe rules and regulations concerning refunds, sales of stamps and redemption under the provisions of this Article.

Sec. 74-446. - Single state and county stamp and monthly tax return.

- (a) Single state and county stamp. Notwithstanding the provisions of Subsection 74-433(b), Section 74-435, and Subsection 74-445(a) of this Article, the Department may provide by regulation that the tax imposed by this Article shall, in the alternative, be collected by means of the issuance and sale of a single tax stamp to be prepared jointly with the Department of Revenue of the State of Illinois (and/or the City Comptroller of the City of Chicago) evidencing the payment of the tax imposed by this Article. Toward that end, the Department may make such arrangements and agreements with the Department of Revenue of the State of Illinois (and/or the City Comptroller of the City of Chicago) as may be required with respect to the method of acquiring, affixing, canceling and the manner of sharing the cost of such joint single tax stamps, and may establish procedures for payment of that portion of the tax revenue collected by the Department of Revenue of the State of Illinois (and/or the City Comptroller of the City of Chicago) due and payable to the County of Cook, in furtherance of the purposes of this Article. In the event such alternative method as herein provided is utilized, no other method of collecting said tax may be used within the relevant jurisdiction; however, all other applicable provisions of this Article shall nevertheless remain in full force and effect.
- (b) Monthly tax return. Notwithstanding the provisions of Subsection 74-433(b), Section 74-435, Subsection 74-445 (a) and subsection (a) of this Section, the Department may provide by regulation that the tax imposed on cigarettes by this Article, in the alternative, shall be collected by means of the filing of a sworn tax return to be prepared and filed by every wholesale tobacco dealer who sells cigarettes for consumption in the County of Cook. Said return shall be filed on a monthly basis and shall contain the same information required by Subsection 74-445(b) of this Article. Said return shall be filed with the Department on or before the fifteenth day of each month stating such other and further information as may be required by the Department, and said return shall be accompanied by a certified check in the amount of the tax due and payable upon such taxable sales made by said wholesale tobacco dealer in the County of Cook during the preceding month. In the event such alternative method is utilized, no other method of collecting said tax may be used; however, all other applicable provisions of this Article shall remain in full force and effect with the exception of the necessity of filing a quarterly tax return as provided in Section 74-443 of this Article, which shall not be required.

Sec. 74-447. - Rulemaking.

- (a) The Department shall prescribe reasonable rules, definitions, and regulations necessary to carry out the duties imposed upon it by this Article. Such rules, definitions, and regulations shall include, but not be limited to, reasonable procedures consistent with existing practices of wholesale tobacco and retail tobacco dealers for

collection and remittance of the tax herein levied.

- (b) The Department may appoint wholesale tobacco dealers and any other person within or without the County of Cook as agents for the tax herein levied. The Department is hereby authorized to grant a commission not exceeding .0045 or .45 percent per cigarette tax stamp sold by the County of Cook to such agent for services rendered in connection with the tax herein levied (in Section 74-433), provided said tax is remitted, in full, by the due date.
- (c) Within 30 days after the effective date of this Article every wholesale tobacco dealer doing business in the County of Cook shall file with the Department, on forms prescribed by it, a sworn inventory of cigarettes in their possession or control on March 1, 2013. With said inventory, the wholesale tobacco dealer shall submit a Department issued tax return and pay to the Cook County Collector the taxes due, including any additional taxes due as a result of this Article, as amended, with respect to all stamped cigarettes which were in such wholesale tobacco dealer's possession on March 1, 2013.
- (d) Within 30 days after the effective date of this Article every retail tobacco dealer doing business in the County of Cook shall file with the Department, on forms prescribed by it, a sworn inventory of cigarettes in their possession or control on March 1, 2013. With said inventory, the retail tobacco dealer shall submit a Department issued tax return and pay to the Cook County Collector the taxes due, including any additional taxes due as a result of this Article, as amended, with respect to all cigarettes which were in such retail tobacco dealer's possession on March 1, 2013.
- (e) Within 30 days after the effective date of this Article every retail tobacco dealer doing business in the County of Cook shall file with the Department, on forms prescribed by it, a sworn inventory of tobacco products in their possession or control on June 1, 2006. With said inventory, the retail tobacco dealer shall pay to the Cook County Collector the taxes due, including any additional taxes due as a result of this Article, as amended, with respect to all tobacco products which were in such retail tobacco dealer's possession on June 1, 2006.
- (f) Every retail tobacco dealer required to file a tax return under this Section who does not file such tax return by its due date, or alternatively does not provide all required information on such tax return, or fails to pay all required tax due computed thereon, shall be subject to a penalty of \$1,000.00 per business location required to be reported on the tax return, in addition to all other penalties and interest that may be due under the provisions of Chapter 34, Article III, Uniform Penalties, Interest and Procedures and Section 74-436 of this Article.

Sec. 74-448. - Transmittal of excess tax collections.

In the event a wholesale tobacco dealer, retail tobacco dealer or retail cigarette manufacturer collects an amount in excess of the tax imposed by this Article, as amended, which amount is purported to be a collection thereof, and said wholesale tobacco dealer, retail tobacco dealer or retail cigarette manufacturer fails to return the said excess amount to the purchaser who paid the tax, the said wholesale tobacco dealer, retail tobacco dealer or retail cigarette manufacturer who collected the tax shall account for and pay over all such excess amounts to the Department along with the tax properly collected.

Sec. 74-449. - Deposit of tax proceeds.

All proceeds resulting from the imposition of the tax under this Article, including penalties, shall be paid to the Department. The Department shall direct every dollar collected from the 2013 increase in the rate of the Home Rule Tobacco Tax to be deposited into the funds of the Cook County Health and Hospitals System for Fiscal Year 2013 as approved by the Budget Director. Deposit of tax proceeds following Fiscal Year 2013 shall be deposited into various funds and/or accounts as prescribed by the Budget Director.

Sec. 74-450. - Application of uniform penalties, interest and procedures ordinance.

Whenever not inconsistent with the provision of this Article or whenever this Article is silent, the provisions of the uniform penalties, interest and procedures ordinance, Article III, Chapter 34 of the Cook County Code of Ordinances shall apply and supplement this Article.

Effective date: This ordinance shall be in effect immediately upon adoption