

**COOK COUNTY ORDINANCE TO PROVIDE FOR A TAX ON
THE RETAIL SALE OF CIGARETTES**

PURSUANT TO THE HOME RULE AUTHORITY OF THE COUNTY OF COOK, A TAX IS HEREBY IMPOSED ON THE RETAIL SALE OF CIGARETTES IN COOK COUNTY.

BE IT ENACTED BY THE PEOPLE OF THE COUNTY OF COOK REPRESENTED IN THE COOK COUNTY BOARD, AN ORDINANCE TO PROVIDE FOR A TAX ON THE RETAIL SALE OF CIGARETTES.

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

"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.

"Manufacturer" means any person who makes or fabricates cigarettes, or packs and sells them in packages.

"Package" means the original packet, box or container whatsoever used to contain and to convey cigarettes to the consumer.

"Person" means, any natural, person, trustee, court appointed representative, syndicate, association, partnership, firm, club, company, corporation, business trust, institution, agency, government corporation, municipal corporation, district or other political subdivision, contractor, supplier, vendor, vendee, operator, user or owner, or any officers, agents, employees, or other representative, acting either for himself or for any other person in any capacity, or any other entity recognized by law as the subject of rights and duties. The masculine, feminine, singular, or plural is included in any circumstances.

"Retail Tobacco Dealer" means any person who engages in the business of selling cigarettes in the County of Cook to a purchaser for use or consumption and not for re-sale in any form.

"Sale," "Re-Sale," "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.

Note: Please be advised that this ordinance document is a courtesy copy for reference purposes only, and is not an official copy. To obtain an official copy of this ordinance, please contact the office of the County Clerk.

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

"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 Ordinance.

"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 or wholesale tobacco dealer as defined in this Ordinance.

"Wholesale Tobacco Dealer" means any person who engages in the business of selling or supplying cigarettes to any person for re-sale in the County of Cook.

2. (a) A tax at the rate of nine(9.0) mils 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 nine (9.0) mils per cigarette shall become in force and effect on January 1, 1997. The tax herein levied shall be in addition to any and all other taxes.

(b) The tax herein levied shall be paid by purchase of tax stamps from the Department, except as otherwise provided in Sections 1-9 (a) and (b) of this Ordinance. 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. Any stamp, which is defective or unused may be returned to the Department by a wholesale tobacco dealer, who shall, thereafter be credited or reimbursed with the amount paid the Department for such stamps.

(c) Any wholesale tobacco dealer who shall pay the tax levied by this Ordinance to the Department shall collect the tax from any retail tobacco dealer to whom the sale of said cigarettes is made; and any retail tobacco dealer shall, in turn, then collect the tax from the purchaser of said cigarettes. The tax shall be paid to the person required to collect it as trustee

Note: Please be advised that this ordinance document is a courtesy copy for reference purposes only, and is not an official copy. To obtain an official copy of this ordinance, please contact the office of the County Clerk.

for and on account of the County of Cook.

(d) It shall be unlawful for any retail tobacco dealer to purchase cigarettes from any person unless each package bears an unmutilated tax stamp affixed thereto and cancelled thereon in the manner required by this Ordinance and the rules and regulations of the Department. Possession by said retail tobacco dealer of cigarettes in the possession or control of a retail tobacco dealer at any time from June 1, 1980, through June 30, 1980, the tax on which has been paid to the County Collector, together with a sworn affidavit of the number of cigarettes in the retail tobacco dealer's possession or control at the start of business on June 1, 1980, shall give rise to the prima facie presumption that such cigarettes are possessed by him in violation of the provisions of this Ordinance.

3. The Department shall make and publish in pamphlet form, for distribution to the public, rules and regulations appropriate to and in furtherance of the purposes of this Ordinance.

4. (a) 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 by this Ordinance, 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) 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 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 3 regarding the use of use of such bonds or bank letters of credit.

Note: Please be advised that this ordinance document is a courtesy copy for reference purposes only, and is not an official copy. To obtain an official copy of this ordinance, please contact the office of the County Clerk.

(c) The Department may redeem unused tax stamps lawfully in the possession of any person. No person shall sell or offer for sale any stamp issued under this Ordinance, 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 Ordinance.

6. (a) At the time of delivering cigarettes 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, and the name of the purchaser to whom delivery is made and shall retain one legible copy of the same for a period of four years subject to the use and inspection of the Department.

(b) A sworn quarterly cigarette tax return shall be filed by said wholesale tobacco dealer with the Department, on forms prescribed by the Department. The dates upon which said quarterly returns are to be filed shall be provided by rules and regulations promulgated by the Department.

7. 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 stamp to any package of cigarettes, knowing said stamp to be counterfeit, shall be charged with forgery under the Illinois Criminal Code and shall be subject to prosecution for such a crime.

8. (a) Notwithstanding the provisions of Section 2(b) and (d), and, 4(a) of this Ordinance, the Department may provide by regulation that the tax imposed by this Ordinance 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 or the City Comptroller of the City of Chicago evidencing the payment of the tax imposed by this ordinance. Toward that end, the Department may make such arrangements and agreements with the Department of Revenue of the State of Illinois 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 or the City Comptroller of the City of Chicago due and payable to the County of Cook, in furtherance of the purposes of this Ordinance. In the event such alternative method as herein provided is utilized, no other method of collecting said tax may be used, however, all other applicable provisions of this Ordinance shall nevertheless remain in full force and effect.

Note: Please be advised that this ordinance document is a courtesy copy for reference purposes only, and is not an official copy. To obtain an official copy of this ordinance, please contact the office of the County Clerk.

(b) Notwithstanding the provisions of 2(b) and (d), 4(a) and subsection (a) of this section, the Department may provide by regulation that the tax imposed by this Ordinance, 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 7(b) of this Ordinance. 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 Ordinance shall remain in full force and effect with the exception of the necessity of filing a quarterly tax return as provided in 7(b) of this Ordinance, which shall not be required.

9. 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.
10. Whenever, the Department or any of its duly authorized representatives shall discover any cigarettes subject to any tax provided by this Ordinance 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 seize and take possession of such cigarettes together with any vending machine or receptacle shall thereupon be deemed to be forfeited to the County of Cook. The Department may, within a reasonable time, thereafter, by a public notice given at least five days before the day of the sale, sell such forfeited cigarettes and vending machines or receptacles at public sale and pay the proceeds to the Treasurer of the County of Cook. In the alternative, the Department, on reasonable notice, may permit the person from whom said cigarettes were seized, to redeem the same and any vending machine or receptacle seized therewith, by the payment of the tax due together with a penalty of fifty percent (50%), thereof, and the cost incurred in such proceeding, provided, however, that such seizure 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 Ordinance.
11. All proceeds resulting from the imposition of the tax under this Ordinance, including penalties, shall be paid to the Treasurer of the County of Cook.
12. Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with, or resisting or opposing the enforcement of

Note: Please be advised that this ordinance document is a courtesy copy for reference purposes only, and is not an official copy. To obtain an official copy of this ordinance, please contact the office of the County Clerk.

any of the provisions of this Ordinance, upon conviction thereof, shall be punished by a fine of three hundred dollars (\$300.00) for the first offense, and a fine of five hundred dollars (\$500.00) for the second and each subsequent offense in any 180-day period; provided, however, that all actions seeking the imposition of fines only shall be filed as quasi-criminal actions subject to the provisions of the Illinois Civil Practice Act (Ill. Rev.Stat.1969, Ch. 38, Pars. 100-1, et seq.) in a separate proceeding. A 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.

13. If any provision of this Ordinance, or the application thereof to any person or circumstances, is held invalid, the remainder of this Ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

14. This Ordinance, as amended, shall take effect and be in force on January 1, 1997.

Note: Please be advised that this ordinance document is a courtesy copy for reference purposes only, and is not an official copy. To obtain an official copy of this ordinance, please contact the office of the County Clerk.