

**Illinois Department of Revenue
Regulations**

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| Title 86 Part 660 Section 660.10 General Definitions |
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TITLE 86: REVENUE

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

Section 660.10 General Definitions

"Act" means the Tobacco Products Tax Act of 1995 [35 ILCS 143].

"Business" means any trade, occupation, activity, or enterprise engaged in, at any location whatsoever, for the purpose of selling tobacco products. [35 ILCS 143/10-5]

"Contraband little cigar" means:

packages of little cigars containing 20 or 25 little cigars that do not bear a required tax stamp under the Act;

packages of little cigars containing 20 or 25 little cigars that bear a fraudulent, imitation, or counterfeit tax stamp;

packages of little cigars containing 20 or 25 little cigars that are improperly tax stamped, including packages of little cigars that bear only a tax stamp of another state or taxing jurisdiction; or

packages of little cigars containing other than 20 or 25 little cigars in the possession of a distributor, retailer or wholesaler, unless the distributor, retailer, or wholesaler possesses, or produces within the time frame provided in Section 10-27 or 10-28 of the Act, an invoice from a stamping distributor, distributor, or wholesaler showing that the tax on the packages has been or will be paid. [35 ILCS 143/10-5]

"Department" means the Illinois Department of Revenue. [35 ILCS 143/10-5]

"Distributor" means any of the following:

Any manufacturer or wholesaler in this State engaged in the business of selling tobacco products who sells, exchanges, or distributes tobacco products to retailers or consumers in this State.

Any manufacturer or wholesaler engaged in the business of selling tobacco products from without this State who sells, exchanges, distributes, ships, or transports tobacco products to retailers or consumers located in this State, so long as that manufacturer or wholesaler has or maintains within this State,

directly or by subsidiary, an office, sales house, or other place of business, or any agent or other representative operating within this State under the authority of the person or subsidiary, irrespective of whether the place of business or agent or other representative is located here permanently or temporarily.

Any retailer who receives tobacco products on which the tax has not been or will not be paid by another distributor.

Distributor does not include any person, wherever resident or located, who makes, manufactures, or fabricates tobacco products as a part of a Correctional Industries program for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility. [35 ILCS 143/10-5] A Correctional Industries program is a program that employs committed persons confined in institutions and facilities of the Illinois Department of Corrections to make, manufacture, or fabricate tobacco products for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility.

"Little cigar" means and includes any roll, made wholly or in part of tobacco, where such roll has an integrated cellulose acetate filter and weighs less than 4 pounds per thousand and the wrapper or cover of which is made in whole or in part of tobacco. [35 ILCS 143/10-5]

"Manufacturer" means any person, wherever resident or located, who manufactures and sells tobacco products, except a person who makes, manufactures, or fabricates tobacco products as a part of a Correctional Industries program for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility. [35 ILCS 143/10-5]

"Moist snuff" means any finely cut, ground, or powdered tobacco that is not intended to be smoked, including tobacco products referred to as "snus", but does not include any finely cut, ground, or powdered tobacco that is intended to be placed in the nasal cavity. [35 ILCS 143/10-5]

"Person" means any natural individual, firm, partnership, association, joint stock company, joint venture, limited liability company, or public or private corporation, however formed, or a receiver, executor, administrator, trustee, conservator, or other representative appointed by order of any court. [35 ILCS 143/10-5]

"Place of business" means and includes any place where tobacco products are sold or where tobacco products are manufactured, stored, or kept for the purpose of sale or consumption, including any vessel, vehicle, airplane, train, or vending machine. [35 ILCS 143/10-5]

"Retailer" means any person in this State engaged in the business of selling tobacco products to consumers in this State, regardless of quantity or number of sales. [35 ILCS 143/10-5]

"Sale" means any transfer, exchange, or barter in any manner or by any means whatsoever for a consideration and includes all sales made by persons. [35 ILCS 143/10-5]

"Secondary distributor" means any person engaged in the business of selling cigarettes who purchases stamped original packages of cigarettes from a licensed distributor under the Cigarette Tax Act or the Cigarette Use Tax Act, sells 75% or more of those cigarettes to retailers for resale, and maintains an established business where a substantial stock of cigarettes is available to retailers for resale. [35 ILCS 130/1]

"Stamp" or "stamps" mean the indicia required to be affixed on a package of little cigars that evidence payment of the tax on packages of little cigars containing 20 or 25 little cigars under Section 10-10 of the Act. These stamps shall be the same stamps used for cigarettes under the Cigarette Tax Act. [35 ILCS 143/10-5]

"Stamping distributor" means a distributor licensed under the Act and also licensed as a distributor under the Cigarette Tax Act or Cigarette Use Tax Act. [35 ILCS 143/10-5]

"Tobacco products" means any cigars, including little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; 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 for chewing and smoking; but does not include cigarettes as defined by Section 1 of the Cigarette Tax Act or tobacco purchased for the manufacture of cigarettes by cigarette distributors and manufacturers defined in the Cigarette Tax Act and persons who make, manufacture, or fabricate cigarettes as a part of a Correctional Industries program for sale to residents incarcerated in penal institutions or resident patients of a State operated mental health facility. [35 ILCS 143/10-5]

"Wholesale price" means the established list price for which a manufacturer sells tobacco products to a distributor, before the allowance of any discount, trade allowance, rebate, or other reduction. In the absence of such an established list price, the manufacturer's invoice price at which the manufacturer sells the tobacco product to unaffiliated distributors, before any discounts, trade allowances, rebates, or other reductions, shall be presumed to be the wholesale price. [35 ILCS 143/10-5] The wholesale price of tobacco products is the established list price at the time of purchase, by the distributor who remits tax to the Department, of such tobacco products. Surcharges added by manufacturers or distributors are considered part of the wholesale price subject to tax.

"Wholesaler" means any person, wherever resident or located, who is engaged solely in making sales of tobacco products to others for resale or sales that are otherwise exempt from tax. "Wholesaler", when used in the Act, does not include a person licensed as a distributor under Section 10-20 of the Act unless expressly stated in the Act. [35 ILCS 143/10-5]

(Source: Amended at 40 Ill. Reg. 10954, effective July 29, 2016)