

**Illinois Department of Revenue
Regulations**

Title 86 Part 660 Section 660.28 Retailers – Purchase and Possession of Tobacco Products

TITLE 86: REVENUE

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

Section 660.28 Retailers – Purchase and Possession of Tobacco Products

The Act provides that any retailer who receives tobacco products on which the tax has not been or will not be paid by another distributor is considered a distributor and must obtain a distributor's license, file returns and pay the tax on those tobacco products. Effective July 1, 2013, the Act imposes new restrictions on retailers, i.e., a retailer may no longer purchase little cigars on which the tax has not been or will not be paid by a stamping distributor, regardless of whether the retailer possesses a distributor license under the Act. Beginning January 1, 2016, retailers licensed under Section 660.16 must obtain all tobacco products for sale only from stamping distributors, licensed distributors or wholesalers.

- a) Packages of Little Cigars Containing 20 or 25 Little Cigars
 - 1) *Retailers are prohibited from possessing unstamped packages of little cigars containing 20 or 25 little cigars at locations where retailers make sales of little cigars to consumers or users. Retailers that are also stamping distributors are prohibited from possessing unstamped little cigars at locations where those retailers make sales of packages of little cigars containing 20 or 25 little cigars to consumers or users. [35 ILCS 143/10-27(a)]*
 - 2) *Retailers that are not stamping distributors shall purchase stamped packages of little cigars containing 20 or 25 little cigars for resale only from stamping distributors, distributors, or wholesalers. Retailers who are not stamping distributors may not purchase or possess unstamped packages of little cigars containing 20 or 25 little cigars. [35 ILCS 143/10-27(a)]*
- b) Packages of Little Cigars Containing Other Than 20 or 25 Little Cigars
 - For purchases of packages of little cigars containing other than 20 or 25 little cigars, retailers who are not stamping distributors may not purchase or possess such packages of little cigars, unless the retailer receives an invoice from a stamping distributor, distributor, or wholesaler stating the tax on the packages has been or will be paid. Retailers shall retain the invoices for inspection by the Department. If a retailer maintaining multiple retail locations notifies the Department in writing that it maintains its invoices at a centralized business location, the Department shall have the authority to inspect invoices at the centralized business location at all times during the usual business hours of the day and the Department may grant the retailer 3 business days to produce the invoices at the retail location at which the request was made. [35 ILCS 143/10-27(b)]*

- c) *Notwithstanding anything to the contrary in the Act or this Part, a retailer unknowingly possessing contraband little cigars obtained from a stamping distributor, distributor, or wholesaler or other person engaged in the business of selling tobacco products or knowingly possessing contraband little cigars obtained from a stamping distributor is not subject to penalties for that purchase or possession if the retailer, within 48 hours after discovering that the little cigars are contraband little cigars, excluding Saturdays, Sundays, and holidays: notifies the Department and the person from whom the little cigars were obtained, orally and in writing, that he or she possesses contraband little cigars; places the contraband little cigars in one or more containers and seals those containers; and places on the containers the following or similar language: "Contraband Little Cigars. Not For Sale." All contraband little cigars in the possession of a retailer remain subject to forfeiture under the provisions of the Act. [35 ILCS 143/10-27(c)]*

- d) *No retailer shall possess tobacco products without either a proper invoice indicating that the tobacco products tax was paid by a distributor for the tobacco products in the retailer's possession or other proof that the tax was paid by the retailer if it has purchased tobacco products on which tax has not been paid as required by the Act. [35 ILCS 143/10-37]*

- e) *Beginning January 1, 2016, a person who possesses a retailer's license under Section 660.16 shall obtain tobacco products for sale only from a licensed distributor or licensed secondary distributor. [35 ILCS 143/10-22]*

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