

## AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An  
2 act relating to tax reform and State taxation by codifying  
3 and enumerating certain subjects of taxation and imposing  
4 taxes thereon; providing procedures for the payment,  
5 collection, administration and enforcement thereof; providing  
6 for tax credits in certain cases; conferring powers and  
7 imposing duties upon the Department of Revenue, certain  
8 employers, fiduciaries, individuals, persons, corporations  
9 and other entities; prescribing crimes, offenses and  
10 penalties," in cigarette tax, further providing for  
11 definitions and for stamp to evidence the tax; and adding  
12 provisions relating to tax on smokeless tobacco.

13 The General Assembly of the Commonwealth of Pennsylvania  
14 hereby enacts as follows:

15 Section 1. The definitions of "cigarette," and "cigarette  
16 stamping agency" in section 1201 of the act of March 4, 1971  
17 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended  
18 August 4, 1991 (P.L.97, No.22) and October 9, 2009 (P.L.451,  
19 No.48), are amended and the section is amended by adding  
20 definitions to read:

21 Section 1201. Definitions.--As used in this article:

22 \* \* \*

1 "Cigarette." Any roll for smoking made wholly or in part of  
2 tobacco, the wrapper or cover of which is made of any substance  
3 or material other than tobacco regardless of the size or shape  
4 of the roll and regardless of whether or not the tobacco is  
5 flavored, adulterated or mixed with any other ingredient or a  
6 little cigar. The term includes a roll-your-own cigarette.

7 "Cigarette paper." Any paper or any other material, except  
8 tobacco, prepared for use as a cigarette wrapper.

9 "Cigarette stamping agency." Any person, as defined in this  
10 article, who shall be licensed as such by the department for the  
11 purpose of affixing cigarette tax stamps to packages of:

12 (1) cigarettes and transmitting the proper tax to the  
13 Commonwealth, and who maintains separate warehousing facilities  
14 for the purpose of receiving and distributing cigarettes and  
15 conducting their business, who have received commitments from at  
16 least two cigarette manufacturers whose aggregate market share  
17 is at least forty per cent of the Commonwealth cigarette market  
18 and purchases cigarettes directly from cigarette manufacturers;  
19 or

20 (2) roll-your-own cigarettes.

21 \* \* \*

22 "Cigarette tube." Cigarette paper made into a hollow  
23 cylinder for use in making a cigarette.

24 \* \* \*

25 "Roll-your-own cigarette." A cigarette produced by a  
26 commercial cigarette-making machine.

27 \* \* \*

28 "Smokeless tobacco." A product containing finely cut,  
29 ground, powdered, blended or leaf tobacco made primarily for  
30 individual consumption which is intended to be placed in the

1 oral or nasal cavity and not intended to be smoked. The term  
2 includes chewing tobacco, dipping tobacco and snuff.

3 "Smokeless tobacco distributor or wholesaler." A person  
4 engaged in the business of selling smokeless tobacco that sells,  
5 exchanges or distributes smokeless tobacco to retailers,  
6 consumers or other wholesalers or distributors in this  
7 Commonwealth. The term includes a smokeless tobacco manufacturer  
8 that has within this Commonwealth any office, sales house or  
9 other place of business.

10 "Smokeless tobacco wholesale price." The price for which a  
11 smokeless tobacco manufacturer sells smokeless tobacco to a  
12 smokeless tobacco distributor or wholesaler, exclusive of any  
13 discount, rebate or other reduction.

14 \* \* \*

15 Section 2. Section 1215(g) of the act, amended October 9,  
16 2009 (P.L.451, No.48), is amended to read:

17 Section 1215. Stamp to Evidence the Tax.--\* \* \*

18 (g) [Stamps] The following provisions shall apply to the  
19 manner in which stamps are affixed to individual packages:

20 (1) Except as otherwise provided in paragraph (2), stamps  
21 shall be affixed to all individual packages containing from  
22 twenty to twenty-five cigarettes. Individual packages containing  
23 less than twenty or more than twenty-five cigarettes shall have  
24 stamps affixed unless the department determines the affixing of  
25 stamps is physically impractical due to the size or nature of  
26 the package or determines that the cost of affixing the stamps  
27 is unreasonably disproportionate to the tax to be collected.

28 (2) In the case of a retailer that sells roll-your-own  
29 cigarettes, the retailer shall affix a stamp or stamps to each  
30 box or similar container for roll-your-own cigarettes provided

1 by the retailer to the consumer. The consumer shall use the box  
2 or similar container to transport the roll-your-own cigarettes  
3 from the retailer's place of business. For the sale of roll-  
4 your-own cigarettes, the retailer shall provide to the consumer  
5 cigarette tubes in denominations approved by the Secretary of  
6 Revenue. Stamps shall be for an amount equaling the tax due  
7 under this act. Each cigarette tube or cigarette paper provided  
8 to the consumer shall be deemed a cigarette for purposes of  
9 imposing and collecting the tax under this act.

10 \* \* \*

11 Section 3. The act is amended by adding a section to read:  
12 Section 1237. Imposition and rate of tax on smokeless tobacco.

13 (a) Except as set forth in subsection (d), a tax is imposed  
14 on smokeless tobacco sold or held for sale in this Commonwealth  
15 by a smokeless tobacco distributor or wholesaler to a retailer  
16 or consumer. The tax is imposed on the smokeless tobacco  
17 wholesale price, regardless of the actual price at which the  
18 smokeless tobacco is sold and regardless of whether the  
19 smokeless tobacco is sold.

20 (b) A smokeless tobacco distributor or wholesaler that  
21 brings smokeless tobacco or causes smokeless tobacco to be  
22 brought into this Commonwealth is liable for the tax imposed by  
23 this section. The tax imposed is to be paid by the purchase of  
24 stamps as provided in this section. The stamp shall be affixed  
25 to or impressed upon each package of smokeless tobacco.

26 (c) The tax imposed under this section shall be at the rate  
27 of 59.2% of the wholesale price of the smokeless tobacco.

28 (d) It shall be presumed that all smokeless tobacco within  
29 this Commonwealth is subject to tax. The burden of proof of  
30 exemption under this subsection is on the taxpayer or remitter

1 claiming exemption.

2 (e) The tax collected under this section shall be deposited  
3 into the Property Tax Relief Fund.

4 Section 4. This act shall take effect in 60 days.