

## **CHAPTER 3-47 CHICAGO LIQUID NICOTINE PRODUCT TAX**

### **3-47-010 Title.**

This chapter shall be known and cited as the "Chicago Liquid Nicotine Product Tax Ordinance," and the tax herein imposed shall be known and cited as the "Chicago Liquid Nicotine Product Tax."

### **3-47-020 Definitions.**

Whenever any of the following words, terms, or phrases are used in this chapter, they shall have the following meanings:

"Department" means the department of finance of the City.

"Electronic cigarette" has the meaning ascribed to that term in Section 7-32-010 of this Code.

*"Liquid nicotine product" means: (1) any electronic cigarette containing liquid, gel, or other solution that contains nicotine; and (2) any other container of liquid, gel, or other solution where the liquid, gel, or other solution (i) contains nicotine and (ii) is intended to be utilized in an electronic cigarette. The term "liquid nicotine product" does not include any product regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act. 21 U.S.C. § 301 et seq.*

"Product unit" means each individual liquid nicotine product, without regard to whether the product is sold as a single piece or as multiple pieces within the same package.

"Purchaser" means any person who purchases in a retail sale.

"Retail liquid product nicotine dealer" or "retailer" means any person who engages in the business of the retail sale of liquid nicotine products in the City.

"Retail sale" means any sale to a person for use or consumption, and not for resale.

"Sale" or "purchase" means any transfer of ownership or title or both, any exchange or barter, in any manner or by any means whatsoever for a valuable consideration.

"Wholesale liquid nicotine product dealer" or "wholesaler" means any person who engages in the business of selling or supplying liquid nicotine products to any person for resale in the City.

### **3-47-030 Tax imposed.**

A tax is hereby imposed on the retail sale of liquid nicotine products in the City. This tax shall be paid by the purchaser, and nothing in this chapter shall be construed to impose a tax on the occupation of retail or wholesale liquid nicotine product dealer. The tax shall be imposed at a rate of \$0.80 per product unit, plus an additional \$0.55 per fluid milliliter of consumable liquid, gel, or other solution contained in the product.

SECTION 2. Following due passage and publication, this ordinance shall take effect on January 1, 2016, and the figures set forth herein shall be deemed to immediately supersede the figures set forth in Section 3-47-030 of the Municipal Code as set forth in the 2016 Substitute Revenue Ordinance, as Amended.

### **3-47-040 Liability for payment.**

The ultimate incidence and liability for payment of the tax imposed by this chapter is to be borne by the purchaser of liquid nicotine product. It shall be a violation of this chapter for a retail liquid

nicotine product dealer to fail to include the tax imposed herein in the sale price of the liquid nicotine product, or to otherwise absorb such tax.

**3-47-050 Collection.**

A. Except as otherwise provided herein, the tax imposed herein shall be collected by each wholesale liquid nicotine product dealer who sells a liquid nicotine product to a retail liquid nicotine product dealer located in the City. The wholesale liquid nicotine product dealer shall remit the tax and file returns in accordance with Section 3-47-060 of this chapter.

B. Any wholesale liquid nicotine product dealer required to remit the tax imposed by this chapter shall collect the tax from each retail liquid nicotine product dealer in the city to whom the sale of a liquid nicotine product is made, and any such retail liquid nicotine product dealer shall in turn then collect the tax from the retail purchaser of said liquid nicotine product.

C. If any retailer receives or otherwise obtains a liquid nicotine product upon which the tax imposed herein applies and has not been collected by any wholesale liquid nicotine product dealer, then the retailer shall collect such tax and remit it directly to the department in accordance with Section 3-47-060 of this chapter.

D. If a wholesale liquid nicotine product dealer sells a liquid nicotine product to a purchaser for use or consumption and not for resale, such wholesale liquid nicotine product dealer shall collect the tax imposed herein from such purchaser and remit it to the department in the same manner as sales to retail liquid nicotine product dealers.

**3-47-060 Tax payments and returns.**

A. All tax payments and remittances shall be made in accordance with either Section 3-4-187 (payment of actual tax liabilities) or Section 3-4-188 (payment of estimated taxes) of this Code.

B. All tax returns shall be filed with the department on an annual basis on or before August 15 of each year, in accordance with Sections 3-4-186 and 3-4-189 of this Code.

**3-47-070 Returns and payments required upon implementation of the tax and after future tax rate increases.**

A. The comptroller is authorized to establish by rule the filing date under this section, which shall be determined based on considerations of administrative efficiency and in no event be later than 24 days after the effective date of this section. The comptroller shall publish in one or more newspapers of general circulation in the city and post on the Department of Finance website a copy of the rule with the filing date a minimum of 10 days before that date occurs.

B. On or before the filing date set in accordance with subsection A of this section, every retail liquid nicotine product dealer shall file with the department, on a form prescribed by the comptroller, a tax return reporting the inventory of liquid nicotine products in the retailer's possession or control for sale in the City on the effective date of this section. The retailer shall include with the tax return any tax due on the inventory of liquid nicotine products in its control and possession for sale in the City for which all applicable tax has not been collected. The retailer shall in turn collect the tax from its retail purchasers.

C. Every retail liquid nicotine product dealer who possesses liquid nicotine products for sale in the City purchased prior to the effective date of a Chicago liquid nicotine products tax increase shall file with the department, on a form prescribed by the comptroller, a tax return attesting to the quantities of such liquid nicotine products in its possession as of the last day prior to the tax

increase and remit to the department the amount of tax due as a result of each rate increase. The retailer shall in turn collect the tax from its retail purchasers. Each such tax return and payment due under this subsection shall be filed and received by the department by the 24<sup>th</sup> day following the effective date of each tax increase.

D. Every retail liquid nicotine product dealer required to file a tax return under subsection B or C of 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 remit all required tax due computed thereon, shall be subject to a penalty of \$100.00 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 Uniform Revenue Procedures Ordinance, Chapter 3-4 of this Code.

E. If the comptroller determines that a person subject to the penalty in subsection D of this section had reasonable cause for paying late, underpaying the applicable tax, or filing a late or incomplete tax return, then the applicable penalty shall be waived.

F. The comptroller, or his or her designee, may at any time during the statute of limitations outlined in Section 3-4-120 of this Code examine the books and records of any person required to file a tax return under this section, and may issue a tax determination and assessment to the person per Section 3-4-160 of this Code, if a determination is made that any amount of tax, penalty, or interest is due.

G. Every person required to file a tax return under subsection B or C of this section who files a complete tax return by its due date and makes timely payment of the amount computed thereon shall be eligible to retain a commission in the amount of one percent of the tax computed due thereon.

### **3-47-080 Books and records.**

Every person required to collect the tax imposed by this chapter shall keep accurate books and records of its business or activity, including original source documents and books of entry denoting the transaction that gave rise, or may have given rise, to the tax liability or any exemption that may be claimed. All such books and records shall be kept in the English language and, at all times during business hours of the day, shall be subject to and available for inspection by the department.

### **3-47-090 Payment of tax required.**

The failure of the wholesale or retail liquid nicotine product dealer to collect the tax herein imposed shall not relieve the purchaser of his duty to pay it. If the wholesale and retail liquid nicotine product dealer fail to collect the tax, the purchaser shall be required to pay it directly to the department in the same manner and form as a retail liquid nicotine product dealer.

### **3-47-100 Authority to appoint collection agents.**

In furtherance of administering this chapter, the comptroller shall have the authority to appoint one or more persons within or without the City as collection agents for the tax herein imposed. This includes the authority to enter into service agreements with public and private entities, and to perform any and all acts, including the expenditure of funds subject to appropriation therefor, as shall be necessary or advisable in connection with such service agreements, including any renewals thereto.

**3-47-110 Exemptions.**

A. This tax shall not apply to the extent it would violate the United States Constitution or the Constitution of the State of Illinois.

B. It shall be presumed that all sales of liquid nicotine product from wholesale or retail liquid nicotine product dealers are subject to tax under this chapter until the contrary is established. The burden of proving that such is not taxable hereunder shall be upon the person so claiming.

**3-47-120 Registration.**

Every wholesale liquid nicotine product dealer shall register with the department within 30 days after the date of commencing such business.

**3-47-130 Supplementary provisions.**

Whenever not inconsistent with the provisions of this chapter, or whenever this chapter is silent, the provisions of the Uniform Revenue Procedures Ordinance. Chapter 3-4 of this Code, as amended, shall apply and supplement this chapter.

**3-47-140 Rules and regulations.**

The comptroller is authorized to adopt, promulgate, and enforce rules and regulations pertaining to the administration and enforcement of this chapter.

**3-47-150 Deposit of funds.**

All proceeds resulting from the imposition of this tax, including interest and penalties,