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City Council Document Tracking Sheet

Meeting Date:	11/9/2011
Sponsor(s):	O'Shea, Matthew J. (19) Hairston, Leslie A. (5)
Type:	Ordinance
Title:	Amendment of Title3 of Municipal Code by adding new Chapter 80 to impose tax on tobacco products
Committee(s) Assignment:	Committee on Finance

ORDINANCE

WHEREAS, the City of Chicago is a home rule unit government pursuant to the 1970 Illinois Constitution, Article VII, Section 6(a); and

WHEREAS, pursuant to its home rule power, the City of Chicago may exercise any power and perform any function relating to its government and affairs, including the authority to tax; NOW THEREFORE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. Title 3 of the Municipal Code of Chicago, is hereby amended by inserting a new Chapter, as follows:

3-80 Tobacco Products Tax

3-80-010 Definitions.

For the purpose of this chapter, whenever any of the following words or terms is used herein, it shall have the meaning ascribed to it in this section:

“Department” means the City’s Department of Revenue.

“Director of revenue” means the Director of the City’s Department of Revenue.

“Manufacturer” means any person who makes or fabricates tobacco products.

“Person” means any natural person, trustee, court- appointed representative, syndicate, association, partnership, limited liability company, firm, club, company, corporation, business trust, institution, agency, government corporation, municipal corporation, district or other political subdivision, or any other entity recognized by law as the subject of rights and duties.

“Retail tobacco products dealer” means any person who engages in the business of selling tobacco products in the City of Chicago to a purchaser for use or consumption and not for resale in any form.

“Sale,” “resale,” and “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.

“Tobacco products” means any 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 or tobacco purchased for the manufacture of cigarettes by cigarette wholesale tobacco dealers and manufacturers as defined in Chapter 3-42 of this Code.

“Use” means any exercise of 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 products dealer as defined in this chapter.

“Wholesale price” means the established list price for which a manufacturer sells tobacco products to a wholesale tobacco products dealer, 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 wholesale tobacco products dealers, before any discounts, trade allowances, rebates, or other reductions, shall be presumed to be the wholesale price.

“Wholesale tobacco products dealer” means any person who engages in the business of selling or supplying tobacco products to any person for resale in the City of Chicago.

3-80-020 Tax imposed.

(a) A tax at the rate of 18% of the wholesale price is hereby imposed upon all tobacco products possessed for sale and upon the use of all tobacco products within the City of Chicago, the ultimate incidence of and liability for payment of said tax to be borne by the consumer of said tobacco products. The tax herein levied shall be in addition to any and all other taxes.

(b) The tax shall be paid to the Department by each wholesale tobacco products dealer who sells or otherwise disposes of tobacco products to a retail tobacco products dealer in the City of Chicago.

(c) Any wholesale tobacco products dealer who shall pay the tax imposed by this chapter shall collect the tax from the retail tobacco products dealer to whom the sale of the cigarettes is made, and the retail tobacco products dealer shall in turn collect the tax from the purchaser of the tobacco products. The tax shall be paid to the person required to collect it as trustee for and on account of the City of Chicago.

3-80-030 Returns.

(a) Every wholesale tobacco products dealer required to pay the tax imposed by this Chapter shall, on or before the 15th day of each month, file a return with the

Department covering the preceding calendar month. The return shall disclose the wholesale price for tobacco products sold or otherwise disposed of and other information that the Department may reasonably require. The return shall be filed upon a form prescribed and furnished by the Department.

(b) At the time when any tax return of any wholesale tobacco products dealer is due to be filed with the Department, the wholesale tobacco products dealer shall also remit to the Department the tax liability that the wholesale tobacco products dealer has incurred for transactions occurring in the preceding calendar month.

(c) The Director, 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 party required to file a tax return under this section and may issue a tax determination and assessment to the party as per Section 3-4-160 of this Code if a determination is made that any amount of tax, penalty or interest is due.

(d) Every person required to file a tax return under 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.

3-80-040 Violations and penalties.

(a) Every wholesale tobacco products dealer required to file a tax return under this Chapter who does not file such return by its due date, or alternatively does not provide all required information on such tax return, or fails to pay all required tax due computed thereon, shall be subject to a penalty of \$1000.00, in addition to all other penalties and interest that may be due under the provisions of the Uniform Revenue Procedures Ordinance, Chapter 3-4 of this Code.

(b) Any penalties under this Section shall be waived if the Director determines that a party to whom the penalties has accrued had reasonable cause for paying late, underpaying the applicable tax, or filing a late or incomplete tax return.

3-80-050 Record keeping.

Every tobacco products dealer required to pay the tax imposed by this Chapter shall keep complete and accurate records of tobacco products held, purchased, manufactured, brought in or caused to be brought in from without the City, and tobacco products sold, or otherwise disposed of, and shall preserve and keep all invoices, bills of lading, sales records, and copies of bills of sale, the wholesale price for tobacco products sold or otherwise disposed of, an inventory of tobacco products prepared as of December 31 of each year or as of the last day of the tobacco products dealer's fiscal year if he or she files federal income tax returns on the basis of a fiscal year, and other pertinent papers and documents relating to the manufacture, purchase, sale, or disposition of tobacco products. Books, records, papers, and documents that are required by this

Chapter to be kept shall, at all times during the usual business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees. The books, records, papers, and documents for any period with respect to which the Department is authorized to issue a notice of tax liability shall be preserved until the expiration of that period.

3-80-060 Inspections.

The Director of Revenue, the Commissioner of the Department of Business Affairs and Consumer Protection, or any person authorized by either may enter the premises of any wholesale or retail tobacco products dealer for inspection and examination of property, inventory, books and records for the proper administration of this Chapter and enforcement of the collection of the tax imposed. It is unlawful for any person to prevent, hinder or interfere with the Director of Revenue or Commissioner of the Department of Business Affairs and Consumer Protection or their duly authorized deputies or representatives in the discharge of their duties in the enforcement of this Chapter.

3-80-070 Director of revenue authorized to make rules and regulations.

The Director of Revenue may adopt, promulgate, and enforce rules and regulations appropriate to and in furtherance of the purposes of this Chapter.

3-80-080 Proceeds to be paid into city treasury.

All proceeds resulting from the imposition of the tax under this Chapter, including penalties, shall be paid into the treasury of the City of Chicago and shall be credited to and deposited in the corporate fund of the city.


3-80-090 Saving clause.

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

3-80-100 Application of Uniform Revenue Procedures Ordinance.

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 the Municipal Code of Chicago, as amended, shall apply and supplement this Chapter.

SECTION 2. This ordinance shall be in full force and effect 120 days after its passage and publication.


Matt O'Shea, Alderman, 19th Ward


Leslie A. Hawston 5TH