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State of Connecticut
TAX DEPARTMENT

AN ACT CONCERNING
A TEMPORARY CIGARETTE TAX

Chapter 211—Public Acts 1935
As Amended

(Not an official copy)

OFFICE OF THE
TAX COMMISSIONER
STATE CAPITOL
Hartford, Connecticut



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AN ACT CONCERNING A TEMPORARY CIGARETTE TAX

Chapter 211—Public Acts 1935 As Amended

Section 1. **Definitions.** Whenever used in this act, unless the context shall otherwise require: The words "tax commissioner" or the word "commissioner" shall mean the state tax commissioner; the word "person" shall mean any individual, firm, fiduciary, partnership, corporation, trust or association, however formed; the word "distributor" shall mean any person engaged in this state in the business of producing or manufacturing cigarettes or importing into the state cigarettes at least seventy-five per cent of which are purchased directly from the manufacturers thereof; the words "licensed distributor" shall mean a distributor licensed under the provisions of this act; the word "dealer" shall mean any person other than a distributor, as defined herein, who is engaged in this state in the business of selling cigarettes; the words "licensed dealer" shall mean a dealer licensed under the provisions of this act; the word "sale" or "sell" shall include or apply to gifts, exchanges and barter.

Section 2. **Dealers and distributors to be licensed.** Each person engaging in the business of selling cigarettes in this state, including any distributor or dealer, shall secure a license from the tax commissioner before engaging in such business, or continuing to engage therein after the effective date of this act. A separate application and license shall be required for each **wholesale outlet and for each retail outlet** when a person shall own or control more than one place of business dealing in cigarettes. Such license shall be issued by the commissioner on application, stating, on forms prescribed by the commissioner, the name and address of the applicant, the address of the place of business at which it is proposed to engage in such business, the type of business and such other information as the commissioner may require for the proper administration of this act. Each such application **for a wholesale outlet license** shall be accompanied by a fee of **twenty-five dollars, and each such application for a retail outlet license shall be accompanied by a fee of one dollar.** Each license so issued shall be prominently displayed on the premises covered by the license. Any person who shall sell, offer for sale or possess with intent to sell, any cigarettes without a license as provided in this section, shall be fined not more than twenty-five dollars for the first offense not less than twenty-five dollars nor more than two hundred dollars for each subsequent offense.

Section 3. License to be valid for one year. Each license issued under the provisions of section two of this act shall be valid for a period of one year from the date of its issuance, unless sooner revoked by the commissioner, as provided in section four of this act, or unless the business with respect to which such license was issued shall be transferred, in either of which cases the holder of the license shall immediately return it to the commissioner. The holder of each license may, annually, before the expiration date of the license then held by him, renew his license for a further period of one year, on application accompanied by a fee of **one-half the amount prescribed in section two, of this act, as amended.**

Section 4. Revocation of license. The commissioner may revoke the license of any dealer or distributor for failure to comply with any provision of this act. Any person aggrieved by such revocation may apply to the commissioner for a hearing as provided in section sixteen of this act and may further appeal to the courts as provided in section seventeen of this act.

Section 5. One mill tax imposed. A tax is imposed on all cigarettes held in this state by any person for sale, said tax to be at the rate of one mill for each cigarette, and the payment thereof to be evidenced by the affixing of stamps to the packages containing the

cigarettes, as hereinafter provided. Any cigarette on which a tax has been paid, such payment being evidenced by the affixing of such stamp, shall not be subject to a further tax under this act. Nothing contained in this act shall be construed to impose a tax on any transaction the taxation of which by this state is prohibited by the constitution of the United States.

Section 6. Commissioner to provide stamps. The tax commissioner shall secure stamps, of such design and denomination as he shall prescribe, suitable to be affixed to packages of cigarettes as evidence of the payment of the tax imposed by this act. He shall sell such stamps to licensed distributors at a discount of ten per cent of their face value and to licensed dealers at their face value. The commissioner may, in his discretion, permit a licensed distributor or licensed dealer to pay for such stamps within thirty days after the date of purchase, provided a bond satisfactory to the commissioner in an amount not less than the sale price of such stamps shall have been filed with the commissioner conditioned upon payment for such stamps. He shall keep accurate records of all stamps sold to each distributor and dealer and shall pay over all receipts from the sale of stamps to the state treasurer daily.

Section 7. Dealers and distributors not to resell stamps; redemption. No distributor or dealer shall sell or transfer any stamps issued

under the provisions of this act. The commissioner shall redeem any unused, uncanceled stamps presented by any licensed distributor or licensed dealer on or before September 1, 1939, at a price equal to ninety-five per cent of their face value.

Section 8. Distributors to affix stamps. Each distributor shall affix, or cause to be affixed, in such manner as the commissioner may specify in regulations issued pursuant to this act, to each individual package of cigarettes sold or distributed by him, stamps of the proper denomination, as required by section five of this act. Such stamps may be affixed by a distributor at any time before the cigarettes are transferred out of his possession.

Section 9. Dealers to affix stamps. Each dealer shall, within twenty-four hours after the effective date of this act, and within twenty-four hours after coming into possession of any cigarettes not bearing proper stamps evidencing payment of the tax imposed by this act, and before selling such cigarettes, affix or cause to be affixed, in such manner as the commissioner may specify in regulations issued pursuant to this act, to each individual package of cigarettes, stamps of the proper denomination, as required by section five of this act.

Section 10. Sale of unstamped cigarettes prohibited. No distributor shall sell, and no other person shall sell, offer for sale, display

for sale or possess with intent to sell, any cigarettes which do not bear stamps evidencing the payment of the tax imposed by this act, provided a licensed dealer may keep on hand unstamped cigarettes for a period not exceeding twenty-four hours. Any unstamped cigarettes in the possession of a dealer shall be presumed to have been held by him for more than twenty-four hours unless proof be shown to the contrary. Any person who shall violate any provision of this section shall be fined not more than five hundred dollars for the first offense and, for each subsequent offense, shall be fined not less than two hundred dollars nor more than two thousand dollars or be imprisoned not more than one year or be both fined and imprisoned.

Section 11. Unstamped cigarettes subject to confiscation. Any cigarettes found at any place in this state without stamps affixed thereto as required by this act, unless such cigarettes shall be in the possession of a licensed distributor, or unless they shall be in course of transit from without this state and consigned to a licensed distributor or licensed dealer, or unless they shall have been received by a licensed dealer from without the state within twenty-four hours, are declared to be contraband goods and may be seized by the commissioner, his agents or employees, or by any peace officer of this state when directed by the commissioner to do so, without a warrant, provided nothing herein shall be con-

strued to require the commissioner to confiscate unstamped cigarettes when he shall have reason to believe that the owner thereof is not wilfully or intentionally evading the tax imposed by this act. Any cigarettes seized under the provisions of this act shall be offered by the commissioner for sale at public auction to the highest bidder after advertisement, as provided in section twelve of this act. The commissioner shall deliver to the state treasurer the proceeds of any sale made under the provisions of this section. Before delivering any cigarettes so sold to the purchaser, the commissioner shall require such purchaser to affix the amount of stamps to the packages required by this act. The seizure and sale of any cigarettes under the provisions of this section shall not relieve any person from a fine or other penalty for violation of this act.

Section 12. Procedure on sale of seized cigarettes. When any cigarettes shall have been seized under the provisions of section eleven of this act, the commissioner shall advertise them for sale, in a newspaper published or having a circulation in the town in which the seizure took place, at least five days before the sale. Any person claiming an interest in such cigarettes may make written application to the commissioner for a hearing, stating his interest in the cigarettes and his reasons why they should not be forfeited. Further proceedings on such application for

hearing shall be taken as provided in sections sixteen and seventeen of this act. No sale of any cigarettes under the provisions of section eleven of this act shall be made while an application for a hearing is pending before the commissioner, but the pendency of an appeal under the provisions of section seventeen of this act shall not prevent the sale unless the appellant shall post a satisfactory bond, with surety, in an amount double the estimated value of the cigarettes, conditioned upon the successful termination of the appeal.

Section 13. Fraudulent stamps. Any person who shall fraudulently make or utter or shall forge or counterfeit any stamp prescribed by the tax commissioner under the provisions of this act, or who shall cause or procure the same to be done, or who shall wilfully utter, publish, pass or render as true, any false, altered, forged or counterfeited stamp, or who shall knowingly possess any such false, altered, forged or counterfeited stamp, or who shall use more than once any stamp provided for and required by this act, for the purpose of evading the tax hereby imposed, shall be deemed guilty of a felony and, upon conviction thereof, shall be imprisoned for not less than one year nor more than ten years.

Section 14. Taxpayers to keep records; commissioner may examine. Each distributor and each dealer shall keep complete and ac-

curate records of all cigarettes manufactured, produced, purchased and sold. Such records shall be of such kind and in such form as the tax commissioner may prescribe and shall be safely preserved for three years in such manner as to insure permanency and accessibility for inspection by the commissioner and his authorized agents. The commissioner and his authorized agents may examine the books, papers and records of any distributor or dealer in this state, for the purpose of determining whether the tax imposed by this act has been fully paid, and may investigate and examine the stock of cigarettes in or upon any premises where such cigarettes are possessed, stored or sold, for the purpose of determining whether the provisions of this act are being obeyed.

Section 15. Oaths and subpoenas. The commissioner and any agent of the commissioner duly authorized to conduct any inquiry, investigation or hearing hereunder shall have power to administer oaths and take testimony under oath relative to the matter of inquiry or investigation. At any hearing ordered by the commissioner, the commissioner or his agent authorized to conduct such hearing and having authority by law to issue such process may subpoena witnesses and require the production of books, papers and documents pertinent to such inquiry. No witness under subpoena authorized to be issued by the provisions of this act shall be excused

from testifying or from producing books or papers on the ground that such testimony or the production of such books or other documentary evidence would tend to incriminate him, but such evidence or the books or papers so produced shall not be used in any criminal proceeding against him. If any person shall disobey such process or, having appeared in obedience thereto, shall refuse to answer any pertinent question put to him by the commissioner or his authorized agent or to produce any books and papers pursuant thereto, the commissioner or such agent may apply to the superior court of the county wherein the taxpayer resides or wherein the business has been conducted, or to any judge of said court if the same shall not be in session, setting forth such disobedience to process or refusal to answer, and said court or such judge shall cite such person to appear before said court or such judge to answer such question or to produce such books and papers, and, upon his refusal so to do, shall commit him to jail until he shall testify, but not for a longer period than sixty days. Notwithstanding the serving of the term of such commitment by any person, the commissioner may proceed in all respects with such inquiry and examination as if the witness had not previously been called upon to testify. Officers who serve subpoenas issued by the commissioner or under his authority and witnesses attending hearings conducted by him hereunder

shall receive fees and compensation at the same rates as officers and witnesses in the courts of this state, to be paid on vouchers of the commissioner on order of the comptroller from the proper appropriation for the administration of this act.

Section 16. Hearings by commissioner. Any person aggrieved by any action under this act of the commissioner or his authorized agent for which hearing is not elsewhere provided may apply to the commissioner, in writing, within ten days after the notice of such action is delivered or mailed to him, for a hearing, setting forth the reasons why such hearing should be granted and the manner of relief sought. The commissioner shall promptly consider each such application and may grant or deny the hearing requested. If the hearing be denied, the applicant shall be notified thereof forthwith; if it be granted, the commissioner shall notify the applicant of the time and place fixed for such hearing. After such hearing, the commissioner may make such order in the premises as may appear to him just and lawful and shall furnish a copy of such order to the applicant. The commissioner may, by notice in writing, at any time, order a hearing on his own initiative and require the taxpayer or any other individual whom he believes to be in possession of information concerning any manufacture, importation or sale of cigarettes which have

escaped taxation to appear before him or his duly authorized agent with any specific books of account, papers or other documents, for examination relative thereto.

Section 17. Appeals from decisions of commissioner. Any person aggrieved because of any action or decision of the commissioner under the provisions of this act may appeal therefrom to the superior court for Hartford county, which appeal shall be accompanied by a citation to the tax commissioner to appear before said court. Such citation shall be signed by the same authority, and such appeal shall be returnable at the same time and served and returned in the same manner, as is required in case of a summons in a civil action. The authority issuing the citation shall take from the appellant a bond or recognizance to the state of Connecticut, with surety to prosecute the appeal to effect and to comply with the orders and decrees of the court in the premises. Such appeals shall be preferred cases, to be heard, unless cause appear to the contrary, at the first session, by the court or by a committee appointed by it. Said court may grant such relief as may be equitable and may order the treasurer to pay the amount of such relief, with interest at the rate of six per cent per annum, to the aggrieved taxpayer. If the appeal shall have been taken without probable cause, the court may tax double or triple costs, as the case shall demand; and, upon all such appeals

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which may be denied, costs may be taxed against the appellant at the discretion of the court, but no costs shall be taxed against the state.

Section 18. Administration by commissioner; rulings and regulations. The administration of this act is vested in the tax commissioner. All forms necessary and proper for the enforcement of this act shall be prescribed and furnished by the commissioner. The commissioner shall appoint such agents, clerks, stenographers and other assistants as he may deem necessary for effecting the purposes of this act, but their salaries shall be fixed by the Board of Finance and Control. The commissioner may require any such agent, clerk, stenographer or other assistant to execute a bond in such sum as said commissioner shall determine for the faithful discharge of his duties. Any such agent, clerk, stenographer or other assistant may be removed by the commissioner. The tax commissioner may prescribe regulations and rulings, not inconsistent with law, to carry into effect the provisions of this act, which regulations and rulings, when reasonably designed to carry out the intent and purpose of this act, shall be prima facie evidence of its proper interpretation. The commissioner shall, at least annually, and oftener in his discretion, publish for distribution all regulations prescribed hereunder and such rulings as appear to him to be of general interest.

Section 19. The tax commissioner, if he shall determine that it is practicable to stamp by impression packages of cigarettes by means of a metering machine, may, in lieu of selling stamps under the provisions of section six of chapter 211 of the public acts of 1935, as amended by this act, authorize any licensed distributor or licensed dealer to use any metering machine approved by him, such machine to be sealed by the commissioner before being used and to be used in accordance with regulations prescribed by him. Any licensed distributor or licensed dealer authorized by the tax commissioner to affix stamps to packages by means of a metering machine shall file with the commissioner a bond issued by a surety company licensed to do business in this state, in such amount as the tax commissioner may fix, conditioned upon the payment of the tax upon cigarettes so stamped. The bond shall be in full force and effect for a period of one year and a day after the expiration of the bond, unless a certificate be issued by the tax commissioner to the effect that all taxes due to the state have been paid. In the discretion of the tax commissioner, cash may be accepted in lieu of a surety bond, such cash to be paid over by the tax commissioner to the state treasurer, who may deposit or hold the same subject to further order of the tax commissioner. The tax commissioner shall cause each metering machine approved by him to be read and inspected

at least once a month and shall determine as of the time of each inspection the amount of tax due from the distributor or dealer using such machine after allowing for the discount, if any, provided for in section six of said chapter 211, as amended, which tax shall be due and payable upon demand of the tax commissioner or his duly authorized agent.

Section 20. When the tax commissioner shall find that the collection of the tax imposed by chapter 211 of the public acts of 1935, as amended by this act, would be facilitated thereby, he may authorize any person resident or located outside this state engaged in the business of selling and shipping cigarettes into this state and purchasing at least seventy-five per cent of such cigarettes from the manufacturers thereof, upon complying with the requirements of the commissioner, to affix, or cause to be affixed, the stamps required by said chapter on behalf of the purchasers of such cigarettes who would otherwise be taxable therefor, and the commissioner may sell such stamps to such person as provided in section six of said chapter 211, as amended by this act, or authorize the use of a machine by such person as provided in section five of this act. The commissioner shall require a bond of such non-resident person, satisfactory to the commissioner, in an amount not to exceed ten thousand dollars, conditioned upon the payment of the tax and compliance with such

other requirements as the commissioner may specify. Such bond shall be issued by a surety company licensed to do business in the state and shall be in full force and effect for a period of one year and a day after the expiration of the bond, unless a certificate be issued by the tax commissioner to the effect that all taxes due to the state have been paid. In the discretion of the commissioner, cash may be accepted in lieu of a surety bond; such cash to be paid over by the commissioner to the state treasurer, who may deposit or hold the same subject to further order of the commissioner. Such non-resident person shall agree to submit his books, accounts and records to examination during reasonable business hours by the commissioner or his duly authorized agent. Each such non-resident person, other than a foreign corporation which has complied with the provisions of section 3489 of the general statutes, shall, in writing, appoint the secretary of the state and his successors in office to be his attorney, such appointment to be made, acknowledged and filed in the manner prescribed in said section 3489. Service upon said attorney shall be sufficient service upon any such non-resident person, whether a foreign corporation which has complied with the provisions of said section 3489 or not, and may be made by leaving a duly attested copy of the process with the secretary of the state or at his office. When legal process against

any such non-resident person shall be served upon the secretary of the state, he shall notify such non-resident person in the manner specified in section 3490 of the general statutes and shall collect the fee specified therein. Any person complying with the provisions of this section shall thereupon become a licensed distributor within the meaning of said chapter 211 and of this act, and shall be subject to all provisions of said chapter 211 and of this act applicable to licensed distributors, except as otherwise ruled by the tax commissioner.

Section 21. Act to be temporary. This act shall apply only to cigarettes sold by distributors, or held by dealers for resale, between July 1, 1935, and June 30, 1939, inclusive.

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