

DEPARTMENT OF TAXATION

2005 Fiscal Impact Statement

1. **Patron** Kathy J. Byron

2. **Bill Number** HB 2625

3. **Committee** Passed House and Senate

House of Origin:

 Introduced

 Substitute

 Engrossed

4. **Title** Cigarette Tax; Dealer Discount

Second House:

 In Committee

 Substitute

 X **Enrolled**

5. **Summary/Purpose:**

This bill would increase the dealer discount allowed on the purchase of cigarette tax revenue stamps from 2.5 cents per carton to two percent of the amount charged by the Department of Taxation for the stamps. The bill would also provide a dealer discount to dealers of other tobacco products equal to two percent of the total tax due from the dealer. Additionally, this bill would provide that on a monthly basis, an amount equal to the additional cigarette and tobacco products dealer discounts allowed by this bill would be transferred from the General Fund to the Health Care Fund.

The effective date of this bill is not specified.

6. **Fiscal Impact Estimates are:** Preliminary. (See Line 8.)

6b. **Revenue Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2005-06	<\$2.29 million >	General Fund
	<\$0.21million >	Health Care Fund
2006-07	<\$2.51 million >	General Fund
2007-08	<\$2.52 million >	General Fund
2008-09	<\$2.53 million >	General Fund
2009-10	<\$2.55 million >	General Fund
2010-11	<\$2.57 million >	General Fund

7. **Budget amendment necessary:** Yes.

Item(s): 326, Health Care Fund

8. **Fiscal implications:**

As cigarette tax and tobacco products tax revenues are deposited into the Health Care Fund, it is estimated that the increased cigarette tax dealers discount and the new tobacco products tax dealer discount would decrease the Health Care Fund by \$2.50 million in Fiscal Year 2006, \$2.51 million in Fiscal Year 2007, \$2.52 million in Fiscal Year 2008, \$2.53 million in Fiscal Year 2009, \$2.55 million in Fiscal Year 2010 and \$2.57

million in Fiscal Year 2011. The Health Care Fund would be reimbursed for this loss from the General Fund. However, as the Health Care Fund would receive reimbursement payments from the General Fund one month after cigarette dealer discounts are allowed and two months after tobacco products dealer discounts are allowed, it is estimated that even after the reimbursement from the General Fund there would be a one-time decrease in the Health Care Fund of \$0.21 million in Fiscal Year 2006.

It is estimated that the reimbursements to the Health Care Fund required by this bill would decrease General Funds available for other appropriation by \$2.29 million in Fiscal Year 2006, \$2.51 million in Fiscal Year 2007, \$2.52 million in Fiscal Year 2008, \$2.53 million in Fiscal Year 2009, \$2.55 million in Fiscal Year 2010 and \$2.57 million in Fiscal Year 2011.

The Department's cost to implement this bill would be minimal.

9. Specific agency or political subdivisions affected:

Department of Taxation

10. Technical amendment necessary: No.

11. Other comments:

Cigarette Tax

The state cigarette tax is currently 20 cents per pack. It will increase to 30 cents per pack on July 1, 2005. The cigarette tax is paid by stamping agents when they purchase revenue stamps from the Department to affix to packs of cigarettes. A discount equal to 2.5 cents for a ten-pack carton of cigarettes has been available to stamping agents since 1973. Previously, the discount was 5% of the amount charged by the Department of Taxation for the stamps.

Tobacco Products Tax

A tobacco products tax will be imposed on cigars, smokeless tobacco, pipe tobacco and roll-your-own tobacco, effective March 1, 2005. There is currently no dealer discount allowed for the tobacco products tax.

In general, the tobacco products tax will be imposed on wholesale dealers located within the Commonwealth that sell tobacco products to retail dealers or institutional, commercial or industrial users located within the Commonwealth. The tax will be imposed at a rate of 10 percent of the sales price charged by the wholesale dealer. Chain store distribution centers that distribute tobacco products to their stores for sale at retail will be deemed to be wholesale dealers selling to retail dealers and the tax will be imposed at a rate of 10 percent of the purchase price paid by the distribution center.

In the case of a retail dealer located within the Commonwealth that purchases tobacco products from a wholesale dealer located outside the Commonwealth, the tax will be imposed on the retail dealer at a rate of 10 percent of the purchase price paid by the retail

dealer. The retail dealer, however, is not required to collect and remit the tax if the out-of-state wholesale dealer is registered to collect and remit the tax.

Virginia Health Care Fund

Under current law, all of the revenue from the state cigarette and tobacco products taxes and 40% of Virginia's allocations from the Master Settlement Agreement are deposited into the Virginia Health Care Fund. Moneys deposited to the fund are used solely for the provision of health care services as appropriated in the state budget. Health care services include, but are not limited to, Medicaid payments, disease diagnosis, prevention and control and community health services.

Proposal

This bill would increase the dealer discount allowed on the purchase of cigarette tax revenue stamps to two percent of the amount charged by the Department of Taxation for the stamps. The bill would also provide a dealer discount to dealers of other tobacco products equal to two percent of the total tax due from the dealer.

The Department would be required to make a written certification to the Comptroller by the twentieth of each month regarding discounts allowed to cigarette stamping agents in the preceding month. The certification would state the difference between the amount of discounts actually allowed at the two percent rate and the amount of discounts that would have been allowed at the two and one-half cents per carton rate.

The Department would also be required to make a written certification to the Comptroller no later than the twentieth of each month regarding to all deductions taken by tobacco products dealers for returns filed in the immediately preceding month. The certification would state the amount of all deductions taken by dealers for tax paid that was not delinquent at the time of payment.

No later than five business days after receiving each certification, the Comptroller would be required to make a deposit from the General Fund equal to the amount certified into the Virginia Health Care Fund.

Other Legislation

House Bill 1885 would make several changes to the basis for and the administration of the Tobacco Products Tax.

House Bill 2629 and **Senate Bill 1202** would modify the conditions under which escrow funds may be released to nonparticipating manufacturers.

House Bill 2899 would exempt exclusive distributors and manufacturers from affixing tax revenue stamps to cigarettes if they are being sold to Virginia stamping agents.

House Bill 2919 and **Senate Bill 1332** would provide for tax incentive payments to NPMs.

House Joint Resolution 664 would require the Department of Taxation study the feasibility of establishing uniformity and consistency among Virginia's localities in the design and use of tax stamps for local cigarette taxes.

Senate Bill 876 would change the cigarette tax laws to provide consistency with the non-participating manufacturer reporting requirements and to enhance compliance and administration.

cc : Secretary of Finance

Date: 3/28/2005 JEM