

**DEPARTMENT OF TAXATION
2005 Fiscal Impact Statement**

1. Patron John M. O'Bannon, III

2. Bill Number HB 2933

3. Committee Senate Finance

House of Origin:

☐ Introduced

☐ Substitute

☐ Engrossed

4. Title Cigarette Tax; Bad Debts

Second House:

☒ In Committee

☐ Substitute

☐ Enrolled

5. Summary/Purpose:

This bill would allow a stamping agent to claim a bad debt deduction against the cigarette tax in situations where a customer fails to pay for stamped cigarettes. The amount of the deduction would be the cost of the stamps affixed to the cigarettes.

The effective date of this bill is not specified.

6. Fiscal Impact Estimates are: Not available. (See Line 8.)

7. Budget amendment necessary: No.

8. Fiscal implications:

This bill would decrease state cigarette tax revenues to the extent that stamping agents are allowed bad debt deductions. Under current law, all of the revenue from the state cigarette tax is deposited into the Virginia Health Care Fund. As the amount of cigarette taxes paid by stamping agents on cigarette sales that subsequently prove to be uncollectible is unknown, the revenue impact of this bill on the Virginia Health Care Fund is unknown.

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. Only manufacturers,

wholesale dealers and retail dealers may obtain stamping permits from the Department. A discount equal to 2.5 cents for a ten-pack carton of cigarettes is available to stamping agents.

The cigarette tax laws require stamping agents to follow detailed stamping procedures. These procedures include the filing of a report by the tenth of each month that lists the number of packs stamped in the preceding month, by brand, manufacturer and the entity from which the cigarettes were obtained.

Under current law, if a stamping agent sells cigarettes and the purchaser fails to pay for them, the stamping agent is not entitled to a credit from the Commonwealth for the cost of the stamps affixed to the cigarettes.

All of the revenue from the state cigarette tax is 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 allow a stamping agent to claim a bad debt deduction against the cigarette tax in situations where a customer has failed to pay for stamped cigarettes. The amount of the deduction would be the cost of the stamps affixed to the cigarettes. If the bad debt is subsequently paid, in part or full, the stamping agent would be required to repay the amount of taxes deducted in connection with that portion of the debt for which payment is received.

The stamping agent would be allowed to take the deduction only if it has charged off the debt as uncollectible on its books and the debt would be eligible to be claimed, or could be eligible to be claimed if the stamping agent kept accounts on an accrual basis, as a deduction pursuant to Section 166 of the Internal Revenue Code.

Stamping agents would not be authorized to deduct:

- Interest;
- Collection expenses;
- Uncollectible amounts on cigarettes that remain in the agent's possession;
- Repossessed property; or
- Accounts receivable that have been sold to a third party for collection.

On each monthly stamping report, the stamping agent would detail the amount and source of any bad debt deductions accruing since their last monthly stamping report and submit the following documentation:

- A copy of the original invoice;
- Evidence that the cigarettes were delivered to the purchaser;
- Evidence that the purchaser did not pay;
- Evidence that the stamping agent used reasonable collection practices in attempting to collect the debt.

Any such credit shown on the monthly stamping report would be deducted from the price of the stamping agent's next purchase of cigarette stamps.

Other Legislation

House Bill 2625 would increase the cigarette tax dealers discount from 2.5 cents per carton to 2 percent of the price of the cigarette stamps.

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 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: 2/8/2005 JEM