VIRGINIA ACTS OF ASSEMBLY -- 2010 SESSION

CHAPTER 701

An Act to amend and reenact § 58.1-1003 of the Code of Virginia, relating to affixing cigarette tax stamps.

[H 874]

Approved April 12, 2010

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-1003 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-1003. How paid; affixing of stamps; records of stamping agents; civil penalties.

A. Except as otherwise specifically provided pursuant to § 58.1-1003.2, the taxes imposed by this chapter shall be paid by affixing stamps equaling the amount of the tax in the manner ~~and at the time herein~~ set forth. The stamps shall be affixed to each individual package, bag, box or can in such a manner that their removal will require continued application of water or steam. ~~Time allowed for affixing stamps shall be as follows:~~ Every stamping agent in the Commonwealth shall~~,~~ ~~within one business day of receipt of any unstamped cigarettes,~~ affix to ~~the same~~ *any unstamped cigarettes* the requisite denominations and amount of stamp or stamps that represent the proper tax levied by this chapter *prior to shipping to other wholesale dealers or retail outlets*. ~~Stamping shall be continued with reasonable diligence by the stamping agent. Any wholesale dealer engaged in interstate business shall be permitted to set aside such part of his stock as may be necessary for the conduct of such interstate business without affixing the Virginia revenue stamps required by this chapter. Interstate stock shall be kept entirely separate from stamped stock in such a manner as to prevent the commingling of the interstate stock with the stamped stock. All interstate stock so set aside shall be in accordance with § 58.1-1010.~~

B. Every wholesale dealer shall at the time of shipping or delivering any cigarettes make and retain a true duplicate invoice of the same which shall show full and complete details of the sale or delivery of the taxable article. All stamping agents shall also keep a record of purchases of all cigarettes, and retain all books, records, and memoranda pertaining to the purchase and sale of such cigarettes for a period of five years, and such records shall be subject to examination by the Department upon request.

C. Every stamping agent shall be required to file a report between the first and twentieth of each month, covering all revenue stamps the stamping agent affixed to cigarettes during the preceding month. The report shall (i) list all brands of cigarettes to which the Virginia revenue stamp was affixed and the quantity, measured in packs, of all such brands to which the Virginia revenue stamp was affixed; (ii) list the name and address of both the manufacturer of the cigarettes and the entity from which the cigarettes were obtained; and (iii) include the required documentation for and detail the amount and source of any bad debt deductions being taken pursuant to § 58.1-1003.1.

D. 1. For the purpose of compensating stamping agents for accounting for the tax imposed under this article on roll-your-own tobacco, such stamping agents shall be allowed when filing a monthly return and paying the tax to deduct 2% of the tax otherwise due if the amount due was not delinquent at the time of payment.

2. The Tax Commissioner shall prepare for each fiscal year an estimate of the total amount of all discounts allowed to stamping agents pursuant to this subsection and such amount shall be taken into consideration in preparing the official estimate of the total revenues to be collected during the fiscal year by the Virginia Health Care Fund established under § 32.1-366. Any reduction in funding available for programs financed by the Virginia Health Care Fund as a result of such discounts shall be made up by the general fund.

E. Any stamping agent who fails or refuses to comply with any of the above provisions shall have such agent's permit to affix revenue stamps revoked by the Commissioner. Additionally, a stamping agent may be subject to a civil penalty of $500 for each day after the due date that an agent fails or refuses to file a report required under subsection C. The penalty shall be assessed and collected by the Department as other taxes are collected.