

**DEPARTMENT OF TAXATION
2013 Fiscal Impact Statement**

1. **Patron** Janet D. Howell

2. **Bill Number** SB 1021

3. **Committee** Senate Finance

House of Origin:

 X **Introduced**

 Substitute

 Engrossed

4. **Title** Cigarette Tax and OTP Tax; Electronic Filings and Purchases

Second House:

 In Committee

 Substitute

 Enrolled

5. Summary/Purpose:

This bill would authorize the Attorney General and the Department of Taxation to allow the reports required to be submitted by stamping agents to be filed electronically. The bill would also authorize the Department of Taxation to allow the reports required to be submitted by manufacturers producing cigarettes and tobacco products to be filed electronically. Additionally, the bill would authorize the Department to allow for the electronic purchase and payment of Virginia cigarette tax revenue stamps.

The effective date of this bill is not specified.

6. **Budget amendment necessary:** No.

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

8. Fiscal implications:

Administrative Costs

As this bill simply permits the Department of Taxation and the Attorney General to allow the electronic filing of reports by stamping agents and tobacco products manufacturers and the electronic purchase and payment of Virginia revenue stamps and does not mandate electronic filing or payments, no administrative costs would be incurred in implementing this bill unless the Department or the Attorney General took advantage of the authority provided by this bill to allow electronic filing and electronic purchase and payment of Virginia revenue stamps. The Office of the Attorney General anticipates implementing a system to allow for electronic filing if possible once it has fully explored the necessary costs and equipment.

Revenue Impact

This bill would have no impact on state or local revenues.

9. Specific agency or political subdivisions affected:

Department of Taxation
Office of the Attorney General

10. Technical amendment necessary: Yes.

If the intent is to authorize the Department, rather than the Attorney General to allow the electronic filing of the monthly report of cigarette stamping agents, the following technical amendment is suggested:

Page 2, Line 60, After The

Strike: Attorney General

Insert: Department

11. Other comments:

Cigarette Tax

Pursuant to *Va. Code* § 58.1-1001, the Commonwealth imposes a state cigarette tax at the rate of 1.5 cents per cigarette (30 cents per pack of 20 cigarettes). The cigarette tax is paid by stamping agents through the purchase of stamps, which under *Va. Code* § 58.1-1003 must be affixed to each individual package, bag, box, or can from which cigarettes are sold. Currently, only manufacturers, wholesale dealers and retail dealers may be permitted as stamping agents. No person may purchase, possess or affix Virginia revenue stamps without first obtaining a permit to do so from the Department. In order to obtain a stamping permit, a person must submit an application and application fee of \$600 to the Department, which conducts a background investigation on the applicant.

Reporting Requirements

Under current law, stamping agents must file the Stamping Agent's Monthly Report of Virginia-Stamped Cigarettes with the Attorney General. The report covers the total number of cigarettes, listed by brand family, for which the stamping agent affixed stamps or otherwise paid the tax due.

Stamping agents must also file the Monthly Report of a Cigarette Stamping Agent with the Department. The report covers all revenue stamps the stamping agent affixed to cigarettes, including brand, quantity, and manufacturer. This report also covers the kinds and quantities of cigarettes purchased and received, as well as out-of-state orders for cigarettes through the stamping agent on a drop shipment and consigned directly to the person ordering the cigarettes.

Manufacturers producing cigarettes must file the Monthly Report of a Cigarette Manufacturer with the Department identifying all purchasers of cigarettes, with the quantities and brands of cigarettes purchased during the preceding month.

Tobacco product manufacturers shipping tobacco products into the Commonwealth must file an annual report with the Department of the names and addresses of the persons

receiving the shipments, and the type of product, brand, and quantities of tobacco products that were shipped.

Electronic Filing Mandates

Currently, tax preparers who prepared at least 50 individual income tax returns for a taxable year must file all individual income tax returns using electronic means or software that produces a two dimensional barcode reflecting information contained in the returns. Effective January 1, 2013, all corporations are required to file estimated tax payments and their annual income tax return and final payment using an electronic medium in a format prescribed by the Tax Commissioner.

Beginning with the June 2012 return, Retail Sales and Use Tax returns and payments are required to be made using an electronic medium prescribed by the Tax Commissioner beginning with the June 2012 return. Additionally, every employer whose average monthly liability can reasonably be expected to be \$1,000 or more and the aggregate amount required to be withheld by any employer exceeds \$500 is required to file the annual report and employer returns using an electronic medium using a format prescribed by the Tax Commissioner.

The Tax Commissioner is authorized to waive the requirements to file by electronic means if it would cause undue hardship or an unreasonable burden.

Proposal

This bill would authorize the Attorney General and the Department of Taxation to allow the monthly and quarterly reports required to be submitted by stamping agents to be filed electronically. The bill would also authorize the Department of Taxation to allow the reports required to be submitted by manufacturers producing cigarettes and tobacco product manufacturers to be filed electronically. Additionally, the bill would authorize the Department to allow for the electronic purchase and payment of Virginia revenue stamps.

The effective date of this bill is not specified.

Similar Legislation

House Bill 2219 and **Senate Bill 1092** would provide the bond or irrevocable letter of credit required to be filed by a wholesale dealer to obtain cigarette tax stamps without payment of the cigarette tax be in a face amount determined by the Tax Commissioner to cover possible losses from nonpayment of the tax, but not to exceed two times the anticipated average monthly amount of purchases of cigarette tax stamps by the wholesale dealer.

cc : Secretary of Finance

Date: 1/14/2013 AM
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