



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
(803)734-0640 • RFA.SC.GOV/IMPACTS

Bill Number:	H.4151	As signed by the Governor on March 14, 2016
Author:	Pitts	
Subject:	Stamp Tax on Tobacco Products	
Requestor:	House of Representatives	
RFA Analyst(s):	Martin	
Impact Date:	June 24, 2016	

Estimate of Fiscal Impact

	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20
State Expenditure				
General Fund	\$0	\$0	(\$75,000)	(\$75,000)
Other and Federal	\$0	\$0	\$0	\$0
Full-Time Equivalent Position(s)	0.00	0.00	1.00	0.00
State Revenue				
General Fund	\$0	\$0	(\$1,260,848)	(\$2,120,696)
Other and Federal	\$0	\$0	\$0	\$0
Local Expenditure	\$0	\$0	\$0	\$0
Local Revenue	\$0	\$0	\$0	\$0

Fiscal Impact Summary

This bill is expected to reduce General Fund business license tax revenue by an estimated \$1,260,848 in FY2018-19 and reduce General Fund business license tax revenue by an estimated \$2,120,696 in FY2019-20.

Explanation of Fiscal Impact

Explanation of Amendment (February 17, 2016) – By the Senate Finance Committee
State Expenditure

The Department of Revenue estimates that this bill would require the department to hire an additional person to track inventory of the tax stamps and to audit returns related to tobacco tax collections. Also, there should be a revolving fund balance used for the purchase of tax stamps. The amount in the fund balance would depend on the use and administration of the stamps. The department estimates the direct cost to the department's General Fund to be \$75,000 without considering the amount of the fund balance; however, this amended bill allows the department to retain up to \$400,000 annually not to exceed actual costs. These funds would be paid out of General Fund cigarette tax revenue pursuant to Section 12-21-620(A)(1).

State Revenue

The Senate Finance Committee amended the House of Representatives version of bill with the following changes:

- A distributor is allowed a tax credit for the purchase of one stamping machine and equipment. The amount of the credit is equal to the direct costs incurred by the distributor up to \$175,000. This represents an increase in the tax credit of \$50,000 from \$125,000 to \$175,000 per distributor.
- Requires the person(s) authorized to pay the tax to execute a surety bond in the amount of 110 percent of the distributor's estimated tax liability for thirty days, but not less than \$2,000 per person(s). Any default in bonding may result in the revocation of the distributor's privilege to purchase tax stamps.
- Allows the Department of Revenue to retain annually up to \$400,000 of tax revenue not to exceed actual costs to recover the costs associated with the installation and operation of the cigarette stamp program. This revenue may be retained from revenue collected pursuant to Section 12-21-620(A)(1), the seven-cents per cigarette pack portion from the state General Fund.
- Moves the effective date of the legislation out one year from January 1, 2018 to January 1, 2019.

Currently, only three states do not have tax stamps on individual packages of cigarettes – North Carolina, South Carolina, and North Dakota. The imposition of cigarette tax stamps has been to combat illegal smuggling of low-tax rate cigarettes to high-tax rate cigarette states. Section I of the bill allows the Department of Revenue to promulgate regulations necessary to enforce this section. The following is a section-by-section explanation of the bill.

Section 1. This section would amend Section 12-21-735 to direct that each person or distributor of cigarettes is subject to the tax imposed by Section 12-21-620 by affixing stamps to each individual package of cigarettes before being sold, distributed, or shipped to another person. A distributor may affix stamps only to packages of cigarettes obtained directly from a manufacturer or importer with a valid permit issued pursuant to 26 U.S.C. Section 5713. This is a federal permit necessary to engage in the business as a manufacturer or importer of tobacco products or processed tobacco or as an export warehouse proprietor. Only the holder of a federal permit may ship or deliver unstamped packages of cigarettes in, into, or from this State, or may transfer, transport, or cause to be transported unstamped cigarettes from a facility owned by the distributor to another facility owned by the distributor.

The Department of Revenue shall prescribe, prepare, and furnish stamps of denominations and in quantities to licensed distributors tax stamps that indicate the payment of the tax. The stamps must be sold only in multiples of 30,000 stamps such that when affixed on an individual package of cigarettes cannot be removed without being mutilated or destroyed. All stamps must identify the distributor of the cigarettes by a serial number or other mark on the stamp. The stamp must clearly indicate whether the taxes were paid on the package of cigarettes or were exempt from taxes. Stamps may only be affixed to packages of cigarettes that are listed on the South Carolina Tobacco Directory published by the Office of the Attorney General pursuant to Section 11-48-30, the Tobacco Qualified Escrow Fund Enforcement.

As a result of requiring the use of tax stamps, the Department of Revenue would allow a tax credit for the purchase of one stamping machine and equipment acquired by a distributor within one year of implementation by the department. A distributor may receive a tax credit for eighteen months beginning in the first month following the purchase of the machine and equipment. The tax credit would apply to the total net purchase of the machinery and equipment up to \$125,000, excluding shipping costs, installation, or ongoing maintenance. Any tax credit must be applied only to the tax remitted under this chapter.

If eight distributors are selected as agents by the Department of Revenue with each investing in a tax metering device and allowed to claim a tax credit against business license tax each month for eighteen consecutive months until the entire \$125,000 tax credit amount is claimed by the distributors, then General Fund business license tax revenue would be reduced by an estimated \$1,000,000 over the eighteen-month period. Of this amount, General Fund business license tax would be reduced by \$333,333 in FY2018-19, and reduced by \$666,667 in FY2019-20.

The Department of Revenue may designate agents to buy or affix stamps to individual packages of cigarettes to satisfy the payment of taxes. The agent is entitled to a discount of 4.25 percent of the face value of the stamps out of the money to be paid by the agent for the stamps as compensation for their services. The Department of Revenue shall provide a method of purchasing stamps. Currently, pursuant to Section 12-21-735, a person or distributor that is required to remit business license tax to the Department of Revenue may apply a discount of 3.5 percent of the tax due. The bill would amend Section 12-21-735 to allow a distributor who applies cigarette tax stamps to packages of cigarettes a discount of 4.25 percent. Under this bill, the cigarette tax discount is increased by 0.0075 percentage points of the face value of the stamps.

Based upon the Board of Economic Advisors' Long Range General Fund revenue plan, General Fund business license tax revenue is an estimated \$23,988,000 in FY2018-19 from the seven-cent per package tax rate. Of this amount, nearly seventy-one percent is from cigarettes, or \$17,175,408, and the remaining twenty-nine percent is from other tobacco products, such as cigars, chewing tobacco, and snuff. The fifty cent per package cigarette surcharge is an estimated \$118,571,666 in FY2018-19. Collectively, the taxes generated from the sale of cigarettes are an estimated \$135,747,074 in FY2018-19. This bill increases the discount allowed by distributors by 0.0075 percentage points (4.25% in the bill less 3.5% currently permitted). The BEA estimates that an increase in the discount by 0.0075 percentage points will reduce General Fund business license tax revenue by an estimated \$1,055,029. Of this amount, General Fund business license tax revenue would be reduced by \$527,515 in FY2018-19, and General Fund business license tax revenue would be reduced by \$1,055,029 in FY2019-20.

Additionally, this amended bill allows the department to retain up to \$400,000 annually not to exceed the actual costs of administering the cigarette stamp program. These funds would be paid out of cigarette tax revenue pursuant to Section 12-21-620(A)(1). Collectively, this amended bill is expected to reduce General Fund business license tax revenue by an estimated \$1,260,848 in FY2018-19 and reduce General Fund business license tax revenue by an estimated \$2,120,696 in FY2019-20.

Section 2. This act takes effect on January 1, 2019, except that Section 12-21-735(I) (the department may promulgate regulations) takes effect upon approval by the Governor.

Local Expenditure

N/A

Local Revenue

N/A

**Explanation of Amendment (May 21, 2015) – By the House Ways & Means Committee
State Expenditure**

The Department of Revenue estimates that this bill would require the department to hire an additional person to track inventory of the tax stamps and to audit returns related to tobacco tax collections. Also, there should be a revolving fund balance used for the purchase of tax stamps. The amount in the fund balance would depend on the use and administration of the stamps. The department estimates the direct cost to the department's General Fund to be \$75,000 without considering the amount of the fund balance.

State Revenue

This amendment would add a new subsection stating that all costs incurred by the department associated with the installation and operation of the cigarette stamp program must be paid from tobacco tax collections. This amendment would require the Department of Revenue to pay all recurring costs associated with the cigarette tax stamp program to be paid from General Fund business license tax revenue. This amendment would reduce General Fund business license tax revenue by an estimated \$75,000 in FY2017-18, and each fiscal year thereafter.

Currently, only three states do not have tax stamps on individual packages of cigarettes – North Carolina, South Carolina, and North Dakota. The imposition of cigarette tax stamps has been to combat illegal smuggling of low-tax rate cigarettes to high-tax rate cigarette states. Section I of the bill allows the Department of Revenue to promulgate regulations necessary to enforce this section. The following is a section-by-section explanation of the bill.

Section 1. This section would amend Section 12-21-735 to direct that each person or distributor of cigarettes is subject to the tax imposed by Section 12-21-620 by affixing stamps to each individual package of cigarettes before being sold, distributed, or shipped to another person. A distributor may affix stamps only to packages of cigarettes obtained directly from a manufacturer or importer with a valid permit issued pursuant to 26 U.S.C. Section 5713. This is a federal permit necessary to engage in the business as a manufacturer or importer of tobacco products or processed tobacco or as an export warehouse proprietor. Only the holder of a federal permit may ship or deliver unstamped packages of cigarettes in, into, or from this State, or may transfer, transport, or cause to be transported unstamped cigarettes from a facility owned by the distributor to another facility owned by the distributor.

The Department of Revenue shall prescribe, prepare, and furnish stamps of denominations and in quantities to licensed distributors tax stamps that indicate the payment of the tax. The stamps

must be sold only in multiples of 30,000 stamps such that when affixed on an individual package of cigarettes cannot be removed without being mutilated or destroyed. All stamps must identify the distributor of the cigarettes by a serial number or other mark on the stamp. The stamp must clearly indicate whether the taxes were paid on the package of cigarettes or were exempt from taxes. Stamps may only be affixed to packages of cigarettes that are listed on the South Carolina Tobacco Directory published by the Office of the Attorney General pursuant to Section 11-48-30, the Tobacco Qualified Escrow Fund Enforcement.

As a result of requiring the use of tax stamps, the Department of Revenue would allow a tax credit for the purchase of one stamping machine and equipment acquired by a distributor within one year of implementation by the department. A distributor may receive a tax credit for eighteen months beginning in the first month following the purchase of the machine and equipment. The tax credit would amount to 5.55 percent of the total net purchase of the machinery and equipment up to \$125,000, excluding shipping costs, installation, or ongoing maintenance. Any tax credit must be applied only to the tax remitted under this chapter.

If eight distributors are selected as agents by the Department of Revenue with each investing in a tax metering device and allowed to claim a tax credit against business license tax each month for eighteen consecutive months until the entire \$125,000 tax credit amount is claimed by the distributors, then General Fund business license tax revenue would be reduced by an estimated \$1,000,000 over the eighteen-month period. Of this amount, General Fund business license tax would be reduced by \$333,333 in FY2017-18, and reduced by \$666,667 in FY2018-19.

The Department of Revenue may designate agents to buy or affix stamps to individual packages of cigarettes to satisfy the payment of taxes. The agent is entitled to a discount of 4.25 percent of the face value of the stamps out of the money to be paid by the agent for the stamps as compensation for their services. The Department of Revenue shall provide a method of purchasing stamps. Currently, pursuant to Section 12-21-735, a person or distributor that is required to remit business license tax to the Department of Revenue may apply a discount of 3.5 percent of the tax due. The bill would revise Section 12-21-735 to allow a distributor who applies cigarette tax stamps to packages of cigarettes a discount of 4.25 percent. Under this bill, the cigarette tax discount is increased by 0.0075 percent of the face value of the stamps.

Based upon the Board of Economic Advisors' Long Range General Fund revenue plan, General Fund business license tax revenue is an estimated \$24,129,000 in FY2017-18 from the seven-cent per package tax rate. Of this amount, nearly seventy-one percent is from cigarettes, or \$17,035,074, and the remaining twenty-nine percent is from other tobacco products, such as cigars, chewing tobacco, and snuff. The fifty cent per package cigarette surcharge is an estimated \$120,142,476 in FY2017-18. Collectively, the taxes generated from the sale of cigarettes are an estimated \$137,177,550 in FY2017-18. This bill increases the discount allowed by distributors by 0.0075 percent (4.25% in the bill less 3.5% currently permitted). The BEA estimates that an increase in the discount by 0.0075 will reduce General Fund business license tax revenue by an estimated \$1,066,146. Of this amount, General Fund business license tax revenue would be reduced by \$533,073 in FY2017-18, and General Fund business license tax revenue would be reduced by \$1,066,146 in FY2018-19.

Collectively, this bill is expected to reduce General Fund business license tax revenue by an estimated \$866,406 in FY2017-18 and reduce General Fund business license tax revenue by an estimated \$1,732,813 in FY2018-19.

Section 2. This act takes effect on January 1, 2018, except that Section 12-21-735(I) takes effect upon approval by the Governor.

Local Expenditure

N/A

Local Revenue

N/A

Explanation of Bill filed on May 7, 2015

State Expenditure

The Department of Revenue estimates that this bill would require the department to hire an additional person to track inventory of the tax stamps and to audit returns related to tobacco tax collections. Also, there should be a revolving fund balance used for the purchase of tax stamps. The amount in the fund balance would depend on the use and administration of the stamps. The department estimates the direct cost to the department's General Fund to be \$75,000 without considering the amount of the fund balance.

State Revenue

Currently, only three states do not have tax stamps on individual packages of cigarettes – North Carolina, South Carolina, and North Dakota. The imposition of cigarette tax stamps has been to combat illegal smuggling of low-tax rate cigarettes to high-tax rate cigarette states. Section I of the bill allows the Department of Revenue to promulgate regulations necessary to enforce this section. The following is a section-by-section explanation of the bill.

Section 1. This section would amend Section 12-21-735 to direct that each person or distributor of cigarettes is subject to the tax imposed by Section 12-21-620 by affixing stamps to each individual package of cigarettes before being sold, distributed, or shipped to another person. A distributor may affix stamps only to packages of cigarettes obtained directly from a manufacturer or importer with a valid permit issued pursuant to 26 U.S.C. Section 5713. This is a federal permit necessary to engage in the business as a manufacturer or importer of tobacco products or processed tobacco or as an export warehouse proprietor. Only the holder of a federal permit may ship or deliver unstamped packages of cigarettes in, into, or from this State, or may transfer, transport, or cause to be transported unstamped cigarettes from a facility owned by the distributor to another facility owned by the distributor.

The Department of Revenue shall prescribe, prepare, and furnish stamps of denominations and in quantities to licensed distributors tax stamps that indicate the payment of the tax. The stamps must be sold only in multiples of 30,000 stamps such that when affixed on an individual package of cigarettes cannot be removed without being mutilated or destroyed. All stamps must identify the distributor of the cigarettes by a serial number or other mark on the stamp. The stamp must clearly indicate whether the taxes were paid on the package of cigarettes or were exempt from taxes. Stamps may only be affixed to packages of cigarettes that are listed on the South Carolina

Tobacco Directory published by the Office of the Attorney General pursuant to Section 11-48-30, the Tobacco Qualified Escrow Fund Enforcement.

As a result of requiring the use of tax stamps, the Department of Revenue would allow a tax credit for the purchase of one stamping machine and equipment acquired by a distributor within one year of implementation by the department. A distributor may receive a tax credit for eighteen months beginning in the first month following the purchase of the machine and equipment. The tax credit would amount to 5.55 percent of the total net purchase of the machinery and equipment up to \$125,000, excluding shipping costs, installation, or ongoing maintenance. Any tax credit must be applied only to the tax remitted under this chapter.

If eight distributors are selected as agents by the Department of Revenue with each investing in a tax metering device and allowed to claim a tax credit against business license tax each month for eighteen consecutive months until the entire \$125,000 tax credit amount is claimed by the distributors, then General Fund business license tax revenue would be reduced by an estimated \$1,000,000 over the eighteen-month period. Of this amount, General Fund business license tax would be reduced by \$333,333 in FY2017-18, and reduced by \$666,667 in FY2018-19.

The Department of Revenue may designate agents to buy or affix stamps to individual packages of cigarettes to satisfy the payment of taxes. The agent is entitled to a discount of 4.25 percent of the face value of the stamps out of the money to be paid by the agent for the stamps as compensation for their services. The Department of Revenue shall provide a method of purchasing stamps. Currently, pursuant to Section 12-21-735, a person or distributor that is required to remit business license tax to the Department of Revenue may apply a discount of 3.5 percent of the tax due. The bill would revise Section 12-21-735 to allow a distributor who applies cigarette tax stamps to packages of cigarettes a discount of 4.25 percent. Under this bill, the cigarette tax discount is increased by 0.0075 percent of the face value of the stamps.

Based upon the Board of Economic Advisors' Long Range General Fund revenue plan, General Fund business license tax revenue is an estimated \$24,129,000 in FY2017-18 from the seven-cent per package tax rate. Of this amount, nearly seventy-one percent is from cigarettes, or \$17,035,074, and the remaining twenty-nine percent is from other tobacco products, such as cigars, chewing tobacco, and snuff. The fifty cent per package cigarette surcharge is an estimated \$120,142,476 in FY2017-18. Collectively, the taxes generated from the sale of cigarettes are an estimated \$137,177,550 in FY2017-18. This bill increases the discount allowed by distributors by 0.0075 percent (4.25% in the bill less 3.5% currently permitted). The BEA estimates that an increase in the discount by 0.0075 will reduce General Fund business license tax revenue by an estimated \$1,066,146. Of this amount, General Fund business license tax revenue would be reduced by \$533,073 in FY2017-18, and General Fund business license tax revenue would be reduced by \$1,066,146 in FY2018-19.

Collectively, this bill is expected to reduce General Fund business license tax revenue by an estimated \$866,406 in FY2017-18 and reduce General Fund business license tax revenue by an estimated \$1,732,813 in FY2018-19.

Section 2. This act takes effect on January 1, 2018, except that Section 12-21-735(I) takes effect upon approval by the Governor.

Local Expenditure

N/A

Local Revenue

N/A



Frank A. Rainwater, Executive Director