# SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
## STATEMENT OF ESTIMATED FISCAL IMPACT
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| Bill Number: | S.0595 |
| Author: | Alexander |
| Requestor: | Senate Finance |
| Date: | May 25, 2015 |
| Subject: | Stamp tax on tobacco products |
| RFA Analyst(s): | Martin and Shealy |

## Estimate of Fiscal Impact

| | FY 2015-16 | FY 2016-17 | FY 2017-18 | FY 2018-19 |
|---|---|---|---|---|
| **State Expenditure** | | | | |
| General Fund | N/A | N/A | ($75,000) | ($75,000) |
| Other and Federal | N/A | N/A | N/A | N/A |
| Full-Time Equivalent Position(s) | 0.00 | 0.00 | 1.00 | 1.00 |
| **State Revenue** | | | | |
| General Fund | N/A | N/A | ($866,406) | (1,732,813) |
| Other and Federal | N/A | N/A | N/A | N/A |
| **Local Expenditure** | N/A | N/A | N/A | N/A |
| **Local Revenue** | N/A | N/A | N/A | N/A |

**Fiscal Impact Summary**
This bill is expected to reduce General Fund business license tax revenue by an estimated $941,406 in FY2017-18 and reduce General Fund business license tax revenue by an estimated $1,807,813 in FY2018-19.

## Explanation of Fiscal Impact

**State Expenditure**
The Department of Revenue estimates that this bill would require that the department 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.

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