

**REPORT OF THE
DEPARTMENT OF TAXATION**

Use of Tax Stamps as Evidence of Payment of Local Cigarette Taxes

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOCUMENT NO. 5

**COMMONWEALTH OF VIRGINIA
RICHMOND
2006**



COMMONWEALTH of VIRGINIA

Department of Taxation

December 27, 2005

The Honorable Mark R. Warner
Governor of Virginia
Patrick Henry Building, 3rd Floor
1111 East Broad Street
Richmond, Virginia 23219

Members of the General Assembly of Virginia
State Capitol Building
Richmond, Virginia 23219

Dear Governor Warner and Members of the General Assembly:

As requested by House Joint Resolution 664 (2005), the Department of Taxation ("TAX") has studied the use of tax stamps by local governments as evidence of payment of local cigarette taxes by wholesalers and whether a single stamp could be issued for evidence that both state and local cigarette taxes have been paid. TAX was also asked to examine the feasibility of establishing uniformity and consistency among localities in the design and use of tax stamps or other evidence of payment of local cigarette taxes by tobacco wholesalers.

I am enclosing a copy of TAX's executive summary and report. The executive summary and report are being submitted to the Division of Legislative Automated Systems for publication as a House or Senate document.

Please let me know if you have any questions regarding the report.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kenneth W. Thorson".

Kenneth W. Thorson
Tax Commissioner

Enclosures



Executive Summary

House Joint Resolution 664, passed by the 2005 General Assembly, required the Department of Taxation ("TAX") to study the use of tax stamps by local governments as evidence of payment of local cigarette taxes by wholesalers and whether a single stamp could be issued for evidence that both state and local cigarette taxes have been paid. TAX was also asked to examine the feasibility of establishing uniformity and consistency among localities in the design and use of tax stamps or other evidence of payment of local cigarette taxes by tobacco wholesalers.

After obtaining the comments and suggestions of representatives of local governments and cigarette wholesalers, TAX distributed survey questionnaires to the members of the Virginia Wholesalers and Distributors Association and every locality in Virginia authorized to impose a local cigarette tax. The survey questionnaire asked local governments and wholesalers to evaluate 1) the current use of local cigarette tax stamps, 2) establishing uniformity and consistency in the design and use of local cigarette tax stamps, 3) requiring the statewide use of a dual stamp issued by TAX, 4) requiring wholesale dealers to file regular returns, and 5) requiring retail dealers to file regular returns.

With the exception of Arlington County, every Virginia locality that administers its own cigarette tax requires the application of a local stamp. Thirteen Virginia localities participate in the Northern Virginia Cigarette Tax Board ("NVCTB"). The tax in these localities is enforced using a dual stamp sold by TAX at the state cigarette tax rate. The NVCTB collects the cigarette tax for the thirteen localities through a monthly wholesaler return system.

Localities are, in general, opposed to the alternatives to the current local cigarette tax stamping laws raised in the survey questionnaires. Overwhelmingly, localities that administer their own local cigarette taxes stress that in order to be effective, each locality must have its own stamp that is clearly distinguishable from that of other localities and each locality must be able to collect its own tax. The NVCTB localities recommend that other localities use the authorization currently granted by state law to form similar regional administration agencies.

Wholesalers would like to reduce or eliminate the costs of local cigarette tax stamps, including the substantial costs of maintaining inventories of local stamps and stamped cigarettes and the cost of applying different local stamps. Of the six wholesalers who responded to the survey, only one wholesaler supports the current stamping system. The remaining wholesalers support one or more of the alternatives raised in the survey questionnaires. One wholesaler would like to see a dual stamp that is administered by one office. One wholesaler would like to see all localities that tax cigarettes be required to participate in one of several regional enforcement agencies. Two wholesalers would like to see either a dual stamp or simply a wholesaler return system. One wholesaler would like to see a wholesaler return system.

In order to discuss the survey results and receive the comments of interested parties, TAX held a public meeting on November 29, 2005. Interested parties were provided with a preliminary draft of TAX's report prior to the meeting. Noting the conflicting positions of industry and local governments concerning local cigarette tax stamping, TAX asked the interested parties to recommend alternatives that would be mutually agreeable to local governments and industry. The interested parties acknowledged that such a solution is not readily apparent.

Based on the survey responses and comments received from local governments and wholesalers, TAX cannot discern any change in the local cigarette tax stamping laws that would be acceptable to both local governments and wholesalers. Although the stamping of the different local cigarette tax stamps imposes a substantial cost on wholesalers, local cigarette tax stamps are considered by the localities to be the most practical and effective method for local governments to enforce local cigarette taxes. The alternatives to the current stamping system suggested by the interested parties would either 1) make it easier for dishonest cigarette sellers to evade local cigarette taxes, giving them a substantial price advantage over honest dealers, or 2) require the Commonwealth or local governments to conduct expensive and invasive audits of cigarette wholesalers and retailers, or 3) only reduce, but not eliminate, the administrative costs currently imposed on sellers of cigarettes. Bringing the interested parties together has initiated a dialogue between the local governments and cigarette wholesalers. Given the substantial differences between the positions of local governments and cigarette wholesalers, TAX is unable to recommend a viable solution to resolve their differences at this time. It is recommended that the General Assembly direct the interested parties to continue their discussions.

Report

House Joint Resolution 664

House Joint Resolution 664, passed by the 2005 General Assembly, required the Department of Taxation (“TAX”) to study the use of tax stamps by local governments as evidence of payment of local cigarette taxes by wholesalers and whether a single stamp could be issued for evidence that both state and local cigarette taxes have been paid. TAX was also asked to examine the feasibility of establishing uniformity and consistency among localities in the design and use of tax stamps or other evidence of payment of local cigarette taxes by tobacco wholesalers. A copy of this resolution is attached as Appendix A.

House Joint Resolution 664 required TAX to seek input from the Virginia Municipal League, the Virginia Association of Counties, the Virginia Retail Merchants Association, the Virginia Wholesalers and Distributors Association and other interested parties. TAX was required to complete its meetings by November 30, 2005 and submit an executive summary and a report of its findings and recommendations to the Governor and the General Assembly no later than the first day of the 2006 General Assembly.

Enforcement of the Virginia 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 wholesale dealers through the purchase of stamps, which under *Va. Code* § 58.1-1003 must be affixed to each container from which cigarettes are sold. Wholesalers file a monthly report with TAX showing the quantities of cigarettes purchased and stamped.

There are currently three Virginia revenue stamps: (1) a stamp for packs of 20 cigarettes; (2) a stamp for packs of 25 cigarettes and (3) a dual stamp for the state cigarette tax and the local cigarette taxes imposed by the localities that have delegated their cigarette tax administrative and enforcement authority to the NVCTB.

These stamps are sold by TAX. TAX also allows treasurers in six localities to sell these stamps to accommodate wholesalers who would otherwise have to travel a considerable distance to the nearest TAX office.

Local Cigarette Tax Enforcement

All cities and towns with general taxing powers are currently authorized to impose a cigarette tax with no rate limitations. Thirty cities and thirty-nine towns impose a cigarette tax. Only two counties, Arlington and Fairfax, are authorized to impose a local cigarette tax, the rate of which is limited to the amount of the state cigarette tax rate. The following table of local cigarette tax rates was compiled by TAX based on *Tax Rates 2004*, published by the Weldon Cooper Center for Public Service at the University

of Virginia, industry information and survey responses and other communications with local government officials. Although it reflects the latest information available to TAX, cigarette wholesalers and retailers should confirm local cigarette tax rates with the localities in which they sell cigarettes. All rates are for a pack of 20 cigarettes.

<u>County</u>	<u>Rate</u>	<u>City</u>	<u>Rate</u>	<u>Town</u>	<u>Rate</u>
Arlington	.30	Portsmouth	.50	Gordonsville	.10
Fairfax	.30	Radford	.15	Grundy	.05
		Roanoke	.27	Haymarket	.25
<u>City</u>	<u>Rate</u>	Salem	.15	Herndon	.50
Alexandria	.70	Staunton	.15	Kilmarnock	.25
Bedford	.20	Suffolk	.50	Leesburg	.50
Bristol	.04	VA Beach	.50	Marion	.12
Charlottesville	.25	Waynesboro	.20	Mt. Jackson	.20
Chesapeake	.50	Williamsburg	.25	Orange	.10
Covington	.20			Pound	.05
Fairfax	.50	<u>Town</u>	<u>Rate</u>	Pulaski	.15
Falls Church	.65	Big Stone Gap	.05	Purcellville	.35
Franklin	.50	Blacksburg	.30	Saltville	.05
Fredericksburg	.31	Bluefield	.03	Smithfield	.25
Hampton	.65	Cape Charles	.05	St. Paul	.05
Harrisonburg	.30	Chilhowie	.12	Tappahannock	.15
Lynchburg	.35	Christiansburg	.30	Tazewell	.03
Manassas	.50	Claremont	.045	Vienna	.50
Manassas Park	.50	Clifton	.30	Warrenton	.15
Martinsville	.20	Clifton Forge	.04	Warsaw	.15
Newport News	.65	Clintwood	.05	Winchester	.10
Norfolk	.55	Coeburn	.05	Windsor	.25
Norton	.05	Culpeper	.10	Wise	.05
Petersburg	.10	Damascus	.05	Woodstock	.05
Poquoson	.10	Dumfries	.30	Wytheville	.09

Code of Virginia § 58.1-3830 authorizes localities that impose a cigarette tax to use local tax stamps to evidence payment of the tax. *Code of Virginia* § 58.1-3832 authorizes joint enforcement agencies to issue their own tax stamp. Local governments and joint enforcement agencies are authorized by *Va. Code* § 58.1-3830 to use a dual stamp to evidence the payment of both the state and local taxes.

Northern Virginia Cigarette Tax Board

Current law authorizes any locality that imposes a cigarette tax to delegate its cigarette tax administrative and enforcement authority, including the authority to issue a revenue stamp, to an agency or authority pursuant to the provisions of *Va. Code* § 15.2-1300. Currently, thirteen Virginia localities participate in the Northern Virginia Cigarette Tax Board (“NVCTB”): the County of Fairfax; the Cities of Alexandria, Fairfax, Falls Church and Manassas; and the Towns of Clifton, Dumfries, Haymarket, Herndon, Leesburg,

Purcellville, Vienna and Warrenton. The tax rates in these localities vary from \$.15 to \$.70 a pack.

The NVCTB enforces these local cigarette taxes using a dual stamp that represents both the state and local cigarette taxes. This dual stamp is sold by TAX at the state cigarette tax rate only. Wholesalers remit the tax to the NVCTB via a monthly return that lists all retailers by jurisdiction. TAX does not collect any revenues for the NVCTB.

The NVCTB audits wholesalers to verify tax has been collected on all stamps sold. The NVCTB conducts retail inspections to insure proper tax payments and to prevent retailers from shifting stamped cigarettes from lower tax localities to higher tax localities. The serial number on each roll is used to identify which wholesaler has purchased that roll. The NVCTB uses this serialized roll number to verify that the proper jurisdictional tax has been paid.

Enforcement of Cigarette Taxes in Other States

Every state that imposes a cigarette tax except for North Carolina, South Carolina and North Dakota requires the use of a tax stamp. With a few exceptions, cigarettes are subject to state, not local, taxation in other states. New York City and Cook County, Illinois are the best known examples of localities that impose cigarette taxes. Only in Alabama and Missouri are local cigarette taxes common.

New York City is the only locality in the state of New York that is authorized to impose a local cigarette tax. The New York City tax is paid using a joint city and state stamp.

In Illinois, most municipalities are authorized to impose a local cigarette tax. The state does not administer local cigarette taxes or sell local tax stamps. Cook County sells a county stamp, as well as combined stamps for cities within the county that also impose a cigarette tax, such as Chicago and Evanston. Stamps for the city taxes alone are also sold by the cities.

The Alabama Department of Revenue administers the local cigarette taxes in thirty counties. Although revenue stamps are used for the state cigarette tax, the county taxes administered by the Department of Revenue are paid using monthly returns. There is no dual stamp. Some counties that administer their own cigarette tax use revenue stamps, others use monthly returns.

With the exception of Kansas City and St. Louis, local cigarette taxes in Missouri are administered entirely by municipalities. Some localities use revenue stamps, others use monthly returns. Even though Kansas City and St. Louis have the same local tax rate, Missouri sells different dual stamps for Kansas City and St. Louis.

TAX's Study

In its study of the use of local tax stamps, TAX worked closely with representatives of local governments and cigarette wholesalers. TAX formed a working group that included representatives from the Virginia Municipal League ("VML"), the Virginia Association of Counties ("VACO"), the Commissioners of the Revenue Association, the Treasurers Association of Virginia, the Northern Virginia Cigarette Tax Board (the "NVCTB"), the Virginia Petroleum, Convenience and Grocery Association, the Virginia Retail Merchants Association and the Virginia Wholesalers and Distributors Association (the "Wholesalers Association").

TAX provided the working group with a tentative workplan outlining TAX's plan to carry out the study and drafts of the questionnaires TAX would distribute to localities and wholesalers. Several members of the working group, including VML, VACO and the Wholesalers Association forwarded these drafts to their members and solicited their comments and suggestions. The working group met on September 19, 2005 to discuss the workplan and questionnaires. After the meeting, TAX revised the questionnaires to reflect the comments and suggestions of the working group.

Three questionnaires were finalized and distributed. The first questionnaire was sent to the NVCTB and to the commissioner of revenue or director of finance in each NVCTB county and city and to the manager of each NVCTB town. The second questionnaire was sent to every other locality in Virginia authorized by state law to impose a local cigarette tax. The questionnaires were distributed by email to the commissioners of the revenue and directors of finance using the email address listed on the Commissioners of the Revenue Association web site and to town managers using VML's email list of town managers. The third questionnaire was distributed by the Wholesalers Association to its members. The surveys were distributed by email on September 23, 2005. Respondents were asked to return the completed surveys to TAX by October 21, 2005. Due to a low response, the deadline was subsequently extended by TAX to October 31, 2005.

TAX received survey responses from 23 localities that administer their own cigarette tax: Arlington County; the Cities of Chesapeake, Covington, Franklin, Fredericksburg, Hampton, Harrisonburg, Martinsville, Newport News, Poquoson, Portsmouth, Roanoke, Staunton, Suffolk, Virginia Beach, Winchester; and the Towns of Bluefield, Coeburn, Culpeper, Mount Jackson, Pound, Tazewell and Windsor. These survey responses are attached as Appendix B. TAX received a joint survey response from the localities that participate in the NVCTB. In addition, five localities that are members of the NVCTB, the Cities of Alexandria and Manassas and the Towns of Herndon, Purcellville, and Warrenton, also submitted their own responses. These survey responses are attached as Appendix C.

Additionally, TAX received survey responses from 6 distributors: Atlantic Dominion Distributors, J.T. Davenport and Sons, Eby-Brown Company, McLane, Merchants

Grocery Company, Inc. and Sheetz Distribution Services. The survey responses of these wholesalers are attached as Appendix D.

Two localities and one wholesaler inadvertently completed the draft surveys provided to the interested parties for their review rather than the final surveys. As the draft surveys included all of the questions in the final surveys, their responses to the draft surveys were accepted.

Local Governments' Comments Concerning Local Tax Stamps

Local governments were asked about the benefits and the drawbacks of local cigarette tax stamps. Based on the survey responses, with the exception of Arlington County, every Virginia locality that administers its own cigarette tax requires the application of a local stamp. These localities strongly support the use of local stamps as a simple and cost effective method of enforcing local cigarette taxes. As the tax is paid at the time the wholesaler purchases the stamps, the locality receives its revenue immediately. When conducting site visits at retail merchants, the locality can readily determine whether or not the tax has been paid. Although a few localities cited the cost of the stamps as a drawback, they noted that any other method of administering the tax would be less effective and just as time consuming.

Most localities conduct site visits to ensure that retail merchants are selling only stamped cigarettes. Most localities do not audit wholesalers. Several localities stated that they might audit wholesalers if they were located in the locality.

Wholesalers are only required to file regular returns in four localities that administer their cigarette taxes with stamps: the Cities of Harrisonburg, Virginia Beach and Winchester and the Town of Culpeper.

Arlington administers its tax by requiring wholesalers to file monthly returns. Although this has resulted in lower administrative costs, Arlington acknowledges that the lack of a stamp has resulted in some enforcement problems.

Wholesalers' Comments Concerning Local Tax Stamps

When asked about the benefits and the drawbacks of local cigarette tax stamps, with one exception, the six wholesalers who responded to the survey see no benefits. Wholesalers see the following costs as the drawback of local cigarette tax stamps:

1. The substantial cost of maintaining an inventory of each local stamp.
2. The labor cost of applying rolls of different local stamps.
3. The additional costs of dual stamp machines that are more expensive to purchase and maintain and require more space than single stamp machines.

4. The cost of cigarettes damaged when run through stamping machines twice to apply a local stamp.
5. The cost of maintaining a sufficient inventory of stamped cigarettes for each locality.
6. The labor cost of segregating stamped cigarettes by locality.
7. The administrative cost of handling customer and local government complaints when the wrong local stamp has been applied.
8. The administrative cost of applying for both state and local refunds on damaged or outdated product.

As illustrated by the “Double Stamp Processing Costs” exhibit prepared by Sheetz and attached to its survey response, these costs are substantial.

Only one distributor supported the use of local stamps. It noted that local stamps provide a control that ensures that its competitors and retailers pay the proper tax to each locality. Although it saw the cost of its stamp inventory as a drawback, it noted that the cost of applying local stamps is minimal because it must open the carton to apply the state stamp anyway.

Localities’ Comments Concerning Uniformity and Consistency of Local Tax Stamps

Local governments were asked about the benefits and drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps. Localities that administer their own cigarette tax stress that in order to be effective, each locality must have its own stamp that is clearly distinguishable from that of other localities. The NVCTB localities expressed similar concerns regarding this proposal.

Several localities felt that printing costs could be reduced by creating an otherwise uniform local stamp that was differentiated by locality codes and/or colors. Others, however, questioned the need for more uniformity because local stamps are already fairly uniform due to the limited suppliers of stamps and the need for stamps to be compatible with the stamping machines currently employed by wholesalers.

Wholesalers’ Comments Concerning Uniformity and Consistency of Local Tax Stamps

When wholesalers were asked about establishing uniformity and consistency among localities in the design and use of local tax stamps, four of the six wholesalers that responded to the survey supported the concept of improving the uniformity and consistency of local tax stamps if it meant that there would be one common local stamp. One stated that it would be better to eliminate all local stamps and go to a reporting

system. One stated that it did not see a way to improve the uniformity and consistency of local tax stamps without making them ineffective.

Local Governments' Comments Concerning Mandatory Use of a Dual Stamp

Local governments were asked about the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX. With one exception, every locality that administers its own cigarette tax is opposed to this concept. The Town of Tazewell stated that TAX's administration of the local cigarette taxes may make it easier for small towns to impose a local cigarette tax. A few localities acknowledged that this proposal would benefit wholesalers and may result in printing savings for localities.

Localities are concerned that their receipt of cigarette tax revenues would be delayed if the tax was collected by TAX and then distributed to localities. Under the current system, the local tax is paid to the locality before the cigarettes are shipped to the retailer.

Citing instances where wholesalers have reported local sales tax incorrectly because of confusion caused by different localities sharing mailing addresses and ZIP codes, localities are concerned that revenues would be apportioned incorrectly. Localities argue that they are more familiar with their business communities and jurisdictional boundaries than TAX.

Localities are also concerned about losing control of a local revenue source. They feel that they would not be able to audit retailers to prevent the shifting of product from lower tax jurisdictions. Some localities questioned whether TAX would receive the funding or would be motivated to enforce a local tax. Some localities feel their ability to change their tax rate would be hampered. Others fear that the state would appropriate the revenues for state use.

One locality questioned the need for a dual stamp, stating that wholesaler's stamping machines can apply four stamps at once.

In general, the NVCTB localities expressed similar concerns regarding this proposal. They recommend that other localities form regional administration agencies to achieve the benefits of using a dual stamp without the problems associated with state administration of a local tax.

Wholesalers' Comments Concerning Mandatory Use of a Dual State-Local Stamp

When asked about the benefits and drawbacks of the mandatory statewide use of a dual stamp issued by TAX, wholesalers saw several benefits to this proposal. They observed that with a dual stamp, wholesalers would not incur the costs of financing an inventory of local stamps because the local tax would not be paid until the cigarettes are sold. Wholesaler's costs for financing and storing inventories of stamped cigarettes for the cigarette taxing localities would be reduced. Wholesalers would not need to

purchase and maintain stamping machines that can accommodate more than one stamp. Additionally, wholesalers would reduce the labor and other costs of switching rolls of stamps on the stamping machines.

One wholesaler supported the concept of a dual stamp administered by TAX as being better than the current situation, but noted that it would be an administrative burden to file separate reports with localities. Another wholesaler felt that if a dual stamp was used, the local portion should be administered by a body set up by the localities similar to the NVCTB because localities have questioned TAX's distribution of local sales tax revenues.

Two wholesalers felt that this proposal would loosen the current controls on local cigarette taxes resulting in increased tax evasion which would make it more difficult for honest wholesalers to compete on price.

Localities' Comments Concerning Enforcement Through Wholesaler Returns

Local governments were asked about the benefits and drawbacks of eliminating all local tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers. With the exception of Arlington County, which currently relies on wholesaler returns, every locality that administers its own tax and the NVCTB localities are opposed to the concept of replacing local tax stamps with monthly returns filed by wholesalers.

Localities are concerned that a return system would cause increased administrative costs to enforce the tax and a delay in their receipt of cigarette tax revenues. They anticipate the need to dedicate resources to follow up on wholesalers who fail to file returns and to audit wholesalers' books and records.

Local governments question how they would audit wholesalers located outside of their jurisdiction. Some localities question whether they have the legal authority to audit wholesalers in other localities and other states. Additionally, localities question the effectiveness of relying on wholesaler returns when wholesalers have no control over cigarettes once they have been shipped to retailers. In contrast, stamps allow the enforcement of the tax to take place entirely in their jurisdiction.

Wholesalers' Comments Concerning Enforcement Through Wholesaler Returns

Wholesalers saw several benefits to eliminating all local tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers. As with the dual stamp proposal, wholesalers would not need to incur the cost of financing an inventory of local stamps. Their costs for financing and storing an inventory of stamped cigarettes would be further reduced as they would only need to maintain an inventory of cigarettes with the state stamp. Additionally, wholesalers would not need to purchase and maintain dual stamping machines. Wholesalers would further reduce the labor and other costs of switching rolls of stamps on the stamping machines.

One wholesaler felt that this proposal would loosen the current controls on local cigarette taxes resulting in increased tax evasion which would make it more difficult for honest wholesalers to compete on price. Three wholesalers noted the administrative burden of filing separate reports with localities.

Local Governments' Comments Concerning Enforcement Through Retailer Returns

Local governments were asked about the benefits and drawbacks of eliminating all local tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers. Localities that administer their own cigarette taxes and the NVCTB localities are opposed to this concept for many of the same reasons noted for their opposition of returns filed by wholesalers.

Although each retailer subject to the tax would be located in their jurisdiction, the books and records of larger retailers would likely be in other localities or other states. Localities would also be dealing with a much larger group of taxpayers when dealing with retailers instead of wholesalers. Localities are also concerned about collecting the tax from retailers who take a bankruptcy or go out of business.

Wholesalers' Comments Concerning Enforcement Through Retailer Returns

As wholesalers would be relieved of the need to stamp cigarettes and file returns, four wholesalers stated that the replacement of local tax stamps with retailer returns would be good for wholesalers. Three wholesalers, however, stated that this proposal would make it very difficult for localities to enforce local cigarette taxes. Although one wholesaler felt that this proposal would benefit retailers by reducing their cost of goods sold, two wholesalers stated that it would be an administrative burden for retailers.

Comments of Northern Virginia Cigarette Tax Board

Members of the NVCTB were asked about the benefits and drawbacks of delegating the administration of their cigarette taxes to the NVCTB. Their joint response stated:

There are only benefits to having Northern Virginia Cigarette Tax Board to administer, enforce and collect the cigarette taxes for the member jurisdictions. The Board has a 35-year proven track record of accurate and efficient tax collecting experience.

Benefits include:

- a. Accountability – The NVCTB is directly accountable to its member jurisdictions and is audited on an annual basis by a certified CPA auditing firm. This financial report is published, sent to all member jurisdictions and filed with the Commonwealth's auditor of public accounts. The NVCTB conducts inventories and audits of all wholesalers, vendors and

Manufacturers Representatives both in state and out of state to ensure the proper reporting and collection of all cigarette taxes due. Retail locations are also audited as needed in order to ensure proper tax payments. As a result of the ongoing field inspection program the NVCTB ensures that both the local and state taxes are paid within the member jurisdictions.

- b. Enforcement - The NVCTB conducts regular inspections of retail establishments in all thirteen jurisdictions to insure proper stamp usage and to prevent the possible evasion of the cigarette tax.
- c. Local Presence/Accuracy - By being familiar with the local jurisdictional boundaries, the NVCTB can ensure that all retail locations are correctly listed and the proper taxes are paid. In addition, the NVCTB can quickly respond to tax rate changes, fraud complaints and other problems.
- d. Cost Savings by Shared Expenses - The expenses incurred by the Board in the administration, collection and enforcement of the cigarette tax are shared by all member jurisdictions resulting in a cost savings to all member jurisdictions.
- e. Expense Control - Member jurisdictions of the NVCTB controls the budget and therefore can control the expenses each fiscal year.

Summary of Survey Results

Localities are, in general, opposed to the alternatives to the current local cigarette tax stamping laws raised in the survey questionnaires. Overwhelmingly, localities that administer their own local cigarette taxes stress that in order to be effective, each locality must have its own stamp that is clearly distinguishable from that of other localities and each locality must be able to collect its own tax. The NVCTB localities recommend that other localities use the authorization currently granted by state law to form similar regional administration agencies.

Only one wholesaler, however, supports the current stamping system. The remaining wholesalers support one or more of the alternatives raised in the survey questionnaires. One wholesaler would like to see a dual stamp that is administered by one office. One wholesaler would like to see all localities that tax cigarettes be required to participate in one of several regional enforcement agencies. Two wholesalers would like to see either a dual stamp or simply a wholesaler return system. One wholesaler would like to see a wholesaler return system.

Public Meeting

In order to discuss the survey results and receive the comments of interested parties, TAX held a public meeting on November 29, 2005. Invitations were emailed to the VML, VACO, the Commissioners of the Revenue Association, the Treasurers

Association of Virginia, the NVCTB, the Virginia Petroleum, Convenience and Grocery Association, the Virginia Retail Merchants Association, the Wholesalers Association (and its members), Sheetz, Inc., Wawa, Inc. and every locality that is authorized by state law to impose a local cigarette tax. A notice of this meeting was also posted on the Department of Planning and Budget's Virginia Regulatory Town Hall web site and the Commonwealth Calendar. Interested parties were provided with a preliminary draft of TAX's report prior to the meeting.

Approximately thirty interested parties attended the public meeting. TAX reviewed the survey results and solicited the comments of local government and industry representatives. The comments received by TAX from the interested parties were consistent with the positions set forth in their survey responses. Noting the conflicting positions of industry and local governments concerning local cigarette tax stamping, TAX asked the interested parties to recommend an alternative that would be mutually agreeable to local governments and industry. The interested parties acknowledged that such a solution is not readily apparent.

Written Comments

Subsequent to the public meeting, TAX received written comments from the cities of Chesapeake and Portsmouth and from Sheetz, Inc. and McLane Company. These comments, which are attached as Appendix E, reiterate many of the points previously expressed by local governments and industry in their survey responses and in the public meeting.

In order to address the concerns raised by wholesalers regarding the cost of stamping cigarettes, the City of Chesapeake notes that the Hampton Roads localities offer the following discounts to wholesalers to cover their operational costs:

<u>LOCALITY</u>	<u>DISCOUNT GIVEN</u>	<u>MINIMUM RETURN POLICY</u>
Chesapeake	8%	NO
Hampton	5%	NO
Newport News	8%	NO
Norfolk	6%	NO
Portsmouth	8%	NO
Suffolk	8%	NO
Virginia Beach	8%	NO

Sheetz and McLane request that the legislature continue this study in order to give interested parties more time and resources to develop a system that is less burdensome to cigarette retailers and wholesalers.

Recommendation

Based on the survey responses and comments received from local governments and wholesalers, TAX cannot discern any change in the local cigarette tax stamping laws that would be acceptable to both local governments and wholesalers. Although the stamping of the different local cigarette tax stamps imposes a substantial cost on wholesalers, local cigarette tax stamps are considered by the localities to be the most practical and effective method for local governments to enforce local cigarette taxes. The alternatives to the current stamping system suggested by the interested parties would either 1) make it easier for dishonest cigarette sellers to evade local cigarette taxes, giving them a substantial price advantage over honest dealers, or 2) require the Commonwealth or local governments to conduct expensive and invasive audits of cigarette wholesalers and retailers, or 3) only reduce, but not eliminate, the administrative costs currently imposed on sellers of cigarettes. Bringing the interested parties together has initiated a dialogue between the local governments and cigarette wholesalers. Given the substantial differences between the positions of local governments and cigarette wholesalers, TAX is unable to recommend a viable solution to resolve their differences at this time. It is recommended that the General Assembly direct the interested parties to continue their discussions.

Appendix A

House Joint Resolution 664 (2005)

2005 SESSION

ENROLLED

HOUSE JOINT RESOLUTION NO. 664

Requesting the Department of Taxation to study the use of tax stamps by Virginia's localities as evidence of the payment of local cigarette taxes by wholesalers. Report.

Agreed to by the House of Delegates, February 5, 2005

Agreed to by the Senate, February 24, 2005

WHEREAS, the Commonwealth of Virginia imposes a state cigarette tax of \$0.20 per pack of cigarettes sold in the Commonwealth of Virginia; and

WHEREAS, the Department of Taxation collects the tax from tobacco wholesalers and the payment of the tax is indicated by the use of tax stamps; and

WHEREAS, 29 cities, two counties, and 32 towns imposed a local cigarette tax at tax rates ranging from \$0.03 per pack to \$0.65 per pack; and

WHEREAS, the 63 localities that impose local cigarette taxes use a variety of methods to collect their local cigarette taxes; and

WHEREAS, there need not be two different and costly methods and procedures to ensure that both taxes are paid on the same package of cigarettes; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Department of Taxation be requested to study the use of tax stamps by Virginia's localities as evidence of the payment of local cigarette taxes by wholesalers and whether a single stamp could be issued for evidence that both taxes have been paid.

In conducting its study, the Department of Taxation shall examine the feasibility of establishing uniformity and consistency among the counties, cities, and towns of the Commonwealth in the design and use of tax stamps or other evidence of payment of local cigarette taxes by tobacco wholesalers. The Department of Taxation shall seek input from the Virginia Municipal League, the Virginia Association of Counties, the Virginia Retail Merchants Association, the Virginia Wholesalers, the Distributors Association, and other interested parties.

All agencies of the Commonwealth shall provide assistance to the Department of Taxation for this study, upon request.

The Department of Taxation shall complete its meetings by November 30, 2005, and shall submit to the Governor and the General Assembly an executive summary and a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2006 Regular Session of the General Assembly and shall be posted on the General Assembly's website.

ENROLLED

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Appendix B

**Survey Responses from Localities
that Administer their Own Local Cigarette Taxes**

STUDY OF LOCAL CIGARETTE TAX STAMPS
PURSUANT TO 2005 HOUSE JOINT RESOLUTION 664

Local Government Survey

1. What is the name of your locality? **Chesapeake**
2. Does your locality impose a local cigarette tax? If not, do not complete the remainder of this survey. Please return this survey to the Department of Taxation. **Yes.**
3. What is your current local cigarette tax rate? **2.5 cents per cigarette.**
4. Do you issue a local cigarette tax stamp? **Yes.** If so, what are the benefits and the drawbacks of having a local cigarette tax stamp? **The main benefit of the cigarette tax is that it serves as a significant revenue source, estimated to generate in Chesapeake approximately \$4.8 million in FY06. The stamp is used to maintain this revenue stream and ensure compliance. There is minimal cost to the locality with this compliance mechanism. I am not aware of any drawbacks.**
5. If you do not have a local cigarette tax stamp, what are the benefits and drawbacks of not having a local cigarette tax stamp? **N/A**
6. Does your locality require wholesale dealers to file regular returns or reports? **No.**
7. Does your locality require retail dealers to file regular returns or reports? **No.**
8. Does your locality audit wholesale dealers? **Yes.**
9. Does your locality audit retail dealers? **Yes.**
10. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **In the Hampton Roads region, each locality uses a different color stamp to help ensure that proper locality stamps are affixed at retail locations.**
11. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps? **Uniformity among localities typically benefits both the locality and the public.**
12. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX? **The state government should not control the issuance of a local stamp or the collection of a local tax. If a dual stamp is**

to be used, it would benefit all concerned if the localities actually issue and collect. State monies could then be submitted to the Department of Taxation. State cigarette stamp compliance is currently very minimal. Compliance for state and local would be more effective at the local level.

Currently, local cigarette stamps are purchased and applied by wholesalers. The local cities receive their money for these stamps at the time of purchase. Localities would have to wait longer for their cigarette tax revenue due to the lag time of the state having to disburse the collected funds.

13. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **The only benefit would be the elimination of cost of purchasing stamps by the locality, which is minimal in Chesapeake.**

The major drawback would be that localities would lose control of the collection/compliance/enforcement mechanisms currently used to keep retailers/wholesalers selling the properly taxed cigarettes in a given locality. There is great potential for revenue loss based on the questionable integrity of the wholesalers/retailers. Another drawback is the opening of the door for bootleg/black market sales. Retailers could easily move product from a low tax area to a high tax area, thereby cheating cities out of their revenue as bootlegging occurs.

14. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **The only benefit would be the elimination of the cost of purchasing stamps by the locality, which is minimal in Chesapeake. Similar to the drawbacks explained in Question #13, localities would lose control of the collection/compliance/enforcement mechanisms currently in existence and would be forced to accept an "honor system" for reporting. While many businesses are honest and would report accurately, there are some retailers that would willfully underreport their cigarette sales. The result would be an "uneven playing field".**

15. Do you have any other comments or suggestions? **If local stamps are eliminated and ultimately replaced by a wholesalers/retailers report, the Commonwealth of Virginia would have to enforce compliance. The state would have to add and train a large complement of personnel who likely would have little vested interest in the localities realizing their full revenue from the cigarette tax. With the varying tax rates throughout more than sixty localities, and the large number of wholesalers/retailers operating in Virginia, the potential for localities not receiving their proper amount is immense. Virginia is too large of a geographical area to be able to police the entire state from Richmond. In Chesapeake, we have five trained**

business tax specialists who regularly conduct field investigations of retailers selling cigarettes. These tax specialists, who also enforce BPOL, meals, lodging, and admissions taxes, know the physical boundaries of City of Chesapeake and its business community very well. The current system of enforcement is working well and helps to ensure that consumers are better protected from counterfeit/contraband cigarettes entering the marketplace. I acknowledge that the current system of applying two stamps (i.e., state and local) is not simple. However, the inherent checks and balances and extra set of eyes from both state and local officials can be helpful in preventing illegal activity.

Cigarettes are one of the most heavily taxed commodities in the United States. With cigarettes, the taxed commodity is of high value, compact, and easily transportable from one jurisdiction to another. A significant price differential can be a huge incentive for individuals to buy cigarettes in one place versus another. If retailers are unscrupulous and can avoid paying taxes, they can sell at a lower price point and their profit margin increases dramatically.

Higher taxes will likely spur a black-market industry in cigarette sales. Evidence is already pointing to more people buying cigarettes from Internet vendors who routinely ignore a federal law requiring them to properly report sales. The federal law requires Internet cigarette sellers to provide state revenue officials with names and addresses of their customers. However, it is my understanding that a 2002 federal study reported 78% of Internet vendors not complying with the law.

Submitted by: Ray A. Conner
 Commissioner of the Revenue
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 Chesapeake, VA 23328
 757-382-6620

STUDY OF LOCAL CIGARETTE TAX STAMPS
PURSUANT TO 2005 HOUSE JOINT RESOLUTION 664

Local Government Survey

1. What is the name of your locality? **City of Covington**
2. Does your locality impose a local cigarette tax? If not, do not complete the remainder of this survey. Please return this survey to the Department of Taxation. **Yes**
3. What is your current local cigarette tax rate? **\$0.20 per pack; \$2.00 carton of 10 packs.**
4. Do you issue a local cigarette tax stamp? If so, what are the benefits and the drawbacks of having a local cigarette tax stamp? **Yes; Benefits—increased revenue to the city. Drawbacks—extra tax could have some people going to other areas without such tax for their purchases.**
5. If you do not have a local cigarette tax stamp, what are the benefits and drawbacks of not having a local cigarette tax stamp?
6. Does your locality require wholesale dealers to file regular returns or reports? **Not at this time.**
7. Does your locality require retail dealers to file regular returns or reports? **Not at this time.**
8. Does your locality audit wholesale dealers? **Not at this time.**
9. Does your locality audit retail dealers? **Yes. There are field audits and inspections of inventory at random or spot-check at the retailers.**
10. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **At this point in time do not see why the need to be uniform and/or consistent among localities.**
11. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps? **Do not foresee the benefits at this time. Drawback—if they are uniform in design it would seem more difficult to ascertain which stamp belongs to which locality. Being different would appear to be more reasonable and able to identify.**
12. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX? **Benefits—not sure of how this would work at**

this time. Drawbacks—if this is issued by TAX and collected by the state, it would take longer for the revenues to reach the localities as sometimes happens in the case of the sales tax. If this is considered a local tax implemented by the local ordinance then the sales and payments should remain local.

13. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **Benefits—none foreseen. Drawbacks—not all local retailers purchase from wholesalers. Several small businesses in this area buy in smaller quantities and purchase stamps by the sheet and not in rolls.**
14. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **Benefits—not sure. Drawbacks—would the retailers really want to have another separate item to file by return? This, again, would be more bookkeeping and work, especially for the small retailers.**
15. Do you have any other comments or suggestions? **At the present time this is a local tax passed by local government ordinance and should remain that way.**

STUDY OF LOCAL CIGARETTE TAX STAMPS
PURSUANT TO 2005 HOUSE JOINT RESOLUTION 664

Local Government Survey

1. What is the name of your locality? **Franklin City**
2. Does your locality impose a local cigarette tax? If not, do not complete the remainder of this survey. Please return this survey to the Department of Taxation. **Yes**
3. What is your current local cigarette tax rate? **\$.50 per pack**
4. Do you issue a local cigarette tax stamp? If so, what are the benefits and the drawbacks of having a local cigarette tax stamp? **Yes. The benefits are the additional revenue – for the 2004-2005 FY it was over \$291,000.**
5. If you do not have a local cigarette tax stamp, what are the benefits and drawbacks of not having a local cigarette tax stamp?
6. Does your locality require wholesale dealers to file regular returns or reports? **No**
7. Does your locality require retail dealers to file regular returns or reports? **No**
8. Does your locality audit wholesale dealers? **No**
9. Does your locality audit retail dealers? **No**
10. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **Don't know.**
11. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps? **The benefit would be only one stamp. The drawback would be the turn around time for the state to send us the revenue, 30, 60 or 90 days? Or if the state needed the money, would the locality get into an arrears situation or not get the revenue at all?**
12. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX? **While Franklin only has one zip code some businesses in the out lying areas of Southampton County and Isle of Wight County have a Franklin mailing address but are actually located in these counties. We already have a hard time with TAX in keeping the sales tax information straight. This would be another headache for us. Also, enforcement would be an issue. Would we be required to audit a sampling**

at each business on a monthly basis? Would the wholesaler and/or retailer still receive a discount?

13. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **No benefit. I think it would be harder on us and the seller of the cigarettes. Wholesalers already have enough paperwork without putting this additional burden on them. Also, how would we know if our locality is getting the correct amount of cigarette tax? Who is going to audit the wholesaler?**
14. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **Same as above.**
15. Do you have any other comments or suggestions? **Don't do it!!**

STUDY OF LOCAL CIGARETTE TAX STAMPS
PURSUANT TO 2005 HOUSE JOINT RESOLUTION 664

Local Government Survey

1. What is the name of your locality? **City of Fredericksburg**
2. Does your locality impose a local cigarette tax? If not, do not complete the remainder of this survey. Please return this survey to the Department of Taxation. **Yes**
3. What is your current local cigarette tax rate? **\$0.31 per pack**
4. Do you issue a local cigarette tax stamp? If so, what are the benefits and the drawbacks of having a local cigarette tax stamp?
Yes
Benefits – Can easily identify who is/is not in compliance
Drawbacks – No real drawback except maybe the cost of printing the local tax stamp
5. If you do not have a local cigarette tax stamp, what are the benefits and drawbacks of not having a local cigarette tax stamp? **N/A**
6. Does your locality require wholesale dealers to file regular returns or reports? **No**
7. Does your locality require retail dealers to file regular returns or reports? **No**
8. Does your locality audit wholesale dealers? **No**
9. Does your locality audit retail dealers? **Yes**
10. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **Put it out to bid and give one company the contract to print stamps for all localities. The locality number could be put on each location's stamp thereby distinguishing them. This should result in savings in cost.**
11. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps? **A benefit would be the savings in printing costs. However, to require one tax rate for the entire state would mean that localities would no longer be able to consider their revenue needs vs what the local market would bear.**

12. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX? **The only benefit would be the savings in the cost of printing. Would the cash flow be the same as it is for sales tax? How would the locality monitor whether it is getting the proper reporting from sales within their jurisdiction? We currently have that problem at the sales tax level – some entities crediting remittances to the incorrect locality. If it is administered by the State, why the need for the dual stamp?**

13. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **This would severely limit the ability to audit for compliance and accuracy. We currently have distributors in TN, PA, MD, NC and NJ. Cash flow would also be restricted if we are paid when packs are sold vs paying for the stamps in advance.**

14. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **There would be too much lack of control in this scenario and to audit all the retailers within a locality would be extensive. All large retailers (WalMart, Target, etc.,) grocery store chains, independent grocers, convenience stores, and gas stations would be involved and an audit would be cumbersome for them as well. Administration of filing, paying, and collection would require additional time which translates into additional staff which negates some the revenue gained in having said tax. Further, when we sell the stamps up front, we do not have to worry about store closings, bankruptcies, or collections/slow payers.**

15. Do you have any other comments or suggestions? **As our program stands now, we incur cost for the printing of our stamps, but we recover these costs up front when the stamps are purchased to be put on the packs of cigarettes. Our audit program consists of ensuring that all packs sold in the City have the stamp on them. We do not have to look at financial records or inventory counts. It is relatively easy to administer.**

STUDY OF LOCAL CIGARETTE TAX STAMPS
PURSUANT TO 2005 HOUSE JOINT RESOLUTION 664

Local Government Survey

1. What is the name of your locality? **Hampton**
2. Does your locality impose a local cigarette tax? If not, do not complete the remainder of this survey. Please return this survey to the Department of Taxation. **Yes**
3. What is your current local cigarette tax rate? **32.5 mills per cigarette (.65 per 20-pack)**
4. Do you issue a local cigarette tax stamp? If so, what are the benefits and the drawbacks of having a local cigarette tax stamp? **Yes, we issue a local stamp. Cigarette stamps are relatively easy to administer, functioning more like sales transactions than tax return filings. They produce a notable amount of local revenue and have no known drawbacks.**
5. If you do not have a local cigarette tax stamp, what are the benefits and drawbacks of not having a local cigarette tax stamp? **N/A**
6. Does your locality require wholesale dealers to file regular returns or reports? **No regular forms or returns are filed; dealers simply purchase stamps on an as-needed basis. The majority of our transactions are with wholesale dealers.**
7. Does your locality require retail dealers to file regular returns or reports? **No regular forms or returns are filed; forms are submitted for purchases on as-needed basis. We only have a few small retailers who purchase their stamps directly through us; most are acquiring already stamped cigarette packs through wholesale dealers.**
8. Does your locality audit wholesale dealers? **As with all businesses, we reserve the right to perform audits on an as-needed basis.**
9. Does your locality audit retail dealers? **Retail establishments are periodically visited explicitly for a visual inspection of cigarettes; Packs without the proper stamps are confiscated. Retailers may regain possession of the cigarettes by purchasing the necessary stamps. We also reserve the right to do financial audits and do so on an as-needed basis, generally in conjunction with the audit of other local tax obligations.**
10. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **There is an inherit need for local**

distinction on the cigarette stamp. For example, cigarettes sold in Hampton must bear a Hampton stamp. While it is feasible for all stamps to be of the same manufacture or the like, they would still need a distinct color or other clear form of identification to ensure that the cigarettes bear the proper stamp for the locality from which they are being sold. Currently localities in our area that have the stamp use different colors; however some colors fade, making it difficult to identify the locality.

11. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps?
See response to #10.

12. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX? **The primary benefit would be ease of process for businesses (one-source purchasing), however I believe this would be at substantial cost to localities. Proper revenue apportionment among localities would become a major point of concern. Given the variation in local rates, it will be crucial to ensure that Hampton receives the revenues associated with the ultimate retail sales in Hampton. If our local tax is consolidated with a state tax, and administered by the state, we would likely encounter an apportionment scheme similar to what is being pondered with the telecommunications taxes and what has been done with PPTRA funding and Gas and Electric Consumption taxes. Localities lose full control of the revenue stream, and can no longer lower or raise the tax to manage the local budget.**

In addition, unless the dual stamp maintains distinct local identifiers, localities will completely lose the ability to audit and verify (see response to #9). Similarly, TAX could not supplement this function as the primary tool needed, the unique locality identification on the stamps would not be available.

13. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **The primary issue that would arise is timing. Currently, wholesalers simply make purchases as-needed, with no set due dates or technical filing requirements. While we could easily accommodate a “return process” (as that is how all our other taxes are currently filed) you may find that this type of process places additional burdens on the businesses making the purchases. In addition, we would have the added administrative burden of following up on non-filers and the like associated with a return process which we do not face today because of the manner in which the stamp is currently administered.**

14. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **See response to #13.**

15. Do you have any other comments or suggestions?

STUDY OF LOCAL CIGARETTE TAX STAMPS
PURSUANT TO 2005 HOUSE JOINT RESOLUTION 664

Local Government Survey

1. What is the name of your locality? **City of Harrisonburg**
2. Does your locality impose a local cigarette tax? If not, do not complete the remainder of this survey. Please return this survey to the Department of Taxation. **Yes**
3. What is your current local cigarette tax rate? **\$.30 per pack**
4. Do you issue a local cigarette tax stamp? If so, what are the benefits and the drawbacks of having a local cigarette tax stamp? **Yes. By issuing our own local tax stamp, we can monitor and audit the cigarette tax more effectively. Cost of administration compared to the revenue is miniscule.**
5. If you do not have a local cigarette tax stamp, what are the benefits and drawbacks of not having a local cigarette tax stamp? **N/A**
6. Does your locality require wholesale dealers to file regular returns or reports? **Yes**
7. Does your locality require retail dealers to file regular returns or reports? **No**
8. Does your locality audit wholesale dealers? **Although we have a part-time auditor, we have not audited any cigarette wholesaler.**
9. Does your locality audit retail dealers? **Yes**
10. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **Uniformity is fine, but only if was designed such that each locality is distinguishable.**
11. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps? **Uniformity would be fine if it would lower the costs of the stamps. However, the drawback is that it makes it more difficult to monitor and audit the tax revenue.**
12. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX? **The benefit is that it would save time for the wholesaler, dealing with one entity rather than many, and it would save money, perhaps, for the purchase of stamps. The drawback is the time**

delay in the locality receiving its tax share and the need to check the state's accounting system from time to time.

13. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **The drawbacks are that it would be too difficult to audit and the expense of administration by local government. No known benefits.**
14. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **Same as #13. Too burdensome for the retailer and too much paperwork for the locality. No known benefit.**
15. Do you have any other comments or suggestions? **Let each locality make their own decisions on local issues.**

STUDY OF LOCAL CIGARETTE TAX STAMPS
PURSUANT TO 2005 HOUSE JOINT RESOLUTION 664

Local Government Survey

1. What is the name of your locality? **City of Martinsville**
2. Does your locality impose a local cigarette tax? **Yes** If not, do not complete the remainder of this survey. Please return this survey to the Department of Taxation.
3. What is your current local cigarette tax rate? **\$.20/pack**
4. Do you issue a local cigarette tax stamp? If so, what are the benefits and the drawbacks of having a local cigarette tax stamp? **Yes Benefits: Spot checks indicate need for further audit if local stamps are missing**
5. If you do not have a local cigarette tax stamp, what are the benefits and drawbacks of not having a local cigarette tax stamp?
6. Does your locality require wholesale dealers to file regular returns or reports? **No**
7. Does your locality require retail dealers to file regular returns or reports? **No**
8. Does your locality audit wholesale dealers? **We have done desk audits when our spot audits of local retailers indicated a problem with the wholesale distributor. We have also contacted TAX when the spot audit indicated missing state stamps.**
9. Does your locality audit retail dealers? **Yes**
10. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **It is already fairly uniform and consistent to a degree because of the limited sources for producing the stamps and the fiscal need to use existing stamping equipment that the wholesalers already have.**
11. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps? **Drawback: uniform stamp design would slow down or make spot audits ineffective because there would be no way to track back stamp to a particular locality if they came from the distributor incorrectly stamped. Benefit would be to the wholesalers – they would only have to adhere one stamp, but there is no guarantee that the tax would be paid to the correct locality.**

12. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX? **Drawback – Who would have selling/collecting and auditing authority? How would distribution of collected revenue be made? Problem with confusion of localities that share zip codes and locality names, i.e. Henry Co has Martinsville addresses.**
13. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **Wholesalers are out-of-state and localities do not have the enforcement authority or resources with available staff to enforce. Currently enforcement is primarily with local retailers who in turn put pressure on their distributor if that is where the source of the problem exists. Local ordinances place the burden of stamping on the local retailers who can be held criminally accountable.**
14. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **Drawback – Violators are easy to spot with a spot audit to see if stock is stamped. No visible stamp prompts a detailed audit**
- Benefits – Retailers don't have to be sure that stamps are on stock, which is time consuming if not done by the wholesaler. They would trade off this benefit with the time required for the additional paperwork of reporting.**
15. Do you have any other comments or suggestions? **Suggest a joint local/state partnership pilot program similar to the meals tax/sales tax audit pilot program currently conducted in the Tidewater localities in which TAX could piggyback cigarette audits conducted locally.**

STUDY OF LOCAL CIGARETTE TAX STAMPS
PURSUANT TO 2005 HOUSE JOINT RESOLUTION 664

Local Government Survey

1. What is the name of your locality? **Newport News**
2. Does your locality impose a local cigarette tax? If not, do not complete the remainder of this survey. Please return this survey to the Department of Taxation. **Yes.**
3. What is your current local cigarette tax rate?

\$0.65 per pack of 20 cigarettes per pack

\$0.8125 per pack of 25 cigarettes per pack

\$0.9750 per pack of 30 cigarettes per pack

4. Do you issue a local cigarette tax stamp? If so, what are the benefits and the drawbacks of having a local cigarette tax stamp? **Yes, it generates \$5,100,000 in revenue for the locality annually, ensures compliance with local ordinance and proper revenue distribution. There are no known drawbacks.**
5. If you do not have a local cigarette tax stamp, what are the benefits and drawbacks of not having a local cigarette tax stamp? **N/A**
6. Does your locality require wholesale dealers to file regular returns or reports? **Reports are filed when the cigarette tax stamps are purchased.**
7. Does your locality require retail dealers to file regular returns or reports? **Reports are filed when the cigarette tax stamps are purchased. Most stamps are purchased by wholesalers, however, several large retailers purchase direct.**
8. Does your locality audit wholesale dealers? **Previously no audits have been conducted, however, future audits we feel will be advantageous.**
9. Does your locality audit retail dealers? **Yes, regular inspections are performed by the field inspectors.**
10. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **It goes without saying that the use of "one stamp for all" is the best method of uniformity and consistency if that were the ultimate goal. The purpose of the stamp is to have a visible evidence of compliance, which is in this case "taxes paid". The "one stamp for all" method is not a method that allows a locality to achieve the ultimate goal of compliance of local tax ordinances.**

11. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps? **The benefit would be the purchase of one stamp. The drawback would be that it would be impossible for enforcement and proper revenue distribution. (i.e. Newport News retailers pay taxes to Hampton and other jurisdictions where multiple locations exist.)**
12. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX? **The benefit would be the purchase of one stamp. The drawback would be that it would be impossible for enforcement and proper revenue distribution. (i.e. Newport News retailers pay taxes to Hampton and other jurisdictions where multiple locations exist.)**
13. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **The benefit would be the elimination of the cost of selling the stamps. The drawback would be the proper revenue distribution where multiple locations exist when retailers purchase from wholesalers and use in localities not identifiable.**
14. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **The only benefit would be the elimination of the cost of selling the stamps. The major drawback would be that the locality would still incur the cost of collecting the revenue with the undue burden of relying on wholesalers to provide the required documentation. As it is now, there is a high percentage of businesses that do not comply with the reporting requirements, and if the wholesalers do not file the returns we will not have sufficient evidence of retailer compliance. In addition, we would need more than returns from wholesalers because retailers often buy cigarettes from the Internet and from out-of state retailers. Therefore, we would be relying on support documentation from the retailers such as receipt of purchases and sales, if they could even provide it.**
15. Do you have any other comments or suggestions? **In summary, this proposal is an insult to localities that currently administer and enforce the local cigarette tax. It is preposterous to think that the state would mandate localities to eliminate their most cost effective and time effective method of identifying compliance or non-compliance by having a “dual stamp” issued by TAX. It would seem that the general concept of the proposal is that TAX would be a “collection agent” for the localities while the localities would continue to administer and enforce the local cigarette tax law by using more cumbersome methods of administering the tax (we will have to compare state records with returns from wholesalers and retailers), and an**

unusable evidence of payment (uniform stamp) for physical inspections of cigarettes which, again, is our best method of discovery of non-compliance. If this proposal is adopted, it would increase the chances for non-compliance of sellers, increase the cost and workload for the localities and possibly decrease revenue for localities with higher tax rates.

Localities must then inquire, Would TAX enforce the state cigarette laws for those businesses who are not wholesaler and/or dealers?

It is the opinion of this office that this proposal is based on the concept of "A Perfect World" where everyone complies with the laws of the land. Unfortunately, in reality, as Tax is well aware, not everyone complies with the laws of the land. Based on the research and studies that have been conducted regarding the use and sale of cigarettes, this is one area of the law where compliance and non-compliance are about 50/50.

To agree to this proposal would be in comparison to buying a "lemon" vehicle; it may look good on the outside but there are a lot of hidden flaws that have not been disclosed, so that when you actually get to going down the road every problem known to man surfaces one by one and eventually all that you are left with is a depleted revenue account and a big lump of junk sitting in your front yard. Therefore, this office is not in agreement with this proposal.

STUDY OF LOCAL CIGARETTE TAX STAMPS
PURSUANT TO 2005 HOUSE JOINT RESOLUTION 664

Local Government Survey

1. What is the name of your locality? **City of Poquoson**
2. Does your locality impose a local cigarette tax? If not, do not complete the remainder of this survey. Please return this survey to the Department of Taxation. **Yes**
3. What is your current local cigarette tax rate? **\$0.10 per pack**
4. Do you issue a local cigarette tax stamp? If so, what are the benefits and the drawbacks of having a local cigarette tax stamp? **Yes – audit purposes (compliance)**
5. If you do not have a local cigarette tax stamp, what are the benefits and drawbacks of not having a local cigarette tax stamp?
6. Does your locality require wholesale dealers to file regular returns or reports? **No**
7. Does your locality require retail dealers to file regular returns or reports? **No**
8. Does your locality audit wholesale dealers? **No**
9. Does your locality audit retail dealers? **Yes**
10. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **Unless all localities are granted the same taxing authority (for example, counties) and all tax rates are uniform, the design and use of local stamps work best being different.**
11. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps? **If we are talking about taxing authority and rates, I can't see any drawbacks. However, if we are talking something else, there are inherent compliance issues that would need meticulous auditing.**
12. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX? **Local tax rates are different. What controls are there of a business with multiple store locations buying stamps for one locality but yet selling the cigarettes in another location.**

13. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **Cigarettes are often shipped from places that aren't known wholesalers. For example, internet sales. Retail audits turn up cigarettes without local tax stamps and are confiscated.**
14. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **See above.**
15. Do you have any other comments or suggestions?

STUDY OF LOCAL CIGARETTE TAX STAMPS
PURSUANT TO 2005 HOUSE JOINT RESOLUTION 664

Local Government Survey

1. What is the name of your locality? **City of Portsmouth**
2. Does your locality impose a local cigarette tax? If not, do not complete the remainder of this survey. Please return this survey to the Department of Taxation. **Yes...**
3. What is your current local cigarette tax rate?
.50 Cents (20 pack, wet stamps..500 minimum)
.63 Cents (25 pack, wet stamps..15,000 minimum)
4. Do you issue a local cigarette tax stamp? If so, what are the benefits and the drawbacks of having a local cigarette tax stamp?

Benefits: the collection of taxes and fees is so new sources of revenue do not need to be established, or current sources raised.

Drawbacks: that the state government does not have a better control of wholesale distributors that should mandate a stamp be fixed BEFORE the products leave the stores, this will take some of the burden off of the need for cigarette raids.

5. If you do not have a local cigarette tax stamp, what are the benefits and drawbacks of not having a local cigarette tax stamp?
6. Does your locality require wholesale dealers to file regular returns or reports?
N/A...we have no wholesale dealers in our locality...
7. Does your locality require retail dealers to file regular returns or reports? **No..our retail dealers only need to turn in shipment orders when ordering stamps to be purchased.**
8. Does your locality audit wholesale dealers? **We do not have any in our locality...if so we would visit them...**
9. Does your locality audit retail dealers? **We attempt to visit them at least once or twice a year.**
10. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **The design needs to be something that can be easily seen, bright and not easy to copy. The state would develop a liaison for which we could communicate if the localities needs include an increase in their rate.**

11. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps?
Benefits: Less work for the localities to go out an audit each of the retailers and wholesale dealers.
Drawbacks: Money is deposited into the State Fund...chance it could be diverted to other means than the localities. Who is going to monitor this program (i.e. man-power and what happens if the state has another budget cut?)?
12. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX? **Anything that is MANDATORY is going to met with some opposition... Same answers as above.**
13. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **Same answer as below...what returns are you talking about?**
14. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **What returns?? State? Federal? On the other hand, are you talking about the stamp order forms? We live so near the North Carolina border that some retailers buy their products from across the border and sell them in their store or buy them in small quantities over the Internet, which are missing BOTH stamps.**
15. Do you have any other comments or suggestions? **More joint sessions or cooperation with local ABC Agents when they go into the stores for general audits or investigations. I would also like to see more meetings with the cigarette manufacturers...to hear their viewpoints.**

STUDY OF LOCAL CIGARETTE TAX STAMPS
PURSUANT TO 2005 HOUSE JOINT RESOLUTION 664

Local Government Survey

1. What is the name of your locality? **City of Roanoke**
2. Does your locality impose a local cigarette tax? If not, do not complete the remainder of this survey. Please return this survey to the Department of Taxation. **Yes.**
3. What is your current local cigarette tax rate? **\$.27 per pack**
4. Do you issue a local cigarette tax stamp? If so, what are the benefits and the drawbacks of having a local cigarette tax stamp? **Yes. The benefits is that it generates revenue for the City of Roanoke. It also provides a relatively easy visible means of determining that the local tax has been paid. We don't believe that it creates any significant drawbacks.**
5. If you do not have a local cigarette tax stamp, what are the benefits and drawbacks of not having a local cigarette tax stamp? **We believe the drawback would be it would eliminate the current method of audit to assure the tax has been paid. It would eliminate the administrative process of selling the stamps, but that process would have to be replaced by other administrative procedures that might prove to be just as time consuming and less effective.**
6. Does your locality require wholesale dealers to file regular returns or reports? **No.**
7. Does your locality require retail dealers to file regular returns or reports? **No.**
8. Does your locality audit wholesale dealers? **No.**
9. Does your locality audit retail dealers? **The Commissioner of the Revenue does periodic audits..**
10. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **The City of Roanoke just recently (out last order of stamps) went to a generic "Municipal Tax" stamp that only uses a 5 digit number or letters. We are now using "RKE VA". The audit process should be more consistent with guidelines and the reports of the audits filed with the State to show proof of the audits being performed.**
11. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps?

The benefits of the uniformity in the design of the stamp will keep the cost of the stamp lower because of not having to keep a large volume of plates. The only drawback that I can see is if a locality uses a zip code for their locality and the locality has several zip codes within their locality. Another drawback might be the cigarette stamp plate being too easy to bootleg.

12. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX? **Drawback - The Department of Taxation is not familiar with local jurisdictional boundaries, street names and addresses making it very difficult for DOT to properly verify the correct jurisdictional cigarette tax for each locality. For example, in the City of Roanoke there are zip codes used in the City and the County. There are also the same street names in the City and the County. Additionally, surrounding counties to Roanoke don't have a cigarette tax. There are currently problems with the State Sales tax regarding jurisdictional codes used to credit the City of Roanoke and the County of Roanoke. Benefits – Cost to purchase the stamps by the localities could be less expensive.**
13. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **We believe this would significantly lessen the administrative/audit control that we currently have in assuring that taxes are paid. Local wholesalers sell stamps to retailers that have outlets in our city as well as surrounding counties that don't have a tax. We believe it would virtually impossible to determine that taxes were paid on cigarettes that were sold in retail establishments in the City of Roanoke as opposed to neighboring counties. This applies to question # 14 also.**
14. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers?
15. Do you have any other comments or suggestions?

Currently some localities conduct inventories and perform audits on wholesalers, vendors and retailers to insure that all sales have been accounted for and that all proper taxes have been collected. Should the Department of Taxation assume responsibility for collecting local cigarette taxes, would they have the manpower and resources to do similar audits to insure proper collection of local taxes for all 63 localities?

Should the Department of Taxation take over the collection of local cigarette taxes, there almost certainly would be a delay in the distribution of tax revenues to jurisdictions.

Local Government Survey

1. What is the name of your locality? **City of Staunton**
2. Does your locality impose a local cigarette tax? If not, please skip to Question 14. **Yes.**
3. What is your current local cigarette tax rate? **\$0.15 per pack**
4. Has your governing body adopted any resolution or ordinance that will change your local cigarette tax rate? If so, what will the new rate be and when will it take effect? **No change in rate.**
5. Do you issue a local cigarette tax stamp? If so:
 - A. **Who sells the stamp (commissioner of the revenue, treasurer, etc.)? Director of Finance.**
 - B. **Do you allow dealers to obtain stamps without concurrent payment and, if so, on what terms (bond, letter of credit, etc.)? No, payment is required at time of purchase.**
 - C. **How do dealers apply your local stamp (stick-on, heat fusion, etc.)? stick on and heat fusion.**
 - D. **What are the benefits and the drawbacks of having a local cigarette tax stamp? Benefits include an additional source of revenue for the local government. No considerable drawbacks, very easy to administer the sale of the stamps.**
6. Have you delegated the authority to administer your local cigarette tax to the Northern Virginia Cigarette Tax Board? If so, what are the benefits and the drawbacks of delegating the administration of your cigarette tax? **No**
7. If you do not have a local cigarette tax stamp (and do not participate in the Northern Virginia Cigarette Tax Board) what are the benefits and drawbacks of not having a local cigarette tax stamp?
8. What forms of payment are accepted for payment of your local cigarette tax (cash, certified funds, etc.)? **Cash or check, currently all dealers mail a check with the appropriate form to purchase the stamps**
9. Does your locality require wholesale dealers to file regular returns or reports? If so, please provide a copy. **Yes, see attached**

10. Does your locality require retail dealers to file regular returns or reports? If so, please provide a copy. **Form only required if the retailer has unstamped cigarette packs on hand**
11. Does your locality audit wholesale dealers? **No**
12. Does your locality audit retail dealers? **Yes**
13. What other actions does your locality take to enforce its cigarette tax? **On site auditing of retail vendors to inspect the cigarettes to ensure they are selling cigarettes that include the stamps**
14. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **The stamps would be more uniform and consistent among localities if all localities in the State assessed the tax at the same rate.**
15. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps? **Benefit - would be helpful to wholesalers in applying the same stamp and the same tax rate to all cigarettes.**
16. Would you support establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps? Why? **Maybe, only if the locality does not have to give up its authority to impose and collect the tax. Consistency would benefit the wholesaler and retailers if the tax rate was the same for all localities. Uniform design would be easier for the wholesaler if all stamps were designed the same for all localities versus special designs for each locality**
17. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX? **Drawbacks would include:**
- i. **the negative effect on cash flow waiting for reimbursement from TAX,**
 - ii. **The loss of the source data to assess the impact of the stamp sales by retailers**
 - iii. **I assume that if TAX issued the stamps, that the source data would be available to only Commissioners of Revenues in the locality, this impedes the accuracy and availability of revenue source data to the City Managers and Finance officials who actually manage the local government finances.**
18. Would you support or oppose the mandatory statewide use of a dual stamp issued by TAX? Why? **Oppose. Local government is capable of administering the stamp tax. Local government cash flow from the sale of the local stamp is immediate versus waiting the normal 60-90 days for TAX**

to process reimbursements to the localities. We would maintain the sales data necessary for revenue budgeting. We would also be able to assess the impact on the revenue if we chose to increase/decrease the local tax rate. Once the State gets involved, source data for revenue projections is not available to the finance officials who project and monitor local revenue sources.

19. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **Drawback is the extensive audit work required on behalf of the localities to administer the tax based on returns.**
20. Would you support eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? Why? **No, too much audit function required. This tax is easily administered on a cash & carry basis**
21. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **Drawback would be more auditing functions required by the locality of the retailer to ensure compliance. There are less wholesalers to deal with than retailers. Since retailers buy their cigarettes from the wholesaler, the wholesaler is the initial source to guarantee compliance with the tax.**
22. Would you support eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? Why? **No. the tax stamps need to be applied by the wholesaler to ensure the retailers are selling cigarettes with the tax stamp. The wholesaler is the initial source since the retailers have to purchase the cigarettes from the wholesaler anyway**
23. What would be the benefits and the drawbacks of requiring localities to administer their cigarette taxes by requiring retailers to use stick-on stamps? **Drawback is too labor intensive for the retailers**
24. Would you support requiring localities to administer their cigarette taxes by requiring retailers to use stick-on stamps? Why? **No, retailers would complain too much about the labor intensive task of applying the stamps.**
25. Do you have any other comments or suggestions?

STUDY OF LOCAL CIGARETTE TAX STAMPS
PURSUANT TO 2005 HOUSE JOINT RESOLUTION 664

Local Government Survey

1. What is the name of your locality? **City of Suffolk**
2. Does your locality impose a local cigarette tax? If not, do not complete the remainder of this survey. Please return this survey to the Department of Taxation.
3. What is your current local cigarette tax rate? **\$.025**
4. Do you issue a local cigarette tax stamp? If so, what are the benefits and the drawbacks of having a local cigarette tax stamp? **Local stamps show that the tax was paid in this locality.**
5. If you do not have a local cigarette tax stamp, what are the benefits and drawbacks of not having a local cigarette tax stamp?
6. Does your locality require wholesale dealers to file regular returns or reports? **no**
7. Does your locality require retail dealers to file regular returns or reports? **no**
8. Does your locality audit wholesale dealers? **no**
9. Does your locality audit retail dealers? **no**
10. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **It does not need to be more consistent among localities.**
11. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps? **Uniformity will encourage fraud.**
12. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX? **Don't you-all already have enough to do?**
13. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **Nothing will stop unstamped cigarettes from appearing on store shelves.**

14. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers?

15. Do you have any other comments or suggestions? **Leave something that is working and easy to administer alone.**

STUDY OF LOCAL CIGARETTE TAX STAMPS
PURSUANT TO 2005 HOUSE JOINT RESOLUTION 664

Local Government Survey

1. What is the name of your locality? **City of Virginia Beach.**
2. Does your locality impose a local cigarette tax? If not, do not complete the remainder of this survey. Please return this survey to the Department of Taxation. **Yes**
3. What is your current local cigarette tax rate? **50/20 & .63/25**
4. Do you issue a local cigarette tax stamp? Yes If so, what are the benefits and the drawbacks of having a local cigarette tax stamp? **Identifies Virginia Beach tax has been assessed, stamps ease auditing, given the varying local tax rates in Hampton Roads the stamps insure compliance within the City borders.**
5. If you do not have a local cigarette tax stamp, what are the benefits and drawbacks of not having a local cigarette tax stamp?
6. Does your locality require wholesale dealers to file regular returns or reports? **Yes**
7. Does your locality require retail dealers to file regular returns or reports? **No**
8. Does your locality audit wholesale dealers? **Yes**
9. Does your locality audit retail dealers? **Yes**
10. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **You could have the same design with a locality code to signify which localities tax has been applied.**
11. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps? **The stamps would need to identify the locality tax paid to insure compliance and if this is done then what is the benefit of any new proposed system.**
12. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX? **Gaming of the system (buying lower tax cigarettes and sending them to higher tax jurisdictions), increasing bureaucracy to stop the gaming of the system. Revenue could be delayed waiting for state to send tax receipts to localities. Will the Department of**

Taxation be funded for this and it puts another local tax at the mercy of the state.

13. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **No way to insure taxes are paid on cigarettes for sale in locality. Compliance would be dependent on taxpayer records and gaming would be extremely difficult to discover. Audits would be time consuming and more invasive than they are currently.**
14. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **Same as number 13.**
15. Do you have any other comments or suggestions? **The current system seems fine. Each locality could issue both state and local stamps**

STUDY OF LOCAL CIGARETTE TAX STAMPS
PURSUANT TO 2005 HOUSE JOINT RESOLUTION 664

Local Government Survey

1. What is the name of your locality? **City of Winchester**
2. Does your locality impose a local cigarette tax? If not, do not complete the remainder of this survey. Please return this survey to the Department of Taxation.
3. What is your current local cigarette tax rate? **\$0.10**
4. Do you issue a local cigarette tax stamp? **Yes.** If so, what are the benefits and the drawbacks of having a local cigarette tax stamp? **Helps us to monitor the local stores to be sure that the tax is being paid.**
5. If you do not have a local cigarette tax stamp, what are the benefits and drawbacks of not having a local cigarette tax stamp?
6. Does your locality require wholesale dealers to file regular returns or reports? **Yes-monthly**
7. Does your locality require retail dealers to file regular returns or reports? **N/A**
8. Does your locality audit wholesale dealers? **No—most of the wholesalers are out of state.**
9. Does your locality audit retail dealers? **Only when we do a spot check to see if the cigarettes they have do have a tax stamp on them.**
10. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **A basic stamp with the locality on the stamp.**
11. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps?
12. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX?
13. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **Would make it more difficult to monitor.**

14. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers?

15. Do you have any other comments or suggestions? **Yes, leave it the way it is. It is working now so why change it.**

STUDY OF LOCAL CIGARETTE TAX STAMPS
PURSUANT TO 2005 HOUSE JOINT RESOLUTION 664

Local Government Survey

1. What is the name of your locality? **Arlington County**
2. Does your locality impose a local cigarette tax? If not, do not complete the remainder of this survey. Please return this survey to the Department of Taxation. **Yes**
3. What is your current local cigarette tax rate? **\$0.30 per 20 cigarette pack**
4. Do you issue a local cigarette tax stamp? If so, what are the benefits and the drawbacks of having a local cigarette tax stamp? **No**
5. If you do not have a local cigarette tax stamp, what are the benefits and drawbacks of not having a local cigarette tax stamp?
Benefit: Low cost of administration
Drawback: some difficulties in enforcement
6. Does your locality require wholesale dealers to file regular returns or reports? **Yes, monthly**
7. Does your locality require retail dealers to file regular returns or reports? **No**
8. Does your locality audit wholesale dealers? **Yes**
9. Does your locality audit retail dealers? **No**
10. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **Use of a regional tax board**
11. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps?

Benefit: Reduced costs
Drawback: increased bureaucracy; loss of local control

12. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX?

Benefit: Potential of reduced costs
Drawback: increased state-level bureaucracy; loss of local control; potential issues about correct allocation of revenues

13. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **Drawback: Some potential enforcement issues, although this is how it is currently done in Arlington**
14. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **Drawback: Increased administrative burdens dealing with retailers rather than wholesalers; many more filers**
15. Do you have any other comments or suggestions? **No**

STUDY OF LOCAL CIGARETTE TAX STAMPS
PURSUANT TO 2005 HOUSE JOINT RESOLUTION 664

Local Government Survey

1. What is the name of your locality? **Town of Bluefield**
2. Does your locality impose a local cigarette tax? **Yes** If not, do not complete the remainder of this survey. Please return this survey to the Department of Taxation.
3. What is your current local cigarette tax rate? **.03 per pack**
4. Do you issue a local cigarette tax stamp? If so, what are the benefits and the drawbacks of having a local cigarette tax stamp? **Yes, it gives the locality control and audit capabilities.**
5. If you do not have a local cigarette tax stamp, what are the benefits and drawbacks of not having a local cigarette tax stamp? **N/A**
6. Does your locality require wholesale dealers to file regular returns or reports? **no**
7. Does your locality require retail dealers to file regular returns or reports? **no**
8. Does your locality audit wholesale dealers? **no**
9. Does your locality audit retail dealers? **Yes, quarterly.**
10. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **Need to keep the stamps unique for audit purposes.**
11. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps?
12. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX? **Lack of control for the localities to enforce local tax stamp ordinance**
13. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **Lack of control for the localities to enforce local tax stamp ordinance**
14. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using

returns filed by retailers? **Lack of control for the localities to enforce local tax stamp ordinance**

15. Do you have any other comments or suggestions? **Continue to let the localities enforce the cigarette tax stamps.**

STUDY OF LOCAL CIGARETTE TAX STAMPS
PURSUANT TO 2005 HOUSE JOINT RESOLUTION 664

Local Government Survey

1. What is the name of your locality? **Town of Coeburn**
2. Does your locality impose a local cigarette tax? If not, do not complete the remainder of this survey. Please return this survey to the Department of Taxation. **Yes**
3. What is your current local cigarette tax rate? **.05**
4. Do you issue a local cigarette tax stamp? If so, what are the benefits and the drawbacks of having a local cigarette tax stamp? **The tax stamp is needed revenue.**
5. If you do not have a local cigarette tax stamp, what are the benefits and drawbacks of not having a local cigarette tax stamp? **Other taxes would have to be raised to provide similar revenue.**
6. Does your locality require wholesale dealers to file regular returns or reports? **The stamps are sold directly to the wholesalers. They request any refunds for stock that has been returned to the manufacture.**
7. Does your locality require retail dealers to file regular returns or reports? **No**
8. Does your locality audit wholesale dealers? **No**
9. Does your locality audit retail dealers? **We do spot checks to see if the stamps are on the packages**
10. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **We use a generic stamp that uses our zip code.**
11. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps? **A uniform stamp design would save with printing costs to the locality**
12. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX? **A HUGE drawback would be the distribution of funds to each locality and accountability.**
13. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using

returns filed by wholesalers? **Verifying/auditing the information would be very complicated.**

14. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **Verifying/auditing the information would be very complicated.**

15. Do you have any other comments or suggestions?

STUDY OF LOCAL CIGARETTE TAX STAMPS
PURSUANT TO 2005 HOUSE JOINT RESOLUTION 664

Local Government Survey

1. What is the name of your locality? **Town of Culpeper, Virginia**
2. Does your locality impose a local cigarette tax? If not, do not complete the remainder of this survey. Please return this survey to the Department of Taxation. **Yes**
3. What is your current local cigarette tax rate? **Ten cents per package containing 25 cigarettes or less**
4. Do you issue a local cigarette tax stamp? If so, what are the benefits and the drawbacks of having a local cigarette tax stamp? **Yes**
 - **Easier to verify that the tax has been paid**
 - **Provides added security for making refunds for damaged or unsold packages**
5. If you do not have a local cigarette tax stamp, what are the benefits and drawbacks of not having a local cigarette tax stamp?
6. Does your locality require wholesale dealers to file regular returns or reports? **We request quarterly sales and inventory reports**
7. Does your locality require retail dealers to file regular returns or reports? **Only require updates on their wholesale distributor's name and address**
8. Does your locality audit wholesale dealers? **No**
9. Does your locality audit retail dealers? **We have performed on-site stamp enforcement inspections and do spot checks as time allows.**
10. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **The Northern Virginia Cigarette Tax Board currently uses a dual Virginia/Board stamp and it works well for them. However, in our case, there needs to be a distinct recognizable stamp for ease of local enforcement. Currently we use the manufacturer's generic type stamp with a local code number.**
11. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps?

This would benefit the wholesales and retailers, but would dilute the ability for local enforcement.

12. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX? **There would be boundary identification issues when trying to verify the correct tax revenue for each locality. It would encourage “bootlegging” of cigarettes between jurisdictions since the tax varies between localities.**

13. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **It would pose a bookkeeping nightmare: there would be record keeping problems with reports not being filed on time and monitoring sales against inventory, etc. would be difficult. Our tax revenue would be based on the wholesalers reports and these may or may not be accurate and timely. Auditing would become a must and this expense may by far out weigh the cost of the stamps purchased by the Town**

14. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **The same as above, plus the retailer would have to shoulder the bookkeeping responsibility and be more accountable for compliance.**

15. Do you have any other comments or suggestions? **The local taxes should be just that “local” – the authority to implement, administer, collect and raise the tax should be left with the local jurisdictions. This way, there is no delay in receiving the tax revenue and there is no confusion on distribution boundaries, etc. Local administration also ensures that the expenses and revenues are appropriately distributed and accurately accounted for.**

There should be the ability for jurisdictions to choose to create a regional board such as the Northern Virginia Cigarette Tax Board - but it should not be mandated.

STUDY OF LOCAL CIGARETTE TAX STAMPS
PURSUANT TO 2005 HOUSE JOINT RESOLUTION 664

Local Government Survey

1. What is the name of your locality? **Town of Mount Jackson**
2. Does your locality impose a local cigarette tax? If not, do not complete the remainder of this survey. Please return this survey to the Department of Taxation. **Yes**
3. What is your current local cigarette tax rate? **20 cents**
4. Do you issue a local cigarette tax stamp? If so, what are the benefits and the drawbacks of having a local cigarette tax stamp? **Yes, we use a stamp. This is an outstanding method for the local government. The tax is paid when the stamps are purchased. There is no collection issue, not massive paperwork issue, and no bureaucracy.**
5. If you do not have a local cigarette tax stamp, what are the benefits and drawbacks of not having a local cigarette tax stamp?
6. Does your locality require wholesale dealers to file regular returns or reports? **No. We do not find them necessary**
7. Does your locality require retail dealers to file regular returns or reports? **No, we do not find them necessary.**
8. Does your locality audit wholesale dealers? **No**
9. Does your locality audit retail dealers? **No, other than enforcement inspection by checking stocks to be sure the stamp is present. Audit is not necessary and reduces paperwork for retailer.**
10. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **It is already uniform in our locality and the stamp supplier is such a monopoly, there cannot be great variation. The wholesaler's machine has to install the state stamp on all cigarettes in the state. The machine can handle up to four stamps without difficulty. Therefore there is no need for change. If it isn't broken, don't fix it.**
10. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps? **Absolutely none**

11. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX? **Creates bureaucracy, increases reports needed by all parties, slows down flow of taxes to the local jurisdiction.**
12. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **If there is a state stamp and the machines can handle extra stamps so easily, there is no real benefit.**
13. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **Paperwork burden on the local businessperson!!**
14. Do you have any other comments or suggestions? **No change is needed.**

STUDY OF LOCAL CIGARETTE TAX STAMPS
PURSUANT TO 2005 HOUSE JOINT RESOLUTION 664

Local Government Survey

1. What is the name of your locality? **Town of Pound, Virginia**
2. Does your locality impose a local cigarette tax? If not, do not complete the remainder of this survey. Please return this survey to the Department of Taxation. **Yes**
3. What is your current local cigarette tax rate? **.05 per pack**
4. Do you issue a local cigarette tax stamp? If so, what are the benefits and the drawbacks of having a local cigarette tax stamp? **Yes,**
Benefit - We don't have to put the stamps on
Drawback - No accurate check
5. If you do not have a local cigarette tax stamp, what are the benefits and drawbacks of not having a local cigarette tax stamp?
6. Does your locality require wholesale dealers to file regular returns or reports? **No**
7. Does your locality require retail dealers to file regular returns or reports? **No**
8. Does your locality audit wholesale dealers? **No**
9. Does your locality audit retail dealers? **No**
10. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **Wise County is consistent - all towns buy from the same supplier - only difference is the name of the town on the stamp**
11. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps? **No benefits, drawback would be the town losing control over local tax**
12. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX? **Reduced revenue and lack of control.**

13. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **Too complicated and too much work.**
14. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **Too complicated and too much work.**
15. Do you have any other comments or suggestions? **Individual jurisdictions can best collect their own local taxes.**

STUDY OF LOCAL CIGARETTE TAX STAMPS
PURSUANT TO 2005 HOUSE JOINT RESOLUTION 664

Local Government Survey

1. What is the name of your locality? **Town of Tazewell**
2. Does your locality impose a local cigarette tax? **Yes** If not, do not complete the remainder of this survey. Please return this survey to the Department of Taxation.
3. What is your current local cigarette tax rate? **3 cents per pack**
4. Do you issue a local cigarette tax stamp? **Yes** If so, what are the benefits and the drawbacks of having a local cigarette tax stamp? **It has helped to construct a wellness center for our community**
5. If you do not have a local cigarette tax stamp, what are the benefits and drawbacks of not having a local cigarette tax stamp?
6. Does your locality require wholesale dealers to file regular returns or reports? **No**
7. Does your locality require retail dealers to file regular returns or reports? **No**
8. Does your locality audit wholesale dealers? **No**
9. Does your locality audit retail dealers? **Yes**
10. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **All localities impose a cigarette tax.**
11. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps? **Revenue would be more consistent.**
12. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX? **Easier for the Town's to enforce and keep track of revenue.**
13. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **Less cost to the Town's**
14. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **Less cost to the Town's.**

15. Do you have any other comments or suggestions?

STUDY OF LOCAL CIGARETTE TAX STAMPS
PURSUANT TO 2005 HOUSE JOINT RESOLUTION 664

Local Government Survey

1. What is the name of your locality? **Town of Windsor – pop. 2400**
2. Does your locality impose a local cigarette tax? If not, do not complete the remainder of this survey. Please return this survey to the Department of Taxation. **Yes**
3. What is your current local cigarette tax rate? **\$0.25 per pack**
4. Do you issue a local cigarette tax stamp? If so, what are the benefits and the drawbacks of having a local cigarette tax stamp? **Yes we do. It is easy to stop in a retail store and check to see if cig. packs have our stamp.**
5. If you do not have a local cigarette tax stamp, what are the benefits and drawbacks of not having a local cigarette tax stamp?
6. Does your locality require wholesale dealers to file regular returns or reports? **The wholesaler fills in a brief form when purchasing stamps.**
7. Does your locality require retail dealers to file regular returns or reports? **No**
8. Does your locality audit wholesale dealers? **No – we are too small to be able to do that.**
9. Does your locality audit retail dealers? **No**
10. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **Don't see the need.**
11. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps? **Don't see any benefit. Any changes would only cost us money.**
12. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX? **No benefit, drawback would be the cost. We have a stock of stamps that will last at least two more years. The current procedure for small towns works very well with very little work for the locality. The wholesaler sends us a check for rolls of stamps and we ship them out. We have the money up front – no labor to speak of. Occasionally we refund a wholesaler when they send us back stamps that get ruined in the application process. THERE IS NO APPARENT BENEFIT TO SMALL TOWNS!**

13. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **NO APPARENT BENEFIT – MUCH MORE LABOR INTENSIVE. WE HAVE ENOUGH PAPERWORK – DON'T FIX SOMETHING THAT IS NOT BROKEN.**
14. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **SAME AS ABOVE!**
15. Do you have any other comments or suggestions? **PLEASE LEAVE THINGS AS THEY ARE. EVERY TIME THE STATE GETS INTO THE LOCALITY'S BUSINESS, IT MAKES MORE WORK FOR THE LOCALITY WITH NO REIMBURSEMENT FOR THE COST. (FOR EXAMPLE, PERSONNEL PROPERTY TAX – THAT WAS AND IS HORRENDOUS FOR A SMALL TOWN!!!).**

Appendix C

Survey Responses from Localities that Participate in the Northern Virginia Cigarette Tax Board

Date: October 20, 2005

To: Virginia Department of Taxation

From: Nancy McMahon, Chairperson
Northern Virginia Cigarette Tax Board

Re: HJR 664 Study

On October 14, 2005, the member jurisdictions of the Northern Virginia Cigarette Tax Board held a meeting to discuss the local government survey pursuant to 2005 House Joint Resolution 664. All questions on the survey were discussed and answered and the decision was made by the member jurisdictions to submit a unified response to the Virginia Department of Taxation.

We appreciate the opportunity for our thoughts to be included in your study. Please keep us informed as to any future activity regarding HJR 664.

Local Government Survey
Pursuant to 2005 House Joint Resolution 664

1. What is the name of your locality? **The Northern Virginia Cigarette Tax Board (NVCTB) is a regional agency currently made up of thirteen jurisdictions. The NVCTB collects the cigarette tax and enforces the Cigarette Tax Ordinances of all thirteen jurisdictions.**
2. What is your current local cigarette tax rate? **The member jurisdictions of the NVCTB and their tax rates, effective July 1, 2005, are as follows;**

a) Fairfax County	\$.30 per pack
b) City of Alexandria	\$.70 per pack
c) City of Falls Church	\$.65 per pack
d) City of Fairfax	\$.50 per pack
e) City of Manassas	\$.50 per pack
f) Town of Haymarket	\$.25 per pack
g) Town of Dumfries	\$.30 per pack
h) Town of Purcellville	\$.35 per pack
i) Town of Leesburg	\$.50 per pack
j) Town of Warrenton	\$.15 per pack
k) Town of Clifton	\$.30 per pack
l) Town of Herndon	\$.50 per pack
m) Town of Vienna	\$.50 per pack

3. What are the benefits and the drawbacks of delegating the administration of your cigarette tax to the Northern Virginia Cigarette Tax Board? **There are only benefits to having Northern Virginia Cigarette Tax Board to administer, enforce and collect the cigarette taxes for the member jurisdictions. The Board has a 35-year proven track record of accurate and efficient tax collecting experience.**

Benefits include:

- a) **Accountability** –The NVCTB is directly accountable to its member jurisdictions and is audited on an annual basis by a certified CPA auditing firm. This financial report is published, sent to all member jurisdictions and filed with the Commonwealth’s auditor of public accounts. The NVCTB conducts inventories and audits of all wholesalers, vendors and Manufacturers Representatives both in state and out of state to ensure the proper reporting and collection of all cigarette taxes due. Retail locations are also audited as needed in order to ensure proper tax payments. As a result of the ongoing field inspection program the NVCTB ensures that both the local and state taxes are paid within the member jurisdictions.
- b) **Enforcement** - The NVCTB conducts regular inspections of retail establishments in all thirteen jurisdictions to insure proper stamp usage and to prevent the possible evasion of the cigarette tax.

c) Local Presence/Accuracy - By being familiar with the local jurisdictional boundaries, the NVCTB can ensure that all retail locations are correctly listed and the proper taxes are paid. In addition, the NVCTB can quickly respond to tax rate changes, fraud complaints and other problems.

d) Cost Savings by Shared Expenses - The expenses incurred by the Board in the administration, collection and enforcement of the cigarette tax are shared by all member jurisdictions resulting in a cost savings to all member jurisdictions.

e) Expense Control - Member jurisdictions of the NVCTB controls the budget and therefore can control the expenses each fiscal year.

4. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **The use of the Dual Virginia-NVCTB stamp is currently uniform and consistent among all thirteen-member jurisdictions of the NVCTB. By having a Dual Virginia-NVCTB tax stamp, staff can confirm, both the Commonwealth and locality taxes have been paid.**
5. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps? **For the member jurisdictions of the NVCTB see the answer to question number 3. On a statewide basis establishment of uniformity and consistency among localities in the design and use of local cigarette tax stamps could be advantageous to wholesalers due to one common stamp as opposed to many individual jurisdictional stamps. However, the problem is the impracticality of effectively collecting the proper cigarette tax for all local jurisdictions statewide due to the number of localities, the number of retail establishments, and the difficulty in confirming that the proper jurisdictional tax has been paid. On a statewide basis, the use of a uniform tax stamp would encourage “bootlegging” between jurisdictions due to the large disparity in cigarette tax rates and the absence of a regular retail inspection program. The results could amount to a significant drop in the tax revenues for those jurisdictions.**
6. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX? **Were the State willing to share the cost of the dual stamp, then there would be a benefit to the jurisdictions in budgeting for stamp costs. However, currently that is not the case. Drawbacks would be that, without effective enforcement including a large staff of agents on the street to make retail inspections in all localities imposing a cigarette tax throughout the entire State, it would be impossible to control the transportation of cigarettes from one jurisdiction to another in order to avoid a higher tax rate. Since retail locations cannot be identified through zip codes, it would be extremely difficult for the State to identify the proper jurisdiction and therefore collect the appropriate local tax. In addition, there are the serious problems associated with the collection of the tax as outlined in the answer to question number 5 above.**

The NVCTB effectively collects the cigarette taxes on a regional basis. Local jurisdictions in other parts of the State could form regional agencies and still maintain control while gaining the benefits as outlined in question 3.

7. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **The benefit would only accrue to the wholesalers. The drawbacks would be considerable for the localities. In effect, this would be operating on an honor system. Accountability would be lost since there would be no local cigarette tax stamp and the jurisdictions would rely on wholesalers to report all sales properly without any way to account for all sales and insure that all the proper cigarette taxes are collected. Under these circumstances it would be impossible to perform audits and verify proper tax collection. This could result in considerable reduction of revenues for the localities. It would also become necessary to hire more staff to handle the processing of the numerous reports being filed on a monthly basis and the difficult task of enforcement, further burdening the budgets of local jurisdictions.**
8. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **This scenario would be very problematic for all jurisdictions that tax cigarettes due to the fact there would be no tax stamp to evidence payment of the cigarette tax and monthly cigarette tax reports would have to be filed to the jurisdiction by all retailers who sell cigarettes within that jurisdiction.**

Accountability would again be lost as outlined above. In addition, most retailers do not have the manpower or ability to properly report cigarette sales, ultimately leading to considerable lost revenue for the localities. Handling the processing of large numbers of retail reports, (there are over 1,200 retailer locations within the jurisdictions of the NVCTB who sell cigarettes) and checking for accuracy would be an overwhelming task and would require a considerable increase in staffing thus negatively impacting the budgets of local jurisdictions. It is unlikely that all retailers would comply with the reporting requirements leading to further costs in attempting to insure full compliance. Under this scenario, it would be impossible to conduct accurate cigarette tax audits.

There would also be a negative impact on the retailers, as they would be required to file monthly cigarette tax returns with the jurisdictions in which they are located. Under the current system, the prices that the wholesalers charge the retailers for the cigarettes include the locality cigarette tax and the retailers have no monthly filing requirements.

9. Do you have any other comments or suggestions? **The NVCTB effectively collects the tax on all packages of cigarettes sold within the jurisdictions of the Board and administers and enforces the Cigarette Tax Ordinances of each**

participating jurisdiction through the use of a reporting system. Wholesalers and vendors are required to complete a monthly report listing cigarette sales to each individual retailer and pay the appropriate cigarette tax for each jurisdiction. In order to ensure that the reporting system works the NVCTB relies on the fact that there is a Dual Virginia-NVCTB stamp with numbered rolls, which identify the wholesaler who is issued that particular roll. By checking retailer invoices Board staff can determine when there are attempts to circumvent the local tax by purchasing in a lower tax jurisdiction and transporting to a higher tax jurisdiction. Agents of the Board seize cigarettes when necessary due to non-compliance issues. Familiarity with the boundaries of all thirteen-member jurisdictions of the Board enables us to properly identify correctly the appropriate jurisdiction for each retailer selling cigarettes within the borders of member jurisdictions. Inventories and audits are performed on all wholesalers and vendors both in state and out of state to insure that the cigarette tax is assessed and paid on all stamps purchased. It bears noting that the NVCTB provides cigarette tax revenue to each member jurisdiction based on actual cigarette sales, not on an apportionment or percentage basis and it does so accurately and efficiently.

Enforcement on a statewide basis would be impractical. The manpower required to physically check all locations in every locality, which imposes a cigarette tax and to perform inventories and audits to insure the collection of all taxes due would be prohibitive. It would be difficult to identify on a statewide basis the proper jurisdiction for each retail establishment to insure that the proper local tax is being collected. Reports by large wholesalers would be enormous in size given the fact that sales are reported for each individual retail location for each local jurisdiction separately. Yet, if the State does not provide adequate manpower to have agents checking locations at all retail establishments that sell cigarettes in every locality with a cigarette tax and if the State does not adequately perform inventories and audits of all wholesalers and vendors to insure proper payment of the tax, the localities will experience a drop in revenues from cigarette sales due to the loss of accountability.

Should the State take over the collection of all local cigarette taxes, the localities would lose the ability to control costs, make changes to the tax rate when desired and to make sure that all proper taxes are being collected. The NVCTB has a 35 year proven track record of accurate and efficient cigarette tax collection. There is no advantage to delegating the authority to administer, enforce and collect the cigarette taxes of the member jurisdictions to the State.

Local Government Survey

1. What is the name of your locality? **The City of Alexandria**
2. Does your locality impose a local cigarette tax? **Yes**
3. What is your current local cigarette tax rate?

City of Alexandria \$.70 per pack

4. Has your governing body adopted any resolution or ordinance that will change your local cigarette tax rate? **On July 1, 2005, the City enacted ordinance 4392 which established the new Cigarette Tax for the City of \$0.70 per packs of 20 cigarettes.**
5. Do you issue a local cigarette tax stamp? **No, however, as a member of the NVCTB, the board pays the entire cost of a Dual Virginia-NVCTB stamp, which is authorized for sale in all thirteen member jurisdictions.**

A. Who sells the stamp? The Virginia Department of Taxation sells the stamp and collects the State tax upon sale of the stamps.

B. Do you allow dealers to obtain stamps without concurrent payment and, if so, on what terms? Yes. The NVCTB collects the tax by means of a reporting system.

C. How do dealers apply your local stamp? Heat fusion.

D. What are the benefits and the drawbacks of having a local cigarette tax stamp? Wholesalers only have to apply one stamp for all thirteen jurisdictions of the NVCTB and the cost of the stamps is shared by all member jurisdictions. The dual Virginia-NVCTB cigarette tax stamp is serialized which allows us to identify the purchasing wholesaler, thus enabling us to detect when retailers are attempting to evade the local tax by transporting cigarettes across jurisdictional lines.

6. Have you delegated the authority to administer your local cigarette tax to the Northern Virginia Cigarette Tax Board? If so, what are the benefits and the drawbacks of delegating the administration of your cigarette tax? **Yes, the City of Alexandria has been a member of the NVCTB since 1970. The benefits of membership in the NVCTB include:**

a) Accountability - The NVCTB conducts inventories and audits of all wholesalers, vendors and Manufacturers Representatives on a periodic basis to insure the proper reporting and collection of all cigarette taxes due. Retail locations are also audited on occasion in order to insure proper payment.

b) Enforcement - The NVCTB conducts regular inspections of retail establishments in all thirteen jurisdictions to insure proper stamp usage and to prevent the possible avoidance of the local tax.

c) Accuracy - By being familiar with the local jurisdiction boundaries, the NVCTB can insure that all retail locations are correctly listed and the proper tax is collected.

d) Shared Expenses - The expenses incurred in the collection of the cigarette tax for all jurisdictions is shared by all members.

e) Control - Member jurisdictions of the NVCTB can control the budget and therefore the expenses each fiscal year.

Drawbacks – We are required to share their resources with the 12 other member jurisdictions.

7. If you do not have a local cigarette tax stamp (and do not participate in the NVCTB) what are the benefits and drawbacks of not having a local cigarette tax stamp? **N/A**
8. What forms of payment are accepted for payment of your local cigarette tax? **Check, certified funds or money orders.**
9. Does your locality require wholesale dealers to file regular returns or reports? **No, however the NVCTB does require regular filings.**
10. Does your locality require retail dealers to file regular returns or reports? **No.**
11. Does your locality audit wholesale dealers? **No, but the NVCTB does perform these audits on a regular basis.**
12. Does your locality audit retail dealers? **No, but the NVCTB does perform these audits when necessary.**
13. What other actions does your locality take to enforce its cigarette tax? **See answer, question number 6. In addition, the NVCTB has the power to seize cigarettes that do not have the proper stamp or for which the local tax has not been paid and may issue fines and penalties when appropriate.**
14. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **The use of the Dual Virginia-NVCTB stamp is currently uniform and consistent among all thirteen member jurisdictions of the NVCTB.**
15. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps? **For the member jurisdictions of the NVCTB see the answer to question**

number 6. On a statewide basis establishment of uniformity and consistency among localities in the design and use of local cigarette tax stamps could be advantageous to wholesalers; however, the problem is the impracticality of effectively collecting the proper cigarette tax for all local jurisdictions statewide due to the number of localities, the number of retail establishments , and the difficulty in identifying their proper jurisdictional status and the resulting significant drop in the tax revenues for those jurisdictions.

16. Would you support establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps? Why? **We would not support any change which would alter the current operations of the NVCTB and would not support the taking away from local jurisdictions of their ability to effectively collect cigarette taxes either individually or by means of a regional agency.**
17. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX? **Were the State willing to share the cost of the dual stamp, then there would be a benefit to the jurisdictions in budgeting for stamp costs. However, currently that is not the case. Drawbacks would be that, without effective enforcement including a large staff of agents on the street to make inspections in all localities imposing a cigarette tax throughout the entire State, it would be impossible to control the transportation of cigarettes from one local jurisdiction to another in order to avoid a higher tax rate. In addition, there are the serious problems associated with the collection of the tax as outlined in the answer to question number 15 above.**
18. Would you support or oppose the mandatory statewide use of a dual stamp issued by TAX? Why? **Opposed for reasons given above.**
19. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **Establishing these changes would be an administrative nightmare for the City of Alexandria. The benefit would only accrue to the wholesalers. The drawbacks would be considerable for the localities. Accountability would be lost since there would be complete reliance on wholesalers to report all sales properly without any way to account for all sales and insure that all the proper cigarette taxes are collected. This would result in considerable reduction if revenues for the localities. It would also become necessary to hire more staff to handle the processing of the numerous reports being filed on a monthly basis and the difficult task of enforcement, further burdening the budgets of local jurisdictions.**
20. Would you support eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? Why? **No, for reasons given above.**

21. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **There is no benefit. However, the drawbacks are: Accountability would again be lost as outlined above. In addition, most retailers do not have the manpower or ability to properly report cigarette sales, ultimately leading to considerable lost revenue for the localities. Handling the processing of large numbers of retail reports and checking for accuracy would be an overwhelming task and would require a considerable increasing in staffing thus negatively impacting the budgets of local jurisdictions. It is unlikely that all retailers would comply with the reporting requirements leading to further costs in attempting to insure full compliance.**
22. Would you support eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes by requiring returns filed by retailers? Why? **No, for reasons given above.**
23. What would be the benefits and the drawbacks of requiring localities to administer their cigarette taxes by requiring retailers to use stick-on stamps? **Retailers simply do not have the capability to be able to apply stick-on stamps on every package of cigarettes, which would require opening every carton, attaching the stick-on stamp to each package and resealing every carton. This would require a tremendous number of man-hours and would be prohibitively expensive for the retailers. The end result would be that they would apply the stamps only when necessary leading to considerable reduction in cigarette tax revenues for the localities. In addition, the cost of stick-on stamps is prohibitively expensive and the staffing required to distribute and account for the stamps would be considerable, all of which would result in a severe drain on the budgets of the local jurisdictions.**
24. Would you support requiring localities to administer their cigarette taxes by requiring retailers to use stick-on stamps? Why? **No, for the reasons given above.**
25. Do you have any other comments or suggestions? **The City of Alexandria believes strongly that the NVCTB effectively collects the tax on all packages of cigarettes sold within the jurisdictions of the Board and administers and enforces the Cigarette Tax Ordinances of each participating jurisdiction through the use of a reporting system which requires the monthly reporting of cigarette sales to each individual retailer and payment of the appropriate cigarette tax by all wholesaler and vendors. In order to insure that the reporting system works the NVCTB relies on the fact that there is a Dual Virginia-NVCTB stamp with numbered rolls which identify the wholesaler who is issued that particular roll. By checking retailer invoices Board staff can determine when there are attempts to circumvent the local tax by purchasing in a lower tax jurisdiction and transporting to a higher tax jurisdiction. Familiarity with the boundaries of all thirteen-member jurisdictions of the Board enables us to properly identify correctly the appropriate jurisdiction for each retailer selling cigarettes within the borders of member jurisdictions.**

Inventories and audits are performed on all wholesalers and vendors to insure that the cigarette tax is assessed and paid on all stamps purchased.

It would be extremely difficult, if not impossible, for the state to administer such a system on a statewide basis. Enforcement on a statewide basis would be impractical. The manpower required to physically check all locations in every locality, which imposes a cigarette tax and to perform inventories and audits to insure the collection of all tax due would be prohibitive. It would be extremely difficult to identify on a statewide basis the proper jurisdiction for each retail establishment to insure that the proper local tax is being collected. Reports by large wholesalers would be enormous in size given the fact that sales are reported for each individual retail location for each local jurisdiction separately. Yet, if the State does not provide adequate manpower to have agents checking locations at all retail establishments that sell cigarettes in every locality with a cigarette tax and if the State does not adequately perform periodic inventories and audits of all wholesalers and vendors to insure proper payment of the tax, the localities will experience a drastic drop in revenues from cigarette sales due to the loss of accountability.

Should the State take over the collection of all local cigarette taxes, the localities would lose the ability to control costs, make changes to the tax rate when desired and to make sure that all proper taxes are being collected.

STUDY OF LOCAL CIGARETTE TAX STAMPS
PURSUANT TO 2005 HOUSE JOINT RESOLUTION 664

Local Government Survey for Localities Participating
in the Northern Virginia Cigarette Tax Board

1. What is the name of your locality? **City of Manassas**
2. What is your current local cigarette tax rate? **\$.50 per pack**
3. What are the benefits and the drawbacks of delegating the administration of your cigarette tax to the Northern Virginia Cigarette Tax Board?

Benefits include;

a) **Accountability** - The NVCTB conducts inventories and audits of all wholesalers, vendors and Manufacturers Representatives both in state and out of state to insure the proper reporting and collection of all cigarette taxes due. Retail locations are also audited as needed in order to insure proper tax payments.

b) **Enforcement** - The NVCTB conducts regular inspections of retail establishments in all thirteen jurisdictions to insure proper stamp usage and to prevent the possible evasion of the cigarette tax. Agents of the Board seize cigarettes when necessary due to non-compliance issues.

c) **Accuracy** - By being familiar with the local jurisdictional boundaries, the NVCTB can insure that all retail locations are correctly listed and the proper taxes are paid.

d) **Shared Expenses** - The expenses incurred by the Board in the administration, collection and enforcement of the cigarette tax are shared by all member jurisdictions.

e) **Expense Control** - Member jurisdictions of the NVCTB controls the budget and therefore can control the expenses each fiscal year.

4. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **The use of the Dual Virginia-NVCTB stamp is currently uniform and consistent among all thirteen-member jurisdictions of the NVCTB.**
5. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps? **For the member jurisdictions of the NVCTB see the answer to question number 3. On a statewide basis establishment of uniformity and consistency among localities in the design and use of local cigarette tax stamps could be advantageous to wholesalers; however, the problem is the impracticality of effectively collecting the proper cigarette tax for all local**

jurisdictions statewide due to the number of localities, the number of retail establishments, and the difficulty in identifying their proper jurisdictional status. On a statewide basis, the use of a uniform tax stamp would encourage “bootlegging” between jurisdictions due to the large disparity in cigarette tax rates and the absence of a regular retail inspection program. The results could amount to a significant drop in the tax revenues for those jurisdictions.

6. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX? **If the State was willing to share the cost of the dual stamp, then there would be a benefit to the jurisdictions in budgeting for stamp costs. However, currently that is not the case. Drawbacks would be that, without effective enforcement including a large staff of agents on the street to make retail inspections in all localities imposing a cigarette tax throughout the entire State, it would be impossible to control the transportation of cigarettes from one jurisdiction to another in order to avoid a higher tax rate. In addition, there are the serious problems associated with the collection of the tax as outlined in the answer to question number 5 above.**
7. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **The benefit would only accrue to the wholesalers. The drawbacks would be considerable for the localities. Accountability would be lost since there would be no local cigarette tax stamp and the jurisdictions would rely on wholesalers to report all sales properly without any way to account for all sales and insure that all the proper cigarette taxes are collected. This could result in considerable reduction of revenues for the localities. It would also become necessary to hire more staff to handle the processing of the numerous reports being filed on a monthly basis and the difficult task of enforcement, further burdening the budgets of local jurisdictions.**
8. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **This scenario would be a real nightmare for all jurisdictions that tax cigarettes due to the fact there would be NO tax stamp to evidence payment of the cigarette tax and monthly cigarette tax reports would have to be filed to the jurisdiction by ALL retailers who sell cigarettes within that jurisdiction.**

Accountability would again be lost as outlined above. In addition, most retailers do not have the manpower or ability to properly report cigarette sales, ultimately leading to considerable lost revenue for the localities. Handling the processing of large numbers of retail reports and checking for accuracy would be an overwhelming task and would require a considerable

increase in staffing thus negatively impacting the budgets of local jurisdictions. It is unlikely that all retailers would comply with the reporting requirements leading to further costs in attempting to insure full compliance. Under this scenario, it would be impossible to conduct accurate cigarette tax audits.

9. Do you have any other comments or suggestions? **The NVCTB effectively collects the tax on all packages of cigarettes sold within the jurisdictions of the Board and administers and enforces the Cigarette Tax Ordinances of each participating jurisdiction through the use of a reporting system which requires the monthly reporting of cigarette sales to each individual retailer and payment of the appropriate cigarette tax by all wholesalers and vendors. In order to insure that the reporting system works the NVCTB relies on the fact that there is a Dual Virginia-NVCTB stamp with numbered rolls, which identify the wholesaler who is issued that particular roll. By checking retailer invoices Board staff can determine when there are attempts to circumvent the local tax by purchasing in a lower tax jurisdiction and transporting to a higher tax jurisdiction. Familiarity with the boundaries of all thirteen-member jurisdictions of the Board enables us to properly identify correctly the appropriate jurisdiction for each retailer selling cigarettes within the borders of member jurisdictions. Inventories and audits are performed on all wholesalers and vendors both in state and out of state to insure that the cigarette tax is assessed and paid on all stamps purchased.**

It would be extremely difficult, if not impossible, for the state to administer such a system on a statewide basis. Enforcement on a statewide basis would be impractical. The manpower required to physically check all locations in every locality, which imposes a cigarette tax and to perform inventories and audits to insure the collection of all taxes due would be prohibitive. It would be extremely difficult to identify on a statewide basis the proper jurisdiction for each retail establishment to insure that the proper local tax is being collected. Reports by large wholesalers would be enormous in size given the fact that sales are reported for each individual retail location for each local jurisdiction separately. Yet, if the State does not provide adequate manpower to have agents checking locations at all retail establishments that sell cigarettes in every locality with a cigarette tax and if the State does not adequately perform inventories and audits of all wholesalers and vendors to insure proper payment of the tax, the localities will experience drop in revenues from cigarette sales due to the loss of accountability.

Should the State take over the collection of all local cigarette taxes, the localities would lose the ability to control costs, make changes to the tax rate when desired and to make sure that all proper taxes are being collected.

STUDY OF LOCAL CIGARETTE TAX STAMPS
PURSUANT TO 2005 HOUSE JOINT RESOLUTION 664

Local Government Survey for Localities Participating
in the Northern Virginia Cigarette Tax Board

NOTE – The Town of Herndon and the other twelve jurisdictions that comprise the Northern Virginia Cigarette Tax Board have chosen to compose a joint response to the survey questions below. This response will be finalized and transmitted to you prior to the survey deadline date of October 21, 2005.

Thank you

**Mary K. Tuohy
Director of Finance
Town of Herndon, VA**

1. What is the name of your locality? **See Northern Virginia Cigarette Tax Board (NVCTB) joint response**
2. **What is your current local cigarette tax rate? See NVCTB joint response**
3. What are the benefits and the drawbacks of delegating the administration of your cigarette tax to the Northern Virginia Cigarette Tax Board? **See NVCTB joint response**
4. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **See NVCTB joint response**
5. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps? **See NVCTB joint response**
6. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX? **See NVCTB joint response**
7. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **See NVCTB joint response**

8. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **See NVCTB joint response**
9. Do you have any other comments or suggestions? **See NVCTB joint response**

Local Government Survey
Pursuant to 2005 House Joint Resolution 664

1. What is the name of your locality? **Town of Purcellville- a member of the Northern Virginia Cigarette Tax Board (NVCTB)**

2. What is your current local cigarette tax rate? **\$.35 per pack**

3. What are the benefits and the drawbacks of delegating the administration of your cigarette tax to the Northern Virginia Cigarette Tax Board? **There are only benefits to having Northern Virginia Cigarette Tax Board to administer, enforce and collect the cigarette taxes for the member jurisdictions. The Board has a 35-year proven track record of accurate and efficient tax collecting experience. Benefits include:**

a) **Accountability** *The NVCTB is directly accountable to its member jurisdictions and is audited on an annual basis by a certified CPA auditing firm. This financial report is published, sent to all member jurisdictions and filed with the Commonwealth's auditor of public accounts. The NVCTB conducts inventories and audits of all wholesalers, vendors and Manufacturers Representatives both in state and out of state to insure the proper reporting and collection of all cigarette taxes due. Retail locations are also audited as needed in order to insure proper tax payments. As a result of the ongoing field inspection program the NVCTB insures that both the local and state taxes are paid within the member jurisdictions.

b) **Enforcement** - The NVCTB conducts regular inspections of retail establishments in all thirteen jurisdictions to insure proper stamp usage and to prevent the possible evasion of the cigarette tax. Agents of the Board seize cigarettes when necessary due to non-compliance issues. It appears that the State at this time does not have the authority to seize cigarettes.

c) **Local Presence/Accuracy** - By being familiar with the local jurisdictional boundaries, the NVCTB can insure that all retail locations are correctly listed and the proper taxes are paid. In addition, the NVCTB can quickly respond to tax rate changes, fraud complaints and other problems.

d) **Shared Expenses** - The expenses incurred by the Board in the administration, collection and enforcement of the cigarette tax are shared by all member jurisdictions.

e) **Expense Control** - Member jurisdictions of the NVCTB controls the budget and therefore can control the expenses each fiscal year.

4. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **The use of the Dual Virginia-NVCTB stamp is currently uniform and consistent among all thirteen-member jurisdictions of the NVCTB.**

By having a Dual Virginia-NVCTB tax stamp, staff can confirm, both the Commonwealth and locality taxes have been paid.

5. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps? For the member jurisdictions of the NVCTB see the answer to question number 3. On a statewide basis establishment of uniformity and consistency among localities in the design and use of local cigarette tax stamps could be advantageous to wholesalers due to one common stamp as opposed to many individual jurisdictional stamps. However, the problem is the impracticality of effectively collecting the proper cigarette tax for all local jurisdictions statewide due to the number of localities, the number of retail establishments, and the difficulty in confirming that the proper jurisdictional tax has been paid. On a statewide basis, the use of a uniform tax stamp would encourage "bootlegging" between jurisdictions due to the large disparity in cigarette tax rates and the absence of a regular retail inspection program. The results could amount to a significant drop in the tax revenues for those jurisdictions.

6. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX? Were the State willing to share the cost of the dual stamp, then there would be a benefit to the jurisdictions in budgeting for stamp costs. However, currently that is not the case. Drawbacks would be that, without effective enforcement including a large staff of agents on the street to make retail inspections in all localities imposing a cigarette tax throughout the entire State, it would be impossible to control the transportation of cigarettes from one jurisdiction to another in order to avoid a higher tax rate. Another drawback would be the fact that TAX is unfamiliar with jurisdictional boundaries. Since retail locations cannot be identified through zip codes, it would be extremely difficult for TAX to identify the proper jurisdiction and therefore collect the appropriate local tax. In addition, there are the serious problems associated with the collection of the tax as outlined in the answer to question number 5 above.

The NVCTB effectively collects the cigarette taxes on a regional basis. Local jurisdictions in other parts of the State could form regional agencies and still maintain control while gaining the benefits as outlined in question 3.

7. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? The benefit would only accrue to the wholesalers. The drawbacks would be considerable for the localities. In effect, this would be operating on an honor system. Accountability would be lost since there would be no local cigarette tax stamp and the jurisdictions would rely on wholesalers to report all sales properly without any way to account for all sales and insure that all the proper cigarette taxes are collected. Under these circumstances it would be impossible to perform audits and verify proper tax collection. This could result in considerable reduction of revenues for the localities. It would also become

necessary to hire more staff to handle the processing of the numerous reports being filed on a monthly basis and the difficult task of enforcement, further burdening the budgets of local jurisdictions.

8. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **This scenario would be a real nightmare for all jurisdictions that tax cigarettes due to the fact there would be no tax stamp to evidence payment of the cigarette tax and monthly cigarette tax reports would have to be filed to the jurisdiction by all retailers who sell cigarettes within that jurisdiction.**

Accountability would again be lost as outlined above. In addition, most retailers do not have the manpower or ability to properly report cigarette sales, ultimately leading to considerable lost revenue for the localities. Handling the processing of large numbers of retail reports, (there are over 1,200 retailer locations within the jurisdictions of the NVCTB who sell cigarettes) and checking for accuracy would be an overwhelming task and would require a considerable increase in staffing thus negatively impacting the budgets of local jurisdictions. It is unlikely that all retailers would comply with the reporting requirements leading to further costs in attempting to insure full compliance. Under this scenario, it would be impossible to conduct accurate cigarette tax audits.

There would also be a negative impact on the retailers, as they would be required to file monthly cigarette tax returns with the jurisdictions in which they are located. Under the current system, the prices that the wholesalers charge the retailers for the cigarettes include the locality cigarette tax and the retailers have no monthly filing requirements.

9. Do you have any other comments or suggestions? **The NVCTB effectively collects the tax on all packages of cigarettes sold within the jurisdictions of the Board and administers and enforces the Cigarette Tax Ordinances of each participating jurisdiction through the use of a reporting system. Wholesalers and vendors are required to complete a monthly report listing cigarette sales to each individual retailer and pay the appropriate cigarette tax for each jurisdiction. In order to insure that the reporting system works the NVCTB relies on the fact that there is a Dual Virginia-NVCTB stamp with numbered rolls, which identify the wholesaler who is issued that particular roll. By checking retailer invoices Board staff can determine when there are attempts to circumvent the local tax by purchasing in a lower tax jurisdiction and transporting to a higher tax jurisdiction. Familiarity with the boundaries of all thirteen-member jurisdictions of the Board enables us to properly identify correctly the appropriate jurisdiction for each retailer selling cigarettes within the borders of member jurisdictions. Inventories and audits are performed on all wholesalers and vendors both in state and out of state to insure that the cigarette tax is assessed and paid on all stamps purchased. It bears noting that the NVCTB provides cigarette tax revenue to each member**

jurisdiction based on actual cigarette sales, not on an apportionment or percentage basis and it does so accurately and efficiently.

It would be extremely difficult, if not impossible, for the state to administer such a system on a statewide basis. Enforcement on a statewide basis would be impractical. The manpower required to physically check all locations in every locality, which imposes a cigarette tax and to perform inventories and audits to insure the collection of all taxes due would be prohibitive. It would be extremely difficult to identify on a statewide basis the proper jurisdiction for each retail establishment to insure that the proper local tax is being collected. Reports by large wholesalers would be enormous in size given the fact that sales are reported for each individual retail location for each local jurisdiction separately. Yet, if the State does not provide adequate manpower to have agents checking locations at all retail establishments that sell cigarettes in every locality with a cigarette tax and if the State does not adequately perform inventories and audits of all wholesalers and vendors to insure proper payment of the tax, the localities will experience a drop in revenues from cigarette sales due to the loss of accountability.

Should the State take over the collection of all local cigarette taxes, the localities would lose the ability to control costs, make changes to the tax rate when desired and to make sure that all proper taxes are being collected. The NVCTB has a 35 year proven track record of accurate and efficient cigarette tax collection. There is absolutely no advantage to delegating the authority to administer, enforce and collect the cigarette taxes of the member jurisdictions to the State.

Sincerely,
Elizabeth Krens
Treasurer
Town of Purcellville
130 East Main St.
Purcellville, VA 20132
540-338-7093 x15

STUDY OF LOCAL CIGARETTE TAX STAMPS
PURSUANT TO 2005 HOUSE JOINT RESOLUTION 664

Local Government Survey for Localities Participating
in the Northern Virginia Cigarette Tax Board

1. What is the name of your locality? **Town of Warrenton**
2. What is your current local cigarette tax rate? **.15 per package**
3. What are the benefits and the drawbacks of delegating the administration of your cigarette tax to the Northern Virginia Cigarette Tax Board? **Lack of audit effort, inability to track cigarettes across jurisdictional limits.**
4. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **I did not know this was an issue, perhaps have taxing jurisdictions adopt a model ordinance similar to the meals and BPOL effort of the past.**
5. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps? **The program is working well with the NVCTB and should not be changed**
6. What would be the benefits and the drawbacks of the mandatory statewide use of a dual stamp issued by TAX? **There are no benefits only drawbacks. State involvement would likely create a completely new beaucracy that would be both inefficient and non-responsive to the taxing jurisdictions.**
7. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **Lack of audit and enforcement across jurisdictional lines.**
8. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **Compliance would be a major issue as well as fraud.**
9. Do you have any other comments or suggestions? **The state should not get involved in the taxation of cigarettes by localities.**

Appendix D

Survey Responses from Wholesalers

STUDY OF LOCAL CIGARETTE TAX STAMPS
PURSUANT TO 2005 HOUSE JOINT RESOLUTION 664

Wholesale Dealers Survey

1. What is the name of your business? **Atlantic Dominion Distributors**
2. In how many Virginia localities that impose a local cigarette tax do you sell cigarettes? **61**
3. How many retail locations do you service with cigarettes? **635**
4. What do you see as the benefits and the drawbacks of local cigarette tax stamps?
Benefits: Include the proper control for insuring that the different municipalities are receiving their proper tax, insuring that our competitors and retailers are paying the proper tax, insuring that illegal bootlegging by anyone between municipalities is minimal.

Drawbacks: Cost of stamp inventory. (Note : the cost of applying dual stamps is minimal once the cost of applying the state stamp has occurred as the process of opening and resealing the ctn. has already happened at that point .) Cost of an additional Myercord Tax machine
5. Please describe the impact on your business of applying the different stamps for the different localities. **Cost of prepaying for stamps, however the current system has a minimal administrative cost associated for record keeping and reporting. Additional cost of applying a second stamp is minimal as explained in # 4.**
6. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **We know of none while trying to maintain controls as they now exist.**
7. What would be the benefits and the drawbacks of a mandatory statewide dual stamp issued by TAX? **Benefits would include the ability to pay for the stamp AFTER the product was sold as opposed to buying rolls of stamps before hand reducing our carrying cost of stamps. Drawbacks would be loss of controls for insuring that the proper tax payments are made, an invitation to illegal bootlegging which we know now include not only the long standing black markets but also recently include the funding of terrorist activities, as well as a loss of insuring competitive pricing fairness based on the proper tax payments being made. The assumption made by a "mandatory statewide dual stamp "is understood by us to be just a dollar amount tax with no regard given to what locality it is to be used for.**

8. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **Benefits would be strictly given to the wholesaler in the form of the elimination of the carrying cost of stamps. Drawbacks would include all the drawbacks mentioned in # 7 as well as an increased administrative cost for filing or returns.**

9. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **Benefits: None based on what would happen Drawbacks: A complete loss of all controls for tax payments.**

10. Do you have any other comments or suggestions? What benefit would the state realize by supporting this type of legislation? **All we see is an increased cost the state would incur by having to hire the manpower to try to effectively control and audit a taxing system of this type. This cost would have to be absorbed by someone, most likely by the localities in some sort of fee. Once you eliminate the ability of a simple sight check to see if the proper tax has been applied, you are instituting an administrative nightmare to try to enforce proper taxation. Even then the proper tax revenue received by each locality would be suspect and the temptation to illegally bootleg cigarettes from one tax jurisdiction to another would welcome more criminal elements into this business.**

Wholesale Dealers Survey

1. What is the name of your business?

**J T Davenport & Sons, Inc. Permit #440
PO Box 1105 Sanford NC 27330
Contact: Wayne Foushee
919-774-9444 Ext 2059
waynefoushee@jtdavenport.com**

2. In how many Virginia localities that impose a local cigarette tax do you sell cigarettes? **Currently serve customers in 39 local taxing authorities plus 3 in NVCTB.**
3. In how many Virginia localities that issue their own cigarette tax stamps do you sell cigarettes? **Currently 39 local stamps in our inventory.**
4. In how many localities that have delegated the administration of their cigarette tax to the Northern Virginia Cigarette Tax Board do you sell cigarettes? **Currently report 3.**
5. Are all of the local cigarette stamps applied in the same manner? If not, please explain. **Yes**
6. What are the benefits and the drawbacks of local cigarette tax stamps? **No benefit to the Wholesaler. Drawbacks: 1: Increased cost of inventory to maintain adequate supply of the 39 different local stamps. 2: Increased cost of handling scrap stamps as we are constantly changing rolls as stamp one locality then another. 3: Increased labor costs in constantly changing stamps one locality then another. 4: Definitely increase in chance of errors and incorrectly stamping one local district to another. This increases customer complaints and complaints from the locality if incorrect stamp is applied. 5. Increased cost for the localities to print 39 different stamps. 6: Increased shipping cost to Wholesale when ordering 39 different stamps as we always order and receive overnight to gain tighter security on hazards of shipping. 7: Increased labor cost in double stamping each cigarette pack.**
7. Please describe the impact on your business of applying the different stamps for the different localities. **See drawbacks listed in question seven.**
8. How many localities that issue their own cigarette tax stamps require you to file regular returns or reports? **File returns in 3 localities plus NVCTB**
9. In how many localities that impose a local cigarette tax but do not issue any local stamp do you sell cigarettes? **Only NVCTB**

10. How many localities that do not issue their own cigarette tax stamps require you to file regular returns or reports? **Only NVCTB**
11. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **The use of a system comparable to NVCTB would be preferred over the current system. Use of one stamp with tax paid on sales by locality.**
12. What would be the benefits and the drawbacks of establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps? **Benefits to the Wholesaler would include lowered cost of inventory and reduced stamping time (labor). Benefit to the localities would be lowered administration costs due to constant receiving and filling orders for stamps. Could spend more time on actually administering and policing the program for retailers.**
13. Would you support establishing uniformity and consistency among localities in the design and use of local cigarette tax stamps? Why? **Yes, see number 12.**
14. What would be the benefits and the drawbacks of a mandatory statewide dual stamp issued by TAX? **Do not see any drawbacks to Wholesaler when compared to the current system which is cumbersome.**
15. Would you support a mandatory statewide dual stamp issued by TAX? Why? **Yes, when the alternative is the current system.**
16. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **In the case of J T Davenport this would mean at least (looking just at current customers) 39 separate tax returns to be completed and filed to all the individual governing bodies. Drawback would, of course, be increased labor, increased chance of error or omission on the reports.**
17. Would you support eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? Why? **If the only alternative were to continue with the current system then J T Davenport would prefer this system of administering the tax using returns. If given a choice wholesalers would prefer the a statewide dual stamp with reporting by return filed to one office.**
18. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers?

19. Would you support eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? Why?
20. What would be the benefits and the drawbacks of requiring localities to administer their cigarette taxes by requiring retailers to use stick-on stamps?
21. Would you support requiring localities to administer their cigarette taxes by requiring retailers to use stick-on stamps? Why?
22. Do you have any other comments or suggestions? **Can not really speak to the questions relating to change in the system to reports by retailers or stick on stamps by the retailers. I can imagine, however, these systems would be very hard to manage due to the number of retailers involved and could be very hard to police.**

STUDY OF LOCAL CIGARETTE TAX STAMPS
PURSUANT TO 2005 HOUSE JOINT RESOLUTION 664

Wholesale Dealers Survey

1. What is the name of your business? **Eby-Brown Company**
2. In how many Virginia localities that impose a local cigarette tax do you sell cigarettes? **15 which includes 10 in NVA**
3. How many retail locations do you service with cigarettes? **302 in the state. 141 of the 302 are in areas with local tax**
4. What do you see as the benefits and the drawbacks of local cigarette tax stamps? **No benefits. Draw backs include: operational expenses for labor to affix stamps, segregating product by tax area in warehouse, sorting and filing of claims for unsal product returned to mfr, cash outlay for stamps. Any discounts offered by municipalities don't cover expense incurred by wholesalers.**
5. Please describe the impact on your business of applying the different stamps for the different localities. **See #4 above**
6. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **Best if cease use of all local stamps and accept sales reports from wholesalers as backup in calculating and paying local taxes.**
7. What would be the benefits and the drawbacks of a mandatory statewide dual stamp issued by TAX? **Not sure what benefit a dual stamp would serve in facilitating municipalities collecting local tax?**
8. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **Could only benefit wholesalers. Only drawback is cost of processing tax reports for municipalities. Maybe qtrly reports?**
9. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **Sounds good to me as a wholesaler.**
10. Do you have any other comments or suggestions? **Too much burden, and not enough trust, is being placed on wholesalers by municipalities insisting on use of local stamps.**

STUDY OF LOCAL CIGARETTE TAX STAMPS
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Wholesale Dealers Survey

1. What is the name of your business? **McLane-Mid-Atlantic
McLane-Mid-Atlantic DBA McLane Carolina**
2. In how many Virginia localities that impose a local cigarette tax do you sell cigarettes?
**Fredericksburg, Virginia facility – 31
Battleboro, North Carolina facility - 33**
3. How many retail locations do you service with cigarettes? **> 4,000**
4. What do you see as the benefits and the drawbacks of local cigarette tax stamps? **Benefits – reduce carton damage during the stamping process, reduce overall cigarette inventories, maintain numerous stamp rolls, ensure tax stamp is affixed during process and one controlling board.**
5. Please describe the impact on your business of applying the different stamps for the different localities. **Creates numerous stamp damage in the process of affixing two tax stamps, creates additional overhead costs associated with carrying municipal tax stamps and the labor associated with applying them to the cartons, additional inventories of cigarettes (carrying costs) and the associated shrink.**
6. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **Create one tax stamp for VA only and one for the cities/counties.**
7. What would be the benefits and the drawbacks of a mandatory statewide dual stamp issued by TAX? **I do not see any drawbacks only benefits. Those benefits would be a consistent stamp that allows wholesalers to maintain only two inventories of cigarettes thus curbing rising labor, inventory and shrink related costs.**
8. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **No drawback, only the benefits of reduced labor, inventory and shrink.**
9. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **No drawback from the wholesale side, but retailers would see this as a burden.**

10. Do you have any other comments or suggestions? **No.**

STUDY OF LOCAL CIGARETTE TAX STAMPS
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Wholesale Dealers Survey

1. What is the name of your business? **Merchants Grocery Company, Inc.**
2. In how many Virginia localities that impose a local cigarette tax do you sell cigarettes? **36**
3. How many retail locations do you service with cigarettes? **In excess of 750.**
4. What do you see as the benefits and the drawbacks of local cigarette tax stamps? **From a business standpoint there are no benefits. From a local tax standpoint, it allows for the locality to receive taxes from a base other than property taxes. The biggest drawback is to the retailer located within the taxing jurisdiction who now has to compete with retailers not within that jurisdiction who are not required to collect taxes. Also, the taxing locality loses if more of its citizens purchase cigarettes and other products from outside their jurisdiction—they lose not only the cigarette tax revenue, but also the sales tax from the cigarette sale as well as any other purchases made at that time.**
5. Please describe the impact on your business of applying the different stamps for the different localities. **The greatest impact is the increase in our inventory costs of cigarette stamps. Most local jurisdictions require up-front payment for stamps. This means that we will have anywhere from \$150,000 to \$200,000 invested in local stamps at any given time. Depending on sales into that jurisdiction, it may take 2 or more months to redeem that investment. In the event that the retailer no longer purchases from us, we might be stuck with the remaining stamps since most localities do not have a redemption program for unused stamps. The other impact is the added costs of having to apply a second stamp to each pack sold within a taxing locality. Wholesale margins are slim to begin with, but having to take the time to add another stamp reduces that margin even more.**
6. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **Actually, I'd rather do away with locality stamps altogether. It is our desire that localities wishing to tax cigarettes should follow the lead of the Northern Virginia Cigarette Tax Board and develop a reporting mechanism whereby the wholesaler reports to a Board, in an electronic format, the quantity of cigarettes sold within a local jurisdiction and then remit the tax. Better yet, the Board could draft an ACH transaction to extract the funds from the wholesaler's bank account. This would open up the opportunity for all localities: towns, cities and counties, to adopt cigarette tax ordinances, collect the tax through a Board**

on which they have a representative and allow for the wholesalers to only apply the state stamp.

7. What would be the benefits and the drawbacks of a mandatory statewide dual stamp issued by TAX? **First, the localities don't trust TAX. I don't mean this to be negative, but I have seen and heard too many localities quibbling about their share of sales tax. Second, it would place too much burden on TAX. Let the localities develop their own Board to oversee locality taxes. They would have representation and could oversee the administration of it. This would keep TAX out of the local tax collecting business all together. If localities didn't want to join the Board, then they wouldn't be allowed to tax cigarettes.**
8. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **The benefit to the wholesaler would be that they wouldn't have to carry all the pre-paid stamps. There would be more reporting—but if it could be done electronically, i.e., sending an Excel spreadsheet, then that would cut down on the work for the wholesaler. A drawback, one which we do not ascribe to, would be that all jurisdictions would then be open to all wholesalers, not just those who have enough business to justify the purchase of a roll of stamps.**
9. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **For the wholesaler, this would be a blessing. For the retailer, it would be a nightmare. For the locality it would be both. The localities would have to make sure they are truly checking the stores for compliance. Many retailers not only buy from wholesalers, but from wholesale clubs. If the retailer tells the wholesale club they are not in a taxed jurisdiction, then they may buy cigarettes without the locality stamp or without the wholesale club reporting the sale to the proper locality. But, if the retailer were to report their sales directly, then the locality would get the funds no matter where the retailer purchased the cigarettes. The drawback for the locality is that they would have to have the personnel and time available to audit the retailers to determine if in fact they are paying the full amount of the tax. Unfortunately, I can't see this happening. There are thousands more retailers than wholesalers and it would be easier to audit a wholesaler.**
10. Do you have any other comments or suggestions? **There is not going to be an easy fix to this problem. My hope would be that a Virginia Locality Cigarette Tax Board could be created with all the local taxing jurisdictions becoming members (I'm make that mandatory). The administration of the Board would be determined by the local representatives to the Board. Each jurisdiction wishing to collect cigarette taxes would be designated a**

unique number. All retailers in that jurisdiction would be given assigned a number starting with that local number. Ex. Town of Culpeper would be 123. XYZ retailer within the town limits would be 123-456789. Wholesalers would have to have the retailers number before they could sell cigarettes. Wholesalers would also have to be approved by the Board to sell cigarettes to their members.

The localities control the Board, TAX is totally out of it.

All the approved wholesalers report electronically to the Board each month by the 10th. The Board then generates an ACH transaction to withdraw funds from the wholesalers' bank accounts. Those funds are then disbursed to the localities on their pro-rata basis less any administrative fees determined by the Board.

The Board would oversee the administrators, who would be charged with the day-to-day operation, locality audits, etc.

Fees for the localities would be based on the number of packs of cigarettes sold in their jurisdiction during the past (quarter, year, month, etc.). This means that the locality with the greatest quantity of cigarettes would be paying the largest share.

If this model were adopted and membership made mandatory, then the GA could allow counties the opportunity to collect cigarette taxes, thereby lessening the burden of property taxes.

There would be no burden to the state, since the operation of Board would be by the localities. The wholesalers wouldn't have to maintain a separate inventory of locality stamps; they would only have to send in the computer report monthly and have their bank account drafted for the funds. The retailers wouldn't have to do anything. The localities wouldn't have to worry about audits, collecting fees, ordering or maintaining a stamp inventory, etc.

As a final thought, it would probably be best if there were regional cigarette taxing boards established for the difference regions of the state. Example: those cities, towns, possibly counties, located in the Shenandoah Valley from Rockbridge County north would comprise that region. Those south of Rockbridge County and west would be the Southwest Region. Then there could be a Central Virginia Region, a Southside Region, etc. This would allow for greater control from the localities to their Regional board.

This report was submitted by Steven M. Hicks, CPA, PRP, Chief Financial Officer, Merchants Grocery Company, Inc.

STUDY OF LOCAL CIGARETTE TAX STAMPS
PURSUANT TO 2005 HOUSE JOINT RESOLUTION 664

Wholesale Dealers Survey

1. What is the name of your business? **Sheetz Distribution Services**
2. In how many Virginia localities that impose a local cigarette tax do you sell cigarettes? **14 municipality locations (18 stores), and 3 specialty tax (non stamp) locations.**
3. How many retail locations do you service with cigarettes? **54 in Virginia (316 total).**
4. What do you see as the benefits and the drawbacks of local cigarette tax stamps? **No wholesale benefits; period. It significantly increases the cost of labor and materials to the stamping process. A tandem-stamping machine is required to process a double stamp jurisdiction. Tandem machines are more than double the cost of single head machines, and require more space and maintenance. The labor is increased because double stamp jurisdictions can't be efficiently batched with other jurisdictions in the same state.**

Product returned to the distributor with a local tax stamp can only be resent to the same jurisdiction. These products need inventoried separately and may never be reordered by that jurisdiction again. The product can be stamped again with another jurisdiction, but the value of the initial stamp is lost to the distributor.

5. Please describe the impact on your business of applying the different stamps for the different localities. **The more localities require more changeovers on our stamping machines. The more changeovers, the greater the inefficiencies in the entire process from selection of product to the actual shipping.**
6. How could the design and use of local cigarette stamps be made more uniform and consistent among localities? **One stamp, one price, one jurisdiction. Refer to #4.**
7. What would be the benefits and the drawbacks of a mandatory statewide dual stamp issued by TAX? **One stamp, one price, one jurisdiction.**
8. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by wholesalers? **As with North Carolina, no is stamp required. This would reduce the burden of the purchase and security of such a high dollar value item. We submit sales information directly to the State and pay**

based upon that information. We track “no stamp” packs via a kiwi stamp specific to our DC. In so doing, we can differentiate our packs from those stamped at other wholesalers.

9. What would be the benefits and the drawbacks of eliminating all local cigarette tax stamps and requiring localities to administer their cigarette taxes using returns filed by retailers? **The benefit would be to the retailer and the reduced cost of goods. Inventory value and carrying costs would go down.**
10. Do you have any other comments or suggestions?

List of 14 municipality locations impacting 18 Sheetz Retail Stores:

Winchester	\$0.10 per pack	\$1.00 per carton
Orange	\$0.10 per pack	\$1.00 per carton
Salem	\$0.15 per pack	\$1.50 per carton
Staunton	\$0.15 per pack	\$1.50 per carton
Tappahannock	\$0.15 per pack	\$1.50 per carton
Woodstock	\$0.05 per pack	\$0.50 per carton
Harrisonburg	\$0.30 per pack	\$3.00 per carton
Roanoke	\$0.27 per pack	\$2.70 per carton
Fredericksburg	\$0.31 per pack	\$3.10 per carton
Lynchburg	\$0.35 per pack	\$3.50 per carton
Christiansburg	\$0.30 per pack	\$3.00 per carton
Mt. Jackson	\$0.20 per pack	\$2.00 per carton
Manassas Park	\$0.50 per pack	\$5.00 per carton

List of 3 specialty tax (non stamp) locations impacting 3 Sheetz Retail Stores:

Leesburg	\$3.00 NVCT + \$5.00 Specialty Tax = \$8.00 per carton
Warrenton	\$3.00 NVCT + \$1.50 Specialty Tax = \$4.50 per carton
Haymarket	\$3.00 NVCT + \$2.50 Specialty Tax = \$5.50 per carton

Double Stamp Processing Costs

Sheetz DC estimates that approximately \$75,574 additional expense is incurred yearly to process local jurisdiction tax stamps. Additional costs are incurred from the additional cost of equipment, labor inefficiency resulting from smaller batch sizes, and stamp inventory handling in the warehouse.

Equipment Cost:

Stamping Equipment Cost

1 – Stamp Head	\$21,000
2 – Stamp Head	\$43,000
Cost Difference	\$22,000

Yearly Depreciation (5 yr.) \$4,400

Labor Cost:

In Sheetz DC cigarette stamping operation, cigarette orders are selected, stamped, and repackaged in batches for maximum efficiency. We process all orders for a given tax stamp together. Local jurisdiction tax stamps result in additional batches with fewer cartons per batch. Sheetz DC efficiency of cigarette processing is shown below, broken out by single or double stamp. (This data was compiled from weekly observations from 2/27/05 to 9/25/05.)

	Stamping Efficiency (Cartons/Hr.)
Single Stamp	2,628
Double Stamp	1,285
Difference	1,344

The efficiency difference from a single stamp carton vs. a double stamp carton is 1,344 cartons/hr. This is a measurement of the entire processing line of 6 operators. Assuming yearly volume of double stamp cartons is 912,000 cartons/yr...

$$\begin{aligned}
 &912,000 \text{ cartons/yr.} / 1,344 \text{ cartons/hr.} = 679 \text{ hrs./yr.} * 6 \text{ people} \\
 &\quad\quad\quad 4,074 \text{ total additional hrs./yr.} \\
 &\quad\quad\quad 4,074 \text{ hrs./yr.} * \$17.25/\text{hr.} = \$70,277/\text{yr.}
 \end{aligned}$$

In addition to the stamping process, there is added time each day to organize and verify proper storage placement of the stamps. This is estimated at an additional 10 minutes each work day, for the 13 local VA jurisdictions.

$$1 \text{ hour/week} * 52 \text{ weeks} * \$17.25 = \$897$$

Additional Cost Considerations:

Cost of Capital on annual stamp spend of \$2,016,000.00 is 8% (per Tom Luciano) = \$162,000.00

Administrative costs annually = \$5,000.00.

Total Cumulative Cost of Secondary Stamping = approx. \$240,000.00

Appendix E

Supplemental Comments of Interested Parties

Ray A. Conner
Commissioner of the Revenue
Post Office Box 15285
Chesapeake, Virginia 23328

December 2, 2005

Mr. Kenneth W. Thorson
Commissioner
Virginia Department of Taxation
Post Office Box 2475
Richmond, VA 23218

RE: HJR 664-Study of Local Cigarette Stamps

Dear Mr. Thorson:

The main benefit of the cigarette tax is that it serves as a significant revenue source, estimated to generate in Chesapeake approximately \$4.8 million in FY06. The local tax stamp is used to maintain this revenue stream and ensure compliance. It is my position that the state government should not control the issuance of a local stamp or the collection of a local tax. If a dual stamp is to be used, it would benefit all concerned if the localities actually issue and collect. State monies could then be submitted to the Department of Taxation. State cigarette stamp compliance is currently very minimal. Compliance for state and local would be more effective at the local level.

Currently, local cigarette stamps are purchased and applied by wholesalers. The local cities receive their money for these stamps at the time of purchase. If the current system is done away with, localities would have to wait longer for their cigarette tax revenue due to the lag time of the state having to disburse the collected funds.

If local stamps are eliminated and ultimately replaced by a wholesalers/retailers report, the Commonwealth of Virginia would have to enforce compliance. The state would have to add and train a large complement of personnel who likely would have little vested interest in the localities realizing their full revenue from the cigarette tax. With the varying tax rates throughout more than sixty localities, and the large number of wholesalers/retailers operating in Virginia, the potential for localities not receiving their proper amount of revenue is immense. Virginia is too large of a geographical area to be able to police the entire state from Richmond. In Chesapeake, we have five trained business tax specialists who regularly conduct field investigations of retailers selling cigarettes. These tax specialists, who also enforce BPOL, meals, lodging, and admissions taxes, know the physical boundaries of City of Chesapeake and its business community very well. The current system of enforcement is working well and helps to ensure that consumers are better protected from counterfeit/contraband cigarettes entering the marketplace. I acknowledge that the current system of wholesalers applying two stamps (i.e., state and local) is not simple. However, the inherent checks

and balances and extra set of eyes from both state and local officials can be helpful in preventing illegal activity.

If local cigarette tax stamps are eliminated, localities would lose control of the collection/compliance/enforcement mechanisms currently used. There is great potential for revenue loss based on the using of an "honor system" whereby wholesalers simply file returns. With cigarettes, the taxed commodity is of high value, compact, and easily transportable from one jurisdiction to another. Retailers could easily move product from a low tax area to a high tax area, thereby cheating cities out of their revenue as bootlegging occurs.

At the HJR 664 meeting held on November 29th, a number of wholesalers spoke about their operating costs associated with having to apply two separate tax stamps. Some wholesalers indicated that certain Virginia localities did not provide a discount or allow a refund for less than a full roll of unused stamps. That practice does not appear to be the case in the Hampton Roads region:

LOCALITY	DISCOUNT GIVEN	MINIMUM RETURN POLICY
Chesapeake	8%	NO
Hampton	5%	NO
Newport News	8%	NO
Norfolk	6%	NO
Portsmouth	8%	NO
Suffolk	8%	NO
Virginia Beach	8%	NO

In Chesapeake, this sizable discount of 8% is supposed to help wholesalers cover their operational costs. Additionally, it should be noted that the 2005 General Assembly passed HB 2625 which increased the dealer discount on the purchase of cigarette tax revenue stamps from 2.5 cents per carton to two percent of the amount charged by the Department of Taxation for the state stamps. So on both the local and state levels, efforts have already been made to help compensate wholesalers for their operational costs.

Thank you for your consideration.

With best wishes for a successful and prosperous new year, I am

Sincerely yours,

Ray A. Conner
Commissioner of the Revenue

Cc: Chesapeake City Council Members



December 8, 2005

Mr. Kenneth W. Thorson
Commissioner
Virginia Department of Taxation
Post Office Box 2475
Richmond, Virginia 23218

RE: HJR 664 Local Cigarette Tax Stamping Study

Dear Mr. Thorson:

All localities are concerned that the State is trying once again to gain the ability to control, levy and collect from a particular revenue source. We support the current process of local governments to levy and collect taxes. History has proven when the State becomes involved with collecting municipal taxes localities are often left trying to fill major revenue gaps. A prime example of this took place in 1998 when our state legislators attempted to enact legislation relieving Virginia residents of locally mandated personal property taxes. The legislation was titled the Personal Property Tax Relief Act of 1998 and was designed to eliminate personal property taxes. In 2004, the Personal Property Tax Relief Act of 1998 was not eliminated and each town, city, and county collecting personal property taxes participating in the act were left to figure out revenue shortages after being paid their proportion of the \$950 million bucket that was decided upon by TAX.

As for the Cigarette Tax revenue stream, the growth has flattened out. This is largely due to the State's newly imposed tax increase and educational programs prescribed to curb consumption. The increased tax imposition has created a classic economic scenario. The price has increased to a level where people are beginning to consume as much as they can afford. At over \$3 a pack, there are limitations, and the statistics are indicating that people will continue to buy them even if the price goes up.

Portsmouth recognizes the cigarette tax as a significant source of revenue, estimated to generate \$2.7m in FY06. It is the position of this office that the state government not control the issuance of a local tax stamp or be involved in the collections of local taxes. The continuation of a dual stamp would benefit all of the parties concerned in this

survey. State monies could be collected by the localities then turned over to the Department of Taxation. Our track record shows that from a local level, all compliance issues are more effective and more accurate. In our city local tax stamps are purchased and applied by wholesalers. The locality receives their money for these stamps at the time of the purchase and do not have to, nor do we wish to wait for the Department of Taxation to collect then disburse the funds to the locality.

This office is concerned with the compliance side of this problem, which has raised several concerns:

Can TAX give us any information on how many personnel they plan to train or add to enforce compliance? With so many localities, so many different rates and a large number of wholesalers/retailers operating in Virginia, the potential for localities not to receive their proper amount of revenue is great. What plans do they have set to prevent this from happening?

In Portsmouth, I am the Tax Management Specialist who regularly conducts field investigations of retailers selling cigarettes. I am trained and certified to enforce BPOL, Fiduciary, Business Tangible and Personal Property Taxes; I know the physical boundaries of the City of Portsmouth and its business community very well. And at times enforcement of the compliance of cigarette taxes becomes so physical it is recommended that law enforcement officials accompany me to some locations just to inspect for these stamps. The question? *Is Tax ready for these same situations?* I know my current customers and adding a new element could cause a set back or make situations even worse than they are currently.

Another question for TAX, if we seize any confiscated products will TAX buy back these products for destruction since most of the cigarette makers have stopped this process due to counterfeit cigarettes? Since it is a State controlled tax then it should be a state controlled compliance issue when it comes to confiscating products, and controlling counterfeit/contraband cigarettes from entering into the marketplace.

By eliminating local cigarette tax stamps we would also lose control of the collection and compliance mechanisms currently in place, not to mention our enforcement powers. This could also lead into other problem areas such as cigarettes being transported from one locality to another; more internet cigarette sales, or some other form of bootlegging occurring in our locality causing revenue to be lost. Currently, even when wholesalers file a monthly return like the ones used with the NVCTB (and they pay the tax based on the number of cigarettes sold in each locality) the potential for lost revenue or someone not being honest is great. Not to mention the serial stamp system that they use for their localities. The potential for the use of a counterfeit serial stamp system is tremendous given today's technology.

At the meeting held on November 29th, a number of wholesalers spoke about their operating costs being a main reason associated with having to apply two separate tax stamps. In Portsmouth, we provide a discount or allow a refund for less than a full roll of

unused stamps. From the information shared in the meeting it seems that this practice does not occur statewide, however, this is the case in Hampton Roads. We offer an 8% discount, which is supposed to help wholesalers cover some of their operational costs. We suggest as a possible solution to use the Hampton Roads region as a model and require other localities to emulate this or a similar discount program.

Finally, if this has not occurred, TAX visit should visit some of the localities and review their procedures to truly understand what they are undertaking before making any decisions. Some of the individuals running these stores, convenience marts, etc. are living off of every penny they make and when you start to encumber someone's livelihood they tend to become even more defensive.

Thank you for kind considerations of these remarks.

Sincerely yours,

A handwritten signature in black ink that reads "Andrew R. Tasch III". The signature is written in a cursive style with a large, sweeping flourish at the end that loops back over the name.

Andrew R. Tasch III, MDCR
Tax Management Specialist
City of Portsmouth

Commissioner of the Revenue
Office of the Commissioner of the Revenue
801 Crawford Street
Portsmouth, Virginia 23704

VIA E-MAIL

Joe Mayer

VA Dept of Taxation Cigarette Stamping Study

c/o Virginia Department of Taxation

[CigaretteStampingStudy@tax.virginia.gov]

RE: McLane Company/Comments on Draft Report of H.J.R. No. 664 Study

Dear Joe:

On behalf of McLane Company, I appreciate the opportunity to provide these written additional comments in relation to the draft report of the Virginia Department of Taxation on House Joint Resolution No. 664 Study of cigarette tax stamps.

As noted in House Joint Resolution 664, over sixty different cities and towns in the Commonwealth, in addition to two counties, impose local cigarette taxes ranging from \$0.03 per pack to \$0.65 per pack. This patchwork of different local cigarette taxes, in addition to the statewide cigarette tax, creates an extraordinary and costly administrative burden for companies such as McLane that sell and distribute cigarettes to retailers in the Commonwealth.

While some representatives of local government have expressed concerns regarding possible changes in the current system of requiring wholesalers to affix both a state tax stamp and a local tax stamp, McLane believes that the findings of the HJR 664 Study clearly demonstrate that there are commonsense solutions that can be found to address these same concerns that will not have a negative financial impact on local government. Of particular note is the experience of the Northern Virginia Cigarette Tax Board which voluntarily implemented a system of one uniform tax stamp for the collection of both the state cigarette tax and a wide variety of different local cigarette taxes for those thirteen Northern Virginia localities (other than Arlington County) that have elected to participate in the consortium. The Northern Virginia Cigarette Tax Board, therefore, provides a model for an efficient and reasonable means for local jurisdictions to receive cigarette tax revenues without the administrative burdens of dual stamping.

Notwithstanding the above, McLane recognizes that crafting a viable mechanism to expand the model of the Northern Virginia Cigarette Tax Board, or something closely approximating the same, likely will require further study, analysis and design, involving the cooperation of all of the interested stakeholders, including wholesale distributors of cigarettes, other cigarette industry representatives, and representatives of local government (e.g., Virginia Municipal League, Virginia Association of Counties) and any other stakeholders. Therefore, McLane recommends that the Study Report request that the General Assembly continue this study in order to give those interested parties the time and resources needed to further develop and design a system that is more efficient and less burdensome to those Virginia businesses that are required to affix the cigarette tax stamps.

On behalf of McLane, I wish to express my appreciation to the Virginia Department of Taxation for convening and conducting this Study. Moreover, I look forward to the opportunity to continue to work with you and the on this issue going forward.

With kind regards, I remain

Sincerely yours,

Thomas A. Lisk

Thomas A. Lisk

Attorney at Law

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TO: Virginia Department of Taxation Cigarette Stamping Study

FROM: Mark T. Bowles

CC: Mike Cortez, General Counsel
Sheetz, Inc.

Jerry Weger, Tobacco Sales Director
Sheetz Distribution Services

Scott Cascio, Purchasing Manager
Sheetz Distribution Manager

DATE: December 27, 2005

RE: Sheetz Comments Regarding Tobacco Stamping Study

On behalf of Sheetz, Inc. we appreciate the opportunity to comment on the need to examine and change Virginia's current procedures for taxing cigarette products. By way of background, Sheetz Inc has significant experience and is well qualified to comment on this issue. Sheetz has 52 retail locations in Virginia and employs over 1500 Virginians. Nationwide, Sheetz operates in six states with over 315 retail stores. Cigarette and tobacco sales comprise a significant and popular commodity at each of its retail locations.

As noted in House Joint Resolution 664, 29 cities and 32 towns across Virginia impose tax rates ranging from \$0.03 per pack to \$0.65 per pack. This, of course, is in addition to the statewide cigarette tax of \$0.30. This patchwork of different cigarette taxes has created an extraordinary and costly administrative burden for companies such as Sheetz that distribute and sell cigarettes in the Commonwealth. For example:

- Virginia's current process requires Sheetz to apply a different stamp for each of the 14 Virginia localities where we have a store. As a practical matter, this means that Sheetz must stop the stamping process to reload a different stamp for each of these jurisdictions.
- This process significantly increases the cost of labor and materials in the stamping process. The machines needed to apply the stamps are more than double the cost of traditional single head machines and require more space and maintenance.

- The process of applying these stamps slows the distribution process by approximately 50% compared to states that do not have dual stamping requirements. Indeed, in no other state that Sheetz operates are there dual stamping procedures or comparable administrative burdens.
- The inefficiencies of the current system are further exacerbated because products returned to the distributor with a local stamp can only be returned to the same jurisdiction. These products must be inventoried separately and may never be ordered by that same jurisdiction again.

While there is undoubtedly concern among local governments about any change in the current system, Sheetz strongly believes that there are commonsense solutions that can be found that do not have a negative financial impact on these jurisdictions. In fact, the Northern Virginia Tax Board is a very good and efficient model that provides a reasonable means for local jurisdictions to receive cigarette tax revenues without the administrative burdens of dual stamping for 13 different northern Virginia localities. Another possible solution would be the adoption of a statewide uniform cigarette tax that would be distributed to localities.

Sheetz recognizes, however, that crafting reforms and solutions of this magnitude will take time and further work with the interested parties such as the Virginia Municipal League, the Virginia Association of Counties and industry stakeholders. Therefore, Sheetz requests that the legislature continue this study in order to give those interested parties the time and resources needed to address a system that is grossly inefficient and burdensome to many in the wholesale and retail community.

Sheetz looks forward to continuing the opportunity to work with the Commonwealth on this matter, and appreciates the efforts of the Department of Taxation to examine the issue.