



# *COMMONWEALTH of VIRGINIA*

*Department of Taxation*

November 21, 2011

The Honorable Charles J. Colgan  
General Assembly Building, Room 626  
Capitol Square  
Richmond, Virginia 23219

The Honorable Harry R. Purkey  
General Assembly Building, Room 415  
Capitol Square  
Richmond, Virginia 23219

Dear Senator Colgan and Delegate Purkey:

Enclosed is the "Study on the Local Cigarette Tax Enforcement Policies" prepared by the Department of Taxation in conjunction with the working group convened to review the current policies as required by House Bill 2038 and Senate Bill 1085 (2011 *Acts of Assembly*, Chapters 366 and 293).

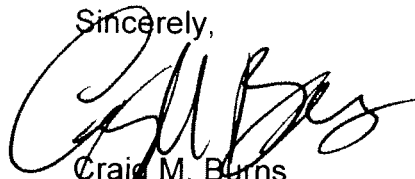
As required, the working group reviewed the current policies on (i) appeals of penalties related to the cigarette tax assessed on wholesalers and retailers, (ii) the desirability of having a single cigarette tax stamp for state and local taxes, (iii) methods of determining the validity of cigarette tax stamps that are only partially visible, and (iv) other related issues identified by the working group.

The working group recommends that local governments ensure that notices of seizures include procedures for administrative appeals as well as the affirmative defenses that may be asserted and that local governments that administratively establish procedures ensure that such procedures are published. The working group also recommends that representatives of stamping agents, retailers, and local government continue to work towards drafting best management practices setting forth recommendations for local governments imposing the local cigarette tax.

The Honorable Charles J. Colgan  
The Honorable Harry R. Purkey  
November 21, 2011  
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I hope that you find the information in this report useful in your legislative deliberations of this issue. This report is being submitted to the Division of Legislative Automated Systems.

Sincerely,



Craig M. Burns  
Tax Commissioner

CMB/amm  
Enclosures

cc: The Honorable Emmett W. Hanger, Jr.  
The Honorable Christopher K. Peace  
The Honorable Richard D. Brown

## Preface

### Authority

The 2011 Virginia legislative session enacted House Bill 2038 and Senate Bill 1085 (2011 *Acts of Assembly*, Chapters 366 and 293) requiring the Tax Commissioner to convene a working group to review localities' current policies on i) appeals of penalties related to the cigarette tax assessed on wholesalers and retailers; ii) the desirability of having a single stamp for state and local taxes; iii) methods of determining the validity of partially visible cigarette tax stamps; and iv) other related issues. The working group was to consist of representatives of the Virginia Wholesalers and Distributors Association, Virginia Retail Merchants Association, the Retail Alliance, the Virginia Petroleum, Convenience and Grocery Association, the Northern Virginia Cigarette Tax Board, the Virginia Municipal League, those counties that levy a local cigarette tax, and other individuals as deemed necessary. The working group was directed to submit its report and recommendations to the chairmen of the Senate and House Committees on Finance by December 1, 2011.

### Staff Assigned to Report

Mark C. Haskins, Director, Policy Development Division  
Joseph E. Mayer, Lead Tax Policy Analyst, Policy Development Division  
Andrea M. Muse, Senior Tax Policy Analyst, Policy Development Division

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# STUDY ON LOCAL CIGARETTE TAX ENFORCEMENT POLICIES

## EXECUTIVE SUMMARY

House Bill 2038 and Senate Bill 1085 (2011 *Acts of Assembly*, Chapters 366 and 293), enacted by the 2011 General Assembly, required the Department of Taxation (the “Department”) to convene a working group to review current policies on (i) appeals of penalties related to the cigarette tax assessed on wholesalers and retailers, (ii) the desirability of having a single cigarette tax stamp for state and local taxes, (iii) methods of determining the validity of cigarette tax stamps that are only partially visible, and (iv) related issues that are identified by the working group and must be considered in order to address the issues in clauses (i) through (iii).

The working group met several times over the course of the year to determine the scope of the study and issues regarding the local cigarette tax encountered by the working group members. These issues include: 1) the point of collection and payment of the tax; 2) stamping issues; 3) monetary penalties; 4) seizure of cigarettes; and 5) appeals procedures. Summaries of the issues and the working group recommendations are below.

### **Collection and Payment of the Tax**

The working group reviewed alternative ways of collecting the tax, including having the state collecting both the state and local cigarette tax. One concern with the state collecting both the state and local tax is the difficulty in ensuring that the proper local cigarette tax is paid. The working group also discussed whether the local cigarette tax could be collected using a monthly return with the tax remitted after the cigarettes have been sold. One concern is the expense of properly enforcing the tax may be prohibitive, particularly for smaller and rural localities. The working group also discussed moving the point of collection for the cigarette taxes to the retail level. However, the additional remittance may be a substantial burden to smaller retailers and administering the tax in this manner may make it harder to ensure proper remittance.

### **Stamping Issues**

While unique stamps make it easier to enforce payment of the tax, they also increase the likelihood that stamping agents will make errors, both in stamping and distribution to retailers. The working group discussed the possibility of using a single state and local stamp. Local government representatives stated that there may be some interest in using a single stamp provided the stamp can be traced back to the locality with minimal effort. Industry representatives expressed concerns that a move to more modern stamps may necessitate up-front costs for stamping agents for new machinery that stamping agents could not afford.

## **Monetary Penalties**

The working group discussed possible penalty structures for unstamped cigarettes for both stamping agents and retailers. Representatives of both industry and local governments rejected suggestions of mandating uniform penalties to localities, though agree that recommendations for more uniform penalties across jurisdictions may be beneficial.

## **Seizure of Cigarettes**

A serious issue brought forth to the working group was the lack of procedures in a number of localities for owners to challenge the seizure of cigarettes. In some localities, the local ordinance provides that such procedures may be established administratively. A working group member volunteered to converse with the Local Government Attorneys of Virginia regarding the requirement that notice setting forth appeals procedures and affirmative defenses that may be asserted must be given when seizing property. Additionally, while the statute authorizes local governments to sell or destroy seized cigarettes, it does not set forth a specific time limit that local governments must wait before doing so. If the cigarettes are sold or destroyed before an appeal can take place, it may be impossible for the retailer to put forth evidence that the tax was properly paid.

## **Appeals Procedures**

The working group discussed whether a mandated uniform appeals process would be beneficial. Though representatives of both industry and local governments stated that localities would be unlikely to support detailed mandates regarding the entire appeals process, there was some interest in legislation setting out a general format and timeline for appeals concerning seized property. Working group members also acknowledged that setting forth a standard set of procedures for appeals in the form of best management practices for local governments may be beneficial, particularly for localities that may be contemplating imposing a new local cigarette tax.

## **Recommendations**

The working group recommends that local governments ensure that notices of seizures include procedures for administrative appeals as well as the affirmative defenses that may be asserted. Additionally, the working group recommends that local governments that administratively establish their procedures for seizing cigarettes and appeals publish such procedures in a manner that will inform stamping agents, retailers, and other possessors of cigarettes. The working group also recommends that the General Assembly direct representatives of stamping agents, retailers, and local government to continue to work towards drafting best management practices that set forth recommendations regarding 1) types of stamps required, 2) monetary penalty structures, 3) procedures for seizing cigarettes, and 4) more uniform local appeals processes.

## STUDY ON LOCAL CIGARETTE TAX ENFORCEMENT POLICIES

### SECTION I OVERVIEW OF THE ISSUE

#### House Bill 2038 and Senate Bill 1085

House Bill 2038 and Senate Bill 1085 (2011 *Acts of Assembly*, Chapters 366 and 293), enacted by the 2011 General Assembly, required the Department of Taxation (the "Department") to convene a working group consisting of representatives selected by the Virginia Wholesalers and Distributors Association; the Virginia Retail Merchants Association; the Retail Alliance; the Virginia Petroleum, Convenience and Grocery Association; the Northern Virginia Cigarette Tax Board; the Virginia Municipal League; those counties that levy a local cigarette tax; and other individuals as the working group deemed necessary. Copies of these bills are attached as Appendix I.

The working group was directed to review current policies on (i) appeals of penalties related to the cigarette tax assessed on wholesalers and retailers, (ii) the desirability of having a single cigarette tax stamp for state and local taxes, (iii) methods of determining the validity of cigarette tax stamps that are only partially visible, and (iv) related issues that are identified by the working group and must be considered in order to address the issues in clauses (i) through (iii). The working group was to provide a report and recommendations to the chairmen of the House Committee on Finance and the Senate Committee on Finance by December 1, 2011.

#### State Cigarette Tax

##### Background

Pursuant to *Va. Code* § 58.1-1001, the Commonwealth imposes a state cigarette tax at the rate of \$0.015 (1.5 cents) per cigarette (\$0.30 per pack of 20 cigarettes). The cigarette tax is paid by stamping agents through the purchase of stamps, which under *Va. Code* § 58.1-1003 must be affixed to each individual package, bag, box, or can from which cigarettes are sold. Stamping agents are required to file a monthly report with the Department 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 Northern Virginia Cigarette Tax Board ("NVCTB"). The stamps are sold by the Department and may be purchased at the Fiscal Office in the Department's Customer Service Walk-In Office at 1957 Westmoreland Street in Richmond, Virginia. Stamps may also be purchased from Treasurer's Offices in Bristol, Danville, Fairfax, Lynchburg, Roanoke, Waynesboro, and Culpeper County and the Commissioner of Revenue's Office in Virginia Beach.

## Enforcement of the State Cigarette Tax

In 2010, the General Assembly enacted House Bill 820 and Senate Bill 476 (2010 *Acts of Assembly*, Chapters 35 and 471) to reduce the penalties related to unstamped cigarettes. The Department supported this legislation as it had discovered situations where stamping agents failed to affix stamps to cigarettes due to machine error or where stamping agents inadvertently shipped unstamped cigarettes to retailers due to human error. Prior to the legislative change, these stamping agents were subject to much greater penalties. Although the Department had worked with stamping agents to develop policies to ameliorate this situation and issued two Tax Bulletins, Virginia Tax Bulletin 07-3 (March 15, 2007) and Virginia Tax Bulletin 08-13 (December 11, 2008), setting out more relaxed penalty structures, the Department believed that this legislation was necessary. As a result of the legislation, the Department issued comprehensive Guidelines and Rules Related to Enforcement (August 13, 2010) in order to provide guidance to taxpayers regarding the civil penalties, the appeals process, and other matters regarding the enforcement of the state cigarette tax.

Currently, stamping agents who fail to properly affix Virginia revenue stamps are subject to a penalty of \$2.50 per pack, up to \$500, for the first violation by a legal entity within a 36 month period, \$5 per pack, up to \$1,000, for the second violation by the legal entity within a 36 month period, and \$10 per pack, up to \$50,000, for the third or subsequent violation by the legal entity within a 36 month period. The stamping agent will be required to pay a civil penalty of \$25 per pack, up to \$250,000, where willful intent exists to defraud the Commonwealth. Persons other than stamping agents who sell, purchase, transport, receive, or possess unstamped cigarettes, except as otherwise provided by law, are subject to the same civil penalties. For inspections where the number of unstamped cigarette packs does not exceed 30 packs, the Department may issue a warning letter to the stamping agent instead of assessing the penalty.

A retailer may avoid the penalties for unstamped cigarettes by proving to the Department that they were lawfully purchased from a licensed stamping agent with physical proof such as: (1) a signed affidavit from the stamping agent; (2) distinctive features reflecting that the cigarettes were sold by the stamping agent; or (3) physical observation by a Department auditor. In order for the retailer to be relieved of the penalties, the retailer must request the affidavit from the stamping agent and notify the Department that he has done so within 14 days of the inspection. The stamping agent then has 14 days to provide a signed affidavit. By signing an affidavit, the stamping agent acknowledges that he sold the unstamped product to the retailer and that he may be liable for the penalty. The Department will then assess the penalty to the stamping agent instead of the retailer.

Any person assessed by the Department may appeal using the administrative appeals process under 23 *Virginia Administrative Code* ("VAC") 10-20-165. The Department may also accept an offer in compromise where there is reasonable cause, doubtful liability or collectibility. A complete appeal must be filed within 90 days of the



date of the assessment and collection action by the Department is discontinued until a final determination on the appeal has been made unless the Tax Commissioner determines collection of the assessment is in jeopardy. Any taxpayer who disagrees with the determination may, within (i) three years from the date of the assessment or (ii) one year from the determination, file an application for correction of the assessment with the circuit court.

## Local Cigarette Tax

### Background

All cities and towns with general taxing powers are currently authorized to impose a cigarette tax with no rate limitations. Currently, the Department is aware of 90 jurisdictions reporting that they impose the local cigarette tax, including 31 cities and 57 towns. Only two counties, Arlington and Fairfax, are authorized to impose a local cigarette tax under *Va. Code* § 58.1-3831, which is limited to the amount of the state cigarette tax rate. Both impose a local cigarette tax at the maximum rate of \$0.30 per pack of 20 cigarettes. Standardized to a pack of 20 cigarettes, 40 localities impose the cigarette tax at a rate of \$0.15 or less and 24 localities impose the tax at a rate of \$0.16 through \$0.30. Five localities impose the tax at a rate of \$0.31 through \$0.45, nine localities impose the tax at a rate of \$0.46 through \$0.60, and 12 localities impose the tax at a rate exceeding \$0.60. Local cigarette taxes are typically administered and enforced at the local level. However, the Northern Virginia Cigarette Tax Board administers and enforces the local cigarette tax on behalf of 17 Northern Virginia jurisdictions.

The Department has provided a matrix of the local cigarette tax rates, unstamped cigarette penalties, procedures for seizing cigarettes, and procedures for appeals as set out in the locality's ordinance in Appendix II. Of the 71 local ordinances reviewed in the matrix, 34 localities do not set out appeals procedures in the ordinance and six localities set out appeals or hearing procedures specifically for seized cigarettes and property. However, a number of those localities provide in the ordinance that penalties and procedures may be established administratively. As a result, the Department is unable to provide information on penalties and procedures not set out in the local ordinance.

Sixty-two localities, including the 17 NVCTB jurisdictions, provide criminal penalties for violations of local cigarette tax law. Thirty-nine localities provide civil penalties for violations of local cigarette tax, with many of those localities providing both civil and criminal penalties. Sixty-nine localities, including the NVCTB jurisdictions, set out provisions for the seizure of cigarettes in their local ordinance. Of those, 48 provide that seized cigarettes may be disposed of by sale or other method and three provide that seized cigarettes may be destroyed. Fourteen localities provide for civil penalties to be paid out of the proceeds from the sale of the seized cigarettes. Although the matrix reflects the latest information available to the Department, stamping agents and retailers should confirm rates and procedures with the localities in which they sell cigarettes.

*Code of Virginia* § 58.1-3830 authorizes localities to impose a cigarette tax to use local cigarette tax stamps to evidence payment of the tax and *Va. Code* § 58.1-3832 authorizes joint enforcement agencies to issue their own tax stamp. Local government and joint enforcement agencies may enter into an arrangement with the Department 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, 17 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, Hillsboro, Herndon, Leesburg, Middleburg, Purcellville, Round Hill, Vienna, and Warrenton. The tax rates in these localities vary from \$0.05 to \$0.85 per pack of 20 cigarettes.

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 the Department for the state cigarette tax rate. Stamping agents remit the local cigarette tax to the NVCTB via a monthly return that lists all retailers by jurisdiction. The Department does not collect any revenues for the NVCTB. The NVCTB audits stamping agents to verify the local cigarette 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 high tax localities.

### **Other States**

Currently, every state and Washington, D.C. impose a cigarette tax and all but North Carolina, South Carolina, and North Dakota require the use of a tax stamp to evidence payment of the tax. Massachusetts and California use a modern encrypted stamp containing information on the distribution process along with authentication features such as security inks that shift colors and features that can only be seen using portable detectors to prohibit counterfeiting. The stamps contain the contact information of the distributor as well as the date the stamp was affixed and its value.

Most states use criminal prosecutions to enforce compliance with their state cigarette tax law. Approximately 15 states have no specific civil penalties for the possession or improper sale of unstamped cigarettes. Thirteen states, including Washington, D.C., provide civil penalties for general violations of their cigarette tax law. Twelve states provide civil penalties for failure to pay or evasion of the cigarette tax, and two states provide civil penalties generally for the failure to pay a tax. A few states, including Louisiana and Iowa, have graduated penalty structures. Five other states provide for higher civil penalties for subsequent offenses similar to Virginia- Iowa, Louisiana, New Mexico, Oklahoma, and Pennsylvania. Of those, Iowa resets the count of offenses every three years similar to Virginia, and Louisiana resets the count of

offenses every five years. The Department has provided a matrix of unstamped cigarette penalties in other states in Appendix III.

With a few exceptions, cigarettes are not subject to local taxation in other states. The major exceptions are New York City, Anchorage, and Cook County, Illinois. According to the Campaign for Tobacco-Free Kids, *Top Combined State-Local Cigarette Tax Rates* (June 28, 2011), other than Virginia, local cigarette taxes are only common in Alabama and Missouri. The Alabama Department of Revenue administers the local cigarette taxes in 17 counties and county stamps are required to be affixed to cigarettes sold in such counties. Some localities administering their own cigarette tax use revenue stamps, others use monthly returns. The Missouri Department of Revenue administers the local cigarette taxes imposed in two counties: Jackson County and St. Louis County. Dual stamps are used to evidence payment of the tax in these localities. Cigarette taxes imposed in cities in Missouri are administered by the locality.

## SECTION II LOCAL CIGARETTE TAX ENFORCEMENT POLICIES

### Overview of the Working Group

As directed by House Bill 2038 and Senate Bill 1085 (2011 *Acts of Assembly*, Chapters 366 and 293), the Department formed a working group to review local cigarette tax enforcement policies that included representatives from the Virginia Wholesalers and Distributors Association; the Virginia Retail Merchants Association; the Retail Alliance; the Virginia Petroleum, Convenience and Grocery Association; the Northern Virginia Cigarette Tax Board; the Virginia Municipal League; and those counties that levy a local cigarette tax. Additionally, representatives of specific stamping agents and localities requested and were granted the opportunity to participate in the working group.

The working group held its first meeting on April 19, 2011, to discuss the scope of the study and issues regarding the local cigarette tax encountered by the working group members. At the meeting a broad outline of topics were discussed as potential issues for review by the working group. This list was then circulated within the working group and posted on the Department's website for members of the working group to request issues to be added to or stricken from review by the working group.

The second meeting of the working group, held on July 8, 2011, included a tour of a Virginia stamping facility and a request to finalize the issues for review by the working group. The Department also asked for volunteers to participate in two breakout sessions which were held on August 2, 2011, to discuss in depth the issues as determined by the working group. Alternative ways to collect and pay the tax and stamping were discussed in one breakout session and penalty structures and appeals procedures were discussed in another session. Representatives of both local government and industry groups were present at both sessions. Summaries of the issues discussed by the working group are below. Materials and comments provided to the Department by working group members regarding the study have been included in Appendix V.

### Collection and Payment of the Tax

The working group reviewed the current method of collecting and paying the tax. In most localities, the tax is paid by stamping agents and payment is evidenced by local stamps. Some localities require the local cigarette tax to be paid by monthly returns. While a dual stamp is used to evidence payment of the tax in NVCTB jurisdictions, stamping agents do not remit the tax until after the cigarettes are sold to retailers. The cigarette tax is remitted to the NVCTB along with a monthly report of sales to retailers by jurisdiction as the jurisdictions have different tax rates.

The working group discussed alternative ways of collecting the tax, including having the state collecting both the state and local cigarette tax. One concern with the

state collecting both the state and local tax is the difficulty in ensuring that the proper local cigarette tax is paid on cigarettes in retail stores and not the tax for a locality with a lower tax rate. This can be especially challenging when retailers have locations in different localities with different tax rates and have the ability to shift inventory between localities.

The working group also discussed whether the local cigarette tax could be collected using a monthly return with the tax remitted after the cigarettes have been sold. While this is the same manner as in NVCTB jurisdictions, the NVCTB combines resources from 17 northern Virginia jurisdictions and performs a significant number of audits and inspections. There were concerns that other localities could not afford enforcement measures beyond stamps. One alternative discussed was the creation of more regional boards like the NVCTB to provide more resources for enforcement. However, it may be too expensive for rural localities as it may be necessary to audit and inspect businesses over long distances.

The working group discussed moving the point of collection for the cigarette taxes to the retail level. This may require retailers to remit the tax to each locality and smaller retailers may not have the systems to remit the tax to localities, resulting in a substantial burden to them. Also, with retailers responsible for paying the tax, it may cause enforcement issues as it may be harder to audit and ensure proper remittance.

### **Stamping Issues**

In most localities, stamps are used to evidence payment of the local cigarette tax. Stamps are used both for enforcement and for inventory control. While unique stamps make it easier to enforce the payment of the tax, they also increase the likelihood that stamping agents will make errors, both in stamping and distribution to retailers. Up-front costs for stamping agents are significant as stamping agents need to have an inventory of stamps on hand to stamp product. Additionally, the costs may not be recouped for some time for small localities where product may not be sold and held in inventory for a long time.

The working group discussed the possibility of using a single state and local stamp. Local government representatives stated that there may be some interest in using a single stamp, provided the stamps can be traced back to the locality with minimal effort. This could be done either by features on the stamp or technology. Stamps may be used to track and trace product through the manufacturing and distribution process. Stamps may also be used to verify the legitimacy of the product and can contain information on the distributor, the date the stamp was affixed, and the stamp's value. However, this would require more modern and expensive stamps than are currently used by the state and localities. Massachusetts and California are the only states to currently use a modern encrypted stamp containing authentication features to prohibit counterfeiting and information on the distribution process. As technology advances and such stamps become more common, resulting in lower cost in equipment used by stamping agents, this may be a future option in Virginia.

The working group discussed whether agreements between state and local governments could be used to negotiate better prices for stamps. However, because of budget cycles and elections, agreements between governments would need to be carefully managed and it may be easier to create more regional boards to purchase the stamps and otherwise administer the local cigarette tax.

Beginning July 1, 2012, the current state cigarette tax stamp will have a unique serial number on each stamp. Currently, the serial numbers are unique to each roll. With a unique serial number, the stamp may be traced back to the stamping agent and the stamping agent will be able to determine the locality of the store that purchased the cigarettes. However, using this to monitor the correct payment of local cigarette taxes would be labor and time intensive.

Industry representatives expressed concerns that a move to more modern stamps may necessitate up-front costs for stamping agents for new machinery. Additionally, many stamping agents provide cigarettes over multiple jurisdictions, including other states, and using different equipment to provide product to those jurisdictions may be a substantial burden depending on the stamping facility. Industry representatives stated that stamping agents would be highly opposed to the Commonwealth or localities upgrading to modern encrypted stamps unless the Commonwealth or the localities are willing to purchase the new machinery necessary for stamping agents to affix the new stamps. Also, if the stamps increase in size to add features to allow for the stamps to be traced it may cause stamps to be obscured if the stamping agent must affix more than one stamp. This would require coordination between the state and localities and may require localities to ease requirements regarding the visibility of affixed stamps.

The working group also discussed whether localities should continue to allow retailers to purchase stamps to affix to cigarettes. Currently, the Commonwealth sells stamps only to licensed stamping agents and the NVCTB sells only to authorized wholesalers, but many localities have no restrictions on who may purchase stamps. Standards and licensing requirements may be beneficial for localities. If licenses were required to purchase stamps to affix to cigarettes, retailers would be more likely to purchase cigarettes from authorized stamping agents and allow localities to more easily determine if there are compliance issues. It may also provide localities with another enforcement measure as the license could be revoked. Additionally, stamping agents may find it easier to determine if improper stamps found on product in retail stores are a result of the stamping agent's error or if the cigarettes are from another source. However, such requirements may limit or eliminate a retailer's ability to pay the local cigarette tax and affix the stamp to product upon which the local cigarette tax has not been paid.

## Monetary Penalties

The working group discussed possible penalty structures for unstamped cigarettes for both stamping agents and retailers. One area of discussion was whether there should be a clear division between penalties for error and negligence and those for criminal activity. One possible way this could be accomplished would be a reduction in penalties where the cause is mechanical error. Another would be to model local penalties after the Commonwealth's penalties. Representatives of both industry and local governments rejected suggestions of mandating uniform penalties to localities, though agree that recommendations for more uniform penalties across jurisdictions may be beneficial.

## Seizure of Cigarettes

Depending on the locality, several departments may be involved in the inspection and seizure of cigarettes, including the Commissioner of the Revenue, the Treasurer's office or local finance department. It may also be the local sheriff's office or police department, or the city or county attorney's office. A serious issue brought forth to the working group was the lack of procedures in a number of localities for owners to challenge the seizure of cigarettes. *Virginia Code* § 58.1-3832 provides that any city, county, or town imposing a local cigarette tax may provide for the administration and enforcement of the tax by ordinance. The ordinance may provide that cigarettes found in quantities of more than six cartons within the taxing jurisdiction are presumed for sale or use within the jurisdiction and may be seized and confiscated in certain situations. The ordinance may also provide that seized cigarettes may be disposed of by sale or other method deemed appropriate by the local taxing authority. However, *Va. Code* § 58.1-3832(6) provides that the ordinance may:

Provide for the forfeiture and sale of any property seized; provided, however, that proper notice of such seizure shall be given to the known holders of property interests in such property and shall include procedures for administrative appeal as well as affirmative defenses which may be asserted by such holders which procedures must be set forth in reasonable detail.

*Code of Virginia* § 58.1-3832 is set forth in Appendix IV.

In some localities, the local ordinance provides that such procedures may be established administratively. While the current language of *Va. Code* § 58.1-3832 does not preclude localities from administratively establishing procedures, the working group has found that not all localities make such procedures easily available to the public. If such procedures are not published, stamping agents and retailers may find it difficult to know the deadlines and procedures necessary to challenge the seizure and potential sale of their product. A working group member volunteered to converse with the Local Government Attorneys of Virginia regarding the requirement that notice setting forth appeals procedures and affirmative defenses that may be asserted must be given when seizing property.

Additionally, while the statute authorizes local governments to sell or destroy seized cigarettes, it does not set forth a specific time limit that local governments must wait before doing so. If the cigarettes are sold or destroyed before an appeal can take place, it may be impossible for the retailer to put forth any evidence that the tax was properly paid on the cigarettes.

### **Appeals Procedures**

The working group discussed whether a mandated uniform appeals process would be beneficial. Though representatives of both industry and local governments stated that localities would be unlikely to support detailed mandates regarding the entire appeals process, there was some interest in legislation setting out a general format and timeline for appeals concerning seized property. Working group members also acknowledged that setting forth a standard set of procedures for appeals in the form of best management practices for local governments may be beneficial, particularly for seizures and appeals and localities that may be contemplating imposing a new local cigarette tax.

Industry representatives also suggested that local governments allow stamping agents to take on liability for unstamped product where the stamping agent determines that he is responsible for the product. Stamping agents have also requested the opportunity to be heard or inspect the cigarettes in an effort to either join in the appeal or make the retailer whole if the product was not stamped due to the stamping agent's error. Currently, the Commonwealth will allow the stamping agent to provide an affidavit stating that he is responsible for the product, if he does so, the penalty on the retailer is abated and the stamping agent is assessed with the penalty.



### SECTION III Conclusion and Recommendations

The working group has reviewed and discussed the current enforcement policies for the local cigarette tax and at this time, there is no consensus to change the point of collection or payment of the local cigarette tax. There was also no consensus at this time to change the current stamps, either by mandating their elimination or upgrading to more modern stamps. However, as technology advances and stamps with the ability to trace product through the manufacturing and distribution process become more common and less expensive, upgrading to a more modern stamp may be a future option.

The working group is concerned that a number of localities do not establish procedures for seizures and appeals in the local ordinance. While the current language of *Va. Code* § 58.1-3832 does not specifically preclude localities from administratively establishing procedures for appeals and seizures, stamping agents and retailers may find it difficult to know the deadlines and procedures necessary to challenge the seizure or appeal any assessments if the procedures are not published.

The working group recommends that local governments that administratively set forth their procedures for seizing cigarettes and appeals publish such procedures in a manner that will inform stamping agents, retailers, and other possessors of cigarettes. Additionally, the working group recommends that local governments ensure that notices of seizures include procedures for administrative appeals as well as the affirmative defenses that may be asserted by the aggrieved party as the law requires.

The working group has expressed interest in having representatives of local governments and industry work toward drafting best management practices for the local cigarette tax for local governments. The consensus of the working group is that the best management practices would include only recommendations and would not require local governments to enact any changes. The working group recommends that the General Assembly direct representatives of stamping agents, retailers, and local government to continue to work towards providing best management practices that set forth recommendations regarding 1) types of stamps required, 2) monetary penalty structures, 3) procedures for seizing cigarettes, and 4) more uniform local appeals processes.

Appendix I  
House Bill 2038 and Senate Bill 1085 Text

VIRGINIA ACTS OF ASSEMBLY -- 2011 SESSION

CHAPTER 366

*An Act to require the Department of Taxation to review certain issues relating to the local cigarette tax.*

[H 2038]

Approved March 22, 2011

**Be it enacted by the General Assembly of Virginia:**

1. *§ 1. The Tax Commissioner shall convene a working group consisting of representatives selected by the Virginia Wholesalers and Distributors Association; the Virginia Retail Merchants Association; the Retail Alliance; the Virginia Petroleum, Convenience and Grocery Association; the Northern Virginia Cigarette Tax Board; the Virginia Municipal League; and those counties that levy a local cigarette tax. The working group may add other individuals to its membership as it deems necessary.*

*§ 2. The working group shall review current policies on (i) appeals of penalties related to the cigarette tax assessed on wholesalers and retailers, (ii) the desirability of having a single cigarette tax stamp for state and local taxes, (iii) methods of determining the validity of cigarette tax stamps that are only partially visible, and (iv) related issues that are identified by the working group and must be considered in order to address the issues in clauses (i) through (iii).*

*§ 3. The working group is requested to begin its work as soon as possible after the conclusion of the 2011 regular session of the General Assembly, and to identify any changes to current law, regulation, or policy that it considers desirable when addressing the above issues. The working group is requested to provide a report and recommendations to the chairmen of the House Committee on Finance and the Senate Committee on Finance by December 1, 2011.*

Appendix I  
House Bill 2038 and Senate Bill 1085 Text

**VIRGINIA ACTS OF ASSEMBLY -- 2011 SESSION**

**CHAPTER 293**

*An Act to require the Department of Taxation to review certain issues relating to the local cigarette tax.*

Approved March 18, 2011

[S 1085]

**Be it enacted by the General Assembly of Virginia:**

1. § 1. *That the Tax Commissioner shall convene a working group consisting of representatives selected by the Virginia Wholesalers and Distributors Association; the Virginia Retail Merchants Association; the Retail Alliance; the Virginia Petroleum, Convenience and Grocery Association; the Northern Virginia Cigarette Tax Board; the Virginia Municipal League; and those counties that levy a local cigarette tax. The working group may add other individuals to its membership as it deems necessary.*

§ 2. *The working group shall review current policies on (i) appeals of penalties related to the cigarette tax assessed on wholesalers and retailers, (ii) the desirability of having a single cigarette tax stamp for state and local taxes, (iii) methods of determining the validity of cigarette tax stamps that are only partially visible, and (iv) related issues that are identified by the working group and must be considered in order to address the issues in clauses (i), (ii), and (iii).*

§ 3. *The working group is requested to begin its work as soon as possible after the conclusion of the 2011 regular session of the General Assembly and to identify any changes to current law, regulation, or policy that it considers desirable when addressing the above issues. The working group is requested to provide a report and recommendations to the Chairmen of the Senate Committee on Finance and the House Committee on Finance by December 1, 2011.*

Appendix II  
Matrix of Local Cigarette Tax Ordinances

Jurisdiction	Rate per Pack/20	Definition of Cigarettes	Unstamped Penalties	Seizure of Cigarettes	Appeals Procedures
Commonwealth of Virginia	\$0.30	Any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains (i) any roll of tobacco wrapped in paper or in any substance not containing tobacco; (ii) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (iii) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in clause (i) of this definition. The term "cigarette" includes "roll-your-own" tobacco. . .	(i) \$2.50 per pack, up to \$500, for the first violation by a legal entity within a 36-month period; (ii) \$5.00 per pack, up to \$1,000, for the second violation by the legal entity within a 36-month period; and (iii) \$10 per pack, up to \$50,000, for the third and any subsequent violation by the legal entity within a 36-month period. Where willful intent exists to defraud the Commonwealth of the tax levied under this chapter, such person shall be required to pay a civil penalty of \$25 per pack, up to \$250,000.	Does not Seize.	Any person may appeal issues related to the cigarette tax to TAX using the administrative appeals process administered by TAX under Va. Code § 58.1-1820 et seq. and 23 VAC 10-20-165.  A third party may always provide information, testimony, or documentary evidence on behalf of a taxpayer who has been assessed cigarette tax or penalties. However, a properly executed Power of Attorney is needed in order for a third party to file an administrative appeal on behalf of a taxpayer.  An appeal may be brought by the person assessed with cigarette tax or penalties if the person believes that TAX has incorrectly assessed the cigarette tax or penalties. Taxpayers seeking to have cigarette tax or penalties abated based on claims reasonable cause, doubtful liability, or doubtful collectibility should file an offer in compromise.

Appendix II  
Matrix of Local Cigarette Tax Ordinances

Jurisdiction	Rate per Pack/20	Definition of Cigarettes	Unstamped Penalties	Seizure of Cigarettes	Appeals Procedures
No. Va. Cigarette Tax Board (NVCTB)	See each Locality for Rates	Any roll of any size or shape for smoking, whether filtered or unfiltered, with or without a mouthpiece, made wholly or partly of cut, shredded or crimped tobacco or other plant or substitute for tobacco, whether the same is flavored, adulterated or mixed with another ingredient, if the wrapper or cover is made of any material other than leaf tobacco or homogenized leaf tobacco, regardless of whether the roll is labeled or sold as a cigarette or by any other name.	Any person violating any of the provisions shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$2,500 or imprisonment for not more than 12 months or by both fine and imprisonment. The sale of any quantity or the use, possession, storage or transportation of more than 60 packages of cigarettes upon which the Northern Virginia Cigarette Tax Board tax stamp has not been affixed or the proper jurisdictional tax has not been paid shall be deemed to constitute a separate violation. Each continuing day of violation shall be deemed to constitute a separate offense.	If any cigarette machine operator or other person liable for the tax is found to possess any cigarettes without the jurisdictional tax-paid or the proper tax stamp affixed, there shall arise a rebuttable presumption that any such operator or other person shall be in possession of untaxed cigarettes in violation... Any cigarettes, vending machines, cigarette tax stamps, or other property found in violation shall be declared contraband goods and may be seized by the board. In addition to any tax due, the dealer or other person liable for the tax possessing such untaxed cigarettes or tax stamps shall be subject to civil and criminal penalties herein provided.	Any person assessed by the board with a cigarette tax, penalties and interest or any person whose cigarettes, vending machines and other property have been sealed or seized, may file a request for a hearing ... The hearing shall be requested within 10 days of the notice of such assessment, seizure or sealing and shall set forth the reasons why the tax, penalties and interest and cigarettes, vending machines or other property should be returned or released. Any such request for hearing shall be denied if the assessed tax, penalties and interest have not been paid as required ... Appropriate relief shall be given by the administrator if he is convinced by the preponderance of the evidence that said seized cigarettes were in the possession of a person other than the petitioner without the petitioner's consent or that petitioner was authorized to possess such untaxed cigarettes. Any petitioner who is unsatisfied with the written decision of the board may, within 30 days of the date of such decision, appeal the decision to the appropriate court in the jurisdiction...

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<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Abingdon	\$0.10	Not set out.	Any person violating any provision shall be guilty of a Class 1 misdemeanor. For fraud or evasion, a penalty not to exceed 50% of any tax found to be overdue and unpaid.	Cigarettes upon which tax has not been paid and stamps have not been affixed or evidence of payment is not shown thereon by printed markings of a meter machine may be seized and be deemed to be forfeited. Such cigarettes may, within a reasonable time thereafter, and after written notice is given to known holders of property interests in such property at least 5 days before the sale and posted at the front door of the municipal building at least 5 days before the sale, be sold.	Not set out.
Alexandria *	\$0.80	See NVCTB	See NVCTB	See NVCTB	See NVCTB
Appalachia **	\$0.20				

**Appendix II**  
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<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Arlington County	\$0.30	Any roll of any size or shape for smoking, whether filtered or unfiltered, with or without a mouthpiece, made wholly or partly of cut, shredded or crimped tobacco or other plant or substitute for tobacco, whether the same is flavored, adulterated or mixed with another ingredient, if the wrapper or cover is made of any material other than leaf tobacco or homogenized leaf tobacco, regardless of whether the roll is labeled or sold as a cigarette or by any other name.	Any person violating any of the provisions shall be guilty of a Class 1 misdemeanor. The sale of any quantity or the use, possession, storage or transportation of more than 60 packages of cigarettes upon which the stamp has not been affixed or the proper jurisdictional tax has not been paid shall be deemed to constitute a separate violation. Each continuing day of violation shall be deemed to constitute a separate offense. Any person possessing or selling cigarettes upon which the tax has not been paid shall pay a penalty in the amount of 10% of the unpaid tax. Any person who shall perform any fraudulent act or fail to perform any act for the purpose of evading the payment of tax shall be required to pay a penalty in the amount of 50% of any tax found to be due and unpaid.	Any cigarettes, coin-operated vending machines, counterfeit stamps or other property found in violation shall be declared contraband goods, shall be subject to forfeiture, and may be seized by the city and sold. Any seized and confiscated cigarettes, vending machines and other property used in the furtherance of any illegal evasion of the tax may be disposed of by sale or other method deemed appropriate by the commissioner after any petitioner has exhausted all administrative appeal procedures. No credit from any sale or other disposition of cigarettes, vending machines or other property seized shall be allowed toward any tax and penalties assessed.	Any person assessed by the board with a cigarette tax, penalties and interest or any person whose cigarettes, vending machines and other property have been sealed or seized, may file a request for a hearing ... The hearing shall be requested within 10 days of the notice of such assessment, seizure or sealing and shall set forth the reasons why the tax, penalties and interest and cigarettes, vending machines or other property should be returned or released. Any such request for hearing shall be denied if the assessed tax, penalties and interest have not been paid as required ... Appropriate relief shall be given by the administrator if he is convinced by the preponderance of the evidence that said seized cigarettes were in the possession of a person other than the petitioner without the petitioner's consent or that petitioner was authorized to possess such untaxed cigarettes. Any petitioner who is unsatisfied with the written decision may, within 30 days of the date of such decision, appeal the decision to the appropriate court.

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Matrix of Local Cigarette Tax Ordinances

<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Ashland	\$0.19	Not set out.	<p>Any persons violating any of the provisions of this article shall be guilty of a Class 1 misdemeanor. The sale of any quantity or the use, possession, storage or transportation of more than 60 packs upon which the stamp has not been affixed shall be a separate violation. Each continuing day of violation shall be deemed to constitute a separate offense.</p> <p>If any packs are found in the possession of a seller without proper stamps or authorized printed markings, and the seller is unable to submit evidence that he received such packs in the preceding 48 hours and that he has not offered the same for sale, then it is presumed the packs are in violation, and the seller shall be subject to the tax and a penalty of 50% of the tax.</p>	Any cigarettes upon which the tax has not been paid and upon which stamps have not been affixed or evidence of payment is not shown thereon may be seized and deemed to be forfeited to the town. Such cigarettes may, within a reasonable time thereafter, and after written notice is posted at the front door of the municipal building at least 5 days before the date given therein for sale, shall sell such cigarettes in the place designated in such notice.	Not set out.



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<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Bedford City	\$0.30	A roll of finely cut tobacco enclosed in paper.	If the taxpayer shall fail or refuse to pay the town the tax required to be paid within the time and in the amount as provided, there shall be added to such tax a penalty in the amount of 10% of the tax due or the sum of \$10.00, whichever is greater; provided, however, that the penalty shall in no case exceed the amount of the tax due. Any person violating any of the provisions shall be deemed guilty of a class 1 misdemeanor. Each violation of or noncompliance with any of the provisions shall constitute a separate offense.	After a written assessment of the tax and after notice and opportunity for an immediate and summary hearing before the city treasurer, the treasurer may seize cigarettes as to which the treasurer has evidence that the tax has not been and will not be paid. The treasurer shall notify the taxpayer by certified mail of the tax due. The notice shall afford this taxpayer the right to a hearing to be held within 10 days of the mailing of the notice before the city manager. If the tax determined to be due is not paid within 30 days from the date of the mailing of the notice, the treasurer shall stamp and sell the cigarettes. The director shall refund to the taxpayer any surplus funds from the sale after the deduction of the treasurer's expenses. The treasurer may collect any tax deficiency resulting from the sale in the manner prescribed by general law for the collection of taxes.	See Seizure of Cigarettes.

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<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Big Stone Gap	\$0.05	Not set out.	See Seizure of Cigarettes.	More than 6 cartons of cigarettes subject to the tax, but upon which such tax has not been paid and upon which stamps have not been affixed or evidence of payment shown thereon by printed markings of a meter machine, can be seized and deemed forfeited to the town. Such cigarettes may, within a reasonable time hereafter, and after written notice is posted at the front door of the municipal building at least 5 days before, be sold; from the proceeds of such sale, the tax due thereon, together with a penalty in the amount of 50% thereof, and the cost incurred in such proceedings shall be collected, and the balance, if any, of such proceedings given to the seller in whose possession such forfeited cigarettes were found.	Not set out.

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**Matrix of Local Cigarette Tax Ordinances**

<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Blacksburg	\$0.30	Not set out.	If the taxpayer shall fail or refuse to pay the tax required to be paid within the time and in the amount as provided, there shall be added to such tax a penalty in the amount of 10% of the tax due or the sum of \$10.00, whichever is greater; provided, however, that the penalty shall in no case exceed the amount of the tax due.	After a written assessment of the tax and after notice and opportunity for an immediate and summary hearing before the director, the director may seize cigarettes as to which the director has evidence that the tax has not been and will not be paid. The director shall notify the taxpayer by certified mail of the tax due. The notice shall afford this taxpayer the right to a hearing to be held within 10 days of the mailing of the notice before the town manager. If the tax determined to be due is not paid within 30 days from the date of the mailing of the notice, the director shall stamp and sell the cigarettes. The director shall refund to the taxpayer any surplus funds from the sale after the deduction of the director's expenses.	See Seizure of Cigarettes.
Blackstone	\$0.22	Not set out.	Any person violating any of the provisions shall be deemed guilty of a class 1 misdemeanor.	Not set out.	Not set out.

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Bluefield	\$0.06	Not set out.	Any person violating any provision shall be guilty of a Class 1 misdemeanor. For fraud or evasion, a penalty not to exceed 50% of any tax found to be overdue and unpaid.	Cigarettes upon which tax has not been paid and stamps have not been affixed or evidence of payment is not shown thereon by printed markings of a meter machine may be seized and be deemed to be forfeited. Such cigarettes may, within a reasonable time thereafter, and after written notice is given to known holders of property interests in such property at least 5 days before the sale and posted at the front door of the municipal building at least 5 days before the sale, be sold.	Holders of property interests in any such property seized may assert any claims or affirmative defenses that they may have relative to such seizure, forfeiture and sale to the town council. Any person aggrieved by the determination of the town council may file an appeal from the finding of the town council to the circuit court of the county within 10 days after the determination of the town council.
Bristol	\$0.04	Not set out.	Any person violating any of the provisions shall be guilty of a class 1 misdemeanor.	Cigarettes, found by the commissioner of the revenue as described in <i>Va. Code</i> § 58.1-3832(3), shall be deemed to be forfeited, and the commissioner of the revenue may, within a reasonable time thereafter, after written notice posted on the bulletin board at the front door of the courthouse in the city or published in some newspaper having general circulation in the city at least 5 days before the date of sale, sell such forfeited cigarettes.	Not set out.

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Charlottesville	\$0.35	Any roll of any size or shape for smoking, whether filtered or unfiltered, with or without a mouthpiece, made wholly or partly of cut, shredded or crimped tobacco or other plant or substitute for tobacco, whether the same if flavored, adulterated or mixed with another ingredient, if the wrapper or cover is made of any material other than leaf tobacco or homogenized leaf tobacco, regardless of whether the roll is labeled or sold as a cigarette or by any other name.	Any person violating any of the provisions shall be guilty of a Class 1 misdemeanor. Any person who fails to pay any cigarette tax at the time it is due shall pay a late payment penalty in the amount of 10% of the unpaid tax per month. Any person who shall perform any fraudulent act or fail to perform any act for the purpose of evading the payment of tax shall be required to pay a penalty in the amount of 50% of any tax found to be overdue and unpaid. Each day's violation of, or noncompliance with, any of the provisions shall be and constitute a separate offense.	Any cigarettes, coin operated vending machines, counterfeit stamps, or other property found in violation shall be declared contraband goods and may be seized by the director. Any seized and confiscated cigarettes, vending machines or other property used in the furtherance of any illegal evasion of the tax may be disposed of by sale or other method 30 days after notice to the person from whom the items were seized, and any other known holder of a property interest in the sale of cigarettes, vending machines or other property seized shall be allowed toward any tax, penalties or interest assessed.	The owner or holder of a property interest may challenge a proposed sale and forfeiture by written appeal to the city manager at least 5 days prior to the date of the proposed sale. The appellant shall have the right to personally appear before the city manager and to present any relevant evidence or witnesses, to question any witness for the city, and to assert any available affirmative defense. The city manager shall render a written decision on the appeal within 10 working days. If a timely appeal is filed, no sale and forfeiture shall occur unless and until the city manager renders a decision rejecting the appeal.

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Chesapeake	\$0.50	Not set out.	Any person violating any of the provisions shall be deemed guilty of a class 1 misdemeanor. Each violation of or noncompliance with any of the provisions shall constitute a separate offense.	Cigarettes in quantities of more than 6 cartons which are subject to the tax and upon which the tax has not been paid or upon which stamps have not been affixed or evidence of such tax is not shown thereon by the printed markings of an authorized meter machine, may be seized and confiscated. All cigarettes seized and confiscated shall be deemed to be forfeited to the city and may be sold after proper notice of such seizure is given to the known holders of property interests in the cigarettes or other property. Such notice shall be given to known holders of property interests by certified mail and by written notice posted on the bulletin board of the courthouse of the circuit court or published in some newspaper having general circulation in the city at least 14 days before the sale. Such notice shall contain procedures for administrative appeal, as well as affirmative defenses. No credit toward sale shall be allowed toward any tax or penalties owed.	Not set out.

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Chilhowie** Christiansburg	\$0.12 \$0.40	A roll of finely cut tobacco enclosed in paper.	If the taxpayer shall fail or refuse to pay to the town the tax required to be paid within the time and in the amount as provided, there shall be added to such tax a penalty in the amount of 10% of the tax due or the sum of \$10.00 whichever is greater, provided, however, that the penalty shall in no case exceed the amount of the tax due. Any person violating any of the provisions shall be guilty of a Class 1 misdemeanor. Each violation of, or noncompliance with, any of the provisions shall be and constitute a separate offense.	Any cigarettes found in violation shall be subject to forfeiture, and may be seized by the town and destroyed. Any seized and confiscated cigarettes, vending machines and other property used in the furtherance of any illegal evasion of the tax may be destroyed by the director after the prescribed length of time to appeal. Such seizure does not relieve the person of any penalties owed.	Any person whose cigarettes, vending machines and other property have been sealed or seized, may file a request for a hearing ... The hearing shall be requested within 10 days of the notice of such assessment, seizure or sealing and shall set forth the reasons why the tax, penalties and interest and cigarettes, vending machines or other property should be returned or released. Any such request for hearing shall be denied if the assessed tax, penalties and interest have not been paid as required ... Appropriate relief shall be given by the treasurer if he is convinced by the preponderance of the evidence that said seized cigarettes were in the possession of a person other than the petitioner without the petitioner's consent or that petitioner was authorized to possess such untaxed cigarettes. Any petitioner who is unsatisfied with the written decision of the treasurer may, within 30 days of the date of such decision, appeal the decision to the town manager....

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Claremont**	\$0.045				
Clifton*	\$0.30	See NVCTB	See NVCTB	See NVCTB	See NVCTB
Clifton Forge**	\$0.04				
Clinchco**	\$0.05				
Clintwood**	\$0.05				
Coeburn**	\$0.15				
Colonial Beach	\$0.25	Not set out.	Any person violating any provision shall be guilty of a Class 1 misdemeanor. The sale of any quantity or the use, possession, storage or transportation of more than 60 packs upon which the stamp has not been affixed shall constitute a separate violation. Each continuing day of violation shall be deemed to constitute a separate offense.	Cigarettes upon which tax has not been paid and stamps have not been affixed or evidence of payment is not shown thereon by printed markings of a meter machine may be seized and be deemed to be forfeited. Such cigarettes may, thereafter, and after written notice is given to known holders of property interests in such property at least 5 days before the sale and posted at the front door of the municipal building at least 5 days before the sale, be sold.	Not set out.



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<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Covington	\$0.20	Any roll of any size or shape for smoking, whether filtered or unfiltered, with or without a mouthpiece, made wholly or partly of cut, shredded or crimped tobacco or other plant or substitute for tobacco, whether the same is flavored, adulterated or mixed with another ingredient, if the wrapper or cover is made of any material other than leaf tobacco or homogenized leaf tobacco, regardless of whether the roll is labeled or sold as a cigarette or by any other name.	Any person violating any of the provisions shall be guilty of a Class 1 misdemeanor. Any person who shall perform any fraudulent act or fail to perform any act for the purpose of evading the payment of tax shall be required to pay a penalty in the amount of 50% of any tax found to be overdue and unpaid. Each violation of, or noncompliance with, any of the provisions shall be and constitute a separate offense.	Cigarettes in quantities of more than 6 cartons which are subject to the tax and upon which the tax has not been paid or upon which stamps have not been affixed or evidence of such tax is not shown thereon by the printed markings of an authorized meter machine, may be seized and confiscated. All cigarettes seized and confiscated shall be deemed to be forfeited to the city and may be sold after proper notice of such seizure is given to the known holders of property interests in the cigarettes or other property. Such notice shall be given to known holders of property interests by certified mail and by written notice posted on the bulletin board of the courthouse of the circuit court at least 7 days before the sale. Such notice shall contain procedures for administrative appeal, as well as affirmative defenses. No credit from any sale shall be allowed toward any tax or penalties owed.	Not set out.

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<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Culpeper	\$0.10	Any roll of any size or shape for smoking, whether filtered or unfiltered, with or without a mouthpiece, made wholly or partly of cut, shredded or crimped tobacco or other plant or substitute for tobacco, whether the same is flavored, adulterated or mixed with another ingredient, if the wrapper or cover is made of any material other than leaf tobacco or homogenized leaf tobacco, regardless of whether the roll is labeled or sold as a cigarette or by any other name.	Any person violating any of the provisions shall be deemed guilty of a class 1 misdemeanor.	Any cigarettes, coin-operated vending machines, counterfeit stamps, or other property found in violation shall be declared contraband goods and may be seized.	<b>Not set out.</b>
<b>Damascus**</b>	<b>\$0.05</b>				
Dumfries*	\$0.60	See NVCTB	See NVCTB	See NVCTB	See NVCTB
Fairfax City*	\$0.85	See NVCTB	See NVCTB	See NVCTB	See NVCTB
Fairfax County*	\$0.30	See NVCTB	See NVCTB	See NVCTB	See NVCTB
Falls Church*	\$0.75	See NVCTB	See NVCTB	See NVCTB	See NVCTB

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Franklin City	\$0.50	Not set out.	Any person violating any of the provisions shall be guilty of a class 3 misdemeanor. Each violation of or noncompliance with any of the provisions shall constitute a separate offense. <b>See also Seizure of Cigarettes.</b>	Cigarettes subject to the tax, but upon which such tax has not been paid and upon which stamps have not been affixed or evidence of payment shown thereon by printed markings of a meter machine, can be seized and deemed forfeited to the town. Such cigarettes may, within a reasonable time hereafter, and after written notice is posted at the front door of the municipal building at least 5 days before, be sold; from the proceeds of such sale, the tax due thereon, together with a penalty in the amount of 50% thereof, and the cost incurred in such proceedings shall be collected, and the balance, if any, of such proceedings given to the seller in whose possession such forfeited cigarette were found.	Not set out.

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<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Fredericksburg	\$0.31	Not set out.	<p>Any person violating any of the provisions shall be guilty of a Class 1 misdemeanor.</p> <p>Any person who fails to pay any cigarette tax at the time it is due shall pay a late payment penalty in the amount of 10% of the unpaid tax per month.</p> <p>Any person who shall perform any fraudulent act or willfully evades the payment of tax shall be required to pay a penalty in the amount of 50% of the tax due.</p> <p>Each day's violation of, or noncompliance with, any of the provisions shall be and constitute a separate offense.</p>	<p>Cigarettes in quantities of more than 6 cartons which are subject to the tax and upon which the tax has not been paid or upon which stamps have not been affixed or evidence of such tax is not shown thereon by the printed markings of an authorized meter machine, may be seized and confiscated.</p> <p>All cigarettes seized and confiscated shall be deemed to be forfeited to the city and may be sold after proper notice of such seizure is given to the known holders of property interests in the cigarettes or other property.</p> <p>Such notice shall be given to known holders of property interests by certified mail and by written notice posted on the bulletin board of the courthouse of the circuit court or published in some newspaper having general circulation in the city at least 14 days before the sale. Such notice shall contain procedures for administrative appeal, as well as affirmative defenses. No credit from any sale shall be allowed toward any tax or penalties owed.</p>	Not set out.

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Gordonsville**	\$0.10				
Grundy**	\$0.05				
Hampton	\$0.65	Not set out.	Any person violating any of the provisions shall be guilty of a class 3 misdemeanor. Each violation of or noncompliance with any of the provisions shall constitute a separate offense. <b>See also Seizure of Cigarettes.</b>	Cigarettes subject to the tax, but upon which such tax has not been paid and upon which stamps have not been affixed or evidence of payment shown thereon by printed markings of a meter machine, can be seized and deemed forfeited to the town. Such cigarettes may, within a reasonable time hereafter, and after written notice is posted at the front door of the municipal building at least 5 days before, be sold; from the proceeds of such sale, the tax due thereon, together with a penalty in the amount of 50% thereof, and the cost incurred in such proceedings shall be collected, and the balance, if any, of such proceedings given to the seller in whose possession such forfeited cigarettes were found.	Not set out.

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Matrix of Local Cigarette Tax Ordinances

<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Harrisonburg	\$0.30	Any roll of any size or shape for smoking, whether filtered or unfiltered, with or without a mouthpiece, made wholly or partly of cut, shredded, or crimped tobacco, or other plant or substitute for tobacco, whether the same is flavored, adulterated, or mixed with another ingredient, if the wrapper or cover is made of any material other than leaf tobacco or homogenized leaf tobacco, regardless of whether the roll is labeled or sold as a cigarette or by any other name.	Any person violating any provision shall be guilty of a Class 1 misdemeanor. Any person who shall perform or fail to perform any act for the purpose of evading the payment of the tax imposed shall be required to pay a penalty in the amount of 50% of any tax found to be overdue and unpaid. Each day's violation of, or noncompliance with, any of the provisions may constitute a separate offense.	Cigarettes, coin-operated vending machines, counterfeit stamps, or other property found in violation shall be declared contraband goods and may be seized by the commissioner. Any seized and confiscated cigarettes, vending machines, or other property used in the furtherance of any illegal evasion of the tax may be disposed of by sale or other method deemed appropriate by the commissioner after 30 days notice to the person from whom the items were seized. No credit from any sale of cigarettes, vending machines, or other property seized shall be allowed toward any tax, penalties, or interest assessed.	<b>Not set out.</b>
Haymarket*	\$0.50	See NVCTB	See NVCTB	See NVCTB	See NVCTB
Haysi**	\$0.05				
Herndon*	\$0.75	See NVCTB	See NVCTB	See NVCTB	See NVCTB
Hillsboro*	\$0.05	See NVCTB	See NVCTB	See NVCTB	See NVCTB

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Matrix of Local Cigarette Tax Ordinances

<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Kilmarnock	\$0.30	Not set out.	Not set out.	Cigarettes upon which tax has not been paid and stamps have not been affixed or evidence of payment is not shown thereon by printed markings of a meter machine may be seized and be deemed to be forfeited. Such cigarettes may, within a reasonable time thereafter, and after written notice is posted at the front door of the municipal building at least 5 days before the sale, be sold.	Not set out.
Leesburg*	\$0.75	See NVCTB	See NVCTB	See NVCTB	See NVCTB
Lovettsville*	\$0.40	See NVCTB	See NVCTB	See NVCTB	See NVCTB

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Matrix of Local Cigarette Tax Ordinances

Jurisdiction	Rate per Pack/20	Definition of Cigarettes	Unstamped Penalties	Seizure of Cigarettes	Appeals Procedures
Luray	\$0.15	Any roll of any size or shape for smoking, whether filtered or unfiltered, with or without a mouthpiece, made wholly or partly of cut, shredded, or crimped tobacco, or other plant or substitute for tobacco, whether the same is flavored, adulterated, or mixed with another ingredient, if the wrapper or cover is made of any material other than leaf tobacco or homogenized leaf tobacco, regardless of whether the roll is labeled or sold as a cigarette or by any other name.	Any person violating any provision shall be guilty of a Class 1 misdemeanor. For fraud or evasion, a penalty not to exceed 50% of any tax found to be overdue and unpaid. Each day's violation of, or noncompliance with, any of the provisions may constitute a separate offense.	Any cigarettes, coin-operated vending machines, counterfeit stamps, of other property found in violation of this article may be seized by the treasurer. Any seized and confiscated cigarettes, vending machines, or other property used in the furtherance of any illegal evasion of the tax may be disposed of by sale or other method deemed appropriate by the treasurer after 30 days' notice to the person for whom the items were seized. No credit from any sale of property seized shall be allowed toward any tax, penalties, or interest assessed.	Not set out.



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Matrix of Local Cigarette Tax Ordinances

<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Lynchburg	\$0.35	Not set out.	Any person violating any of the provisions shall be guilty of a class 3 misdemeanor. <b>See also Seizure of Cigarettes.</b>	Cigarettes subject to the tax, but upon which such tax has not been paid and upon which stamps have not been affixed or evidence of payment shown thereon by printed markings of a meter machine, can be seized and deemed forfeited to the town. Such cigarettes may, within a reasonable time hereafter, and after written notice is posted at the front door of the courthouse at least 5 days before, be sold; from the proceeds of such sale, the tax due thereon, together with a penalty in the amount of 50% thereof, and the cost incurred in such proceedings shall be collected, and the balance, if any, of such proceedings given to the seller in whose possession such forfeited cigarettes were found. Such seizure and sale shall not be deemed to relieve any person from any fine provided.	Not set out.
Manassas*	\$0.65	See NVCTB	See NVCTB	See NVCTB	See NVCTB

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**Matrix of Local Cigarette Tax Ordinances**

<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Manassas Park	\$0.50	Any roll of any size or shape for smoking, whether filtered or unfiltered, with or without a mouthpiece, made wholly or partly of cut, shredded or crimped tobacco or other plant or substitute for tobacco, whether the same is flavored, adulterated or mixed with another ingredient, if the wrapper or cover is made of any material other than leaf tobacco or homogenized leaf tobacco, regardless of whether the roll is labeled or sold as a cigarette or by any other name.	Any person violating any of the provisions shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$2,500 or imprisonment for not more than 12 months or by both fine and imprisonment. The sale of any quantity or the use, possession, storage or transportation of more than 60 packages of cigarettes upon which the stamp has not been affixed or the proper jurisdictional tax has not been paid shall be deemed to constitute a separate violation. Each continuing day of violation shall be deemed to constitute a separate offense.	Any cigarettes, coin-operated vending machines, counterfeit stamps or other property found in violation shall be declared contraband goods, shall be subject to forfeiture, and may be seized by the city and sold. Any seized and confiscated cigarettes, vending machines and other property used in the furtherance of any illegal evasion of the tax may be disposed of by sale or other method deemed appropriate by the commissioner after any petitioner has exhausted all administrative appeal procedures. No credit from any sale or other disposition of cigarettes, vending machines or other property seized shall be allowed toward any tax and penalties assessed.	Any person assessed by the board with a cigarette tax, penalties and interest or any person whose cigarettes, vending machines and other property have been sealed or seized, may file a request for a hearing ... The hearing shall be requested within 10 days of the notice of such assessment, seizure or sealing and shall set forth the reasons why the tax, penalties and interest and cigarettes, vending machines or other property should be returned or released. Any such request for hearing shall be denied if the assessed tax, penalties and interest have not been paid as required ... Appropriate relief shall be given by the administrator if he is convinced by the preponderance of the evidence that said seized cigarettes were in the possession of a person other than the petitioner without the petitioner's consent or that petitioner was authorized to possess such untaxed cigarettes. Any petitioner who is unsatisfied with the written decision may, within 30 days of the date of such decision, appeal the decision to the appropriate court.

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Matrix of Local Cigarette Tax Ordinances

Jurisdiction	Rate per Pack/20	Definition of Cigarettes	Unstamped Penalties	Seizure of Cigarettes	Appeals Procedures
Marion	\$0.12	Not set out.	See Seizure of Cigarettes.	More than 6 cartons of cigarettes subject to the tax, but upon which such tax has not been paid and upon which stamps have not been affixed or evidence of payment shown thereon by printed markings of a meter machine, can be seized and deemed forfeited to the town. Such cigarettes may, within a reasonable time hereafter, and after written notice is posted at the front door of the municipal building at least 5 days before, be sold; from the proceeds of such sale, the tax due thereon, together with a penalty in the amount of 50% thereof, and the cost incurred in such proceedings shall be collected, and the balance, if any, of such proceedings given to the seller in whose possession such forfeited cigarettes were found.	Not set out.

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**Matrix of Local Cigarette Tax Ordinances**

<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Martinsville	\$0.20	Not set out.	Any person violating any of the provisions shall be guilty of a Class 3 Misdemeanor. Each violation of or noncompliance with any of the provisions shall constitute a separate offense. Any person violating the provisions shall be required to pay a penalty of 10% per month on any tax found to be overdue and unpaid.	Cigarettes upon which tax has not been paid and stamps have not been affixed or evidence of payment is not shown thereon by printed markings of a meter machine may be seized and be deemed to be forfeited. Such cigarettes may, within a reasonable time thereafter, and after written notice is posted at the front door of city hall at least 5 days before the sale, be sold.	Not set out.
Middleburg*	\$0.55	See NVCTB	See NVCTB	See NVCTB	See NVCTB

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**Matrix of Local Cigarette Tax Ordinances**

<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Mount Jackson	\$0.30	Any roll of any size or shape for smoking, whether filtered or unfiltered, with or without a mouthpiece, made wholly or partly of cut, shredded or crimped tobacco or other plant or substitute for tobacco, whether the same is flavored, adulterated or mixed with another ingredient, if the wrapper or cover is made of any material other than leaf tobacco or homogenized leaf tobacco, regardless of whether the roll is labeled or sold as a cigarette or by any other name.	Any person violating any of the provisions shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$2,500 or imprisonment for not more than 12 months or by both fine and imprisonment. The sale of any quantity or the use, possession, storage or transportation of more than 60 packages of cigarettes upon which the stamp has not been affixed or the proper jurisdictional tax has not been paid shall be deemed to constitute a separate violation. Each continuing day of violation shall be deemed to constitute a separate offense.	Any cigarettes, coin-operated vending machines, counterfeit stamps or other property found in violation shall be declared contraband goods, shall be subject to forfeiture, and may be seized by the town and sold. Any seized and confiscated cigarettes, vending machines and other property used in the furtherance of any illegal evasion of the tax may be disposed of by sale or other method deemed appropriate by the town manager after any petitioner has exhausted all administrative appeal procedures. No credit from any sale or other disposition of cigarettes, vending machines or other property seized shall be allowed toward any tax and penalties assessed.	Any person assessed by the board with a cigarette tax, penalties and interest or any person whose cigarettes, vending machines and other property have been sealed or seized, may file a request for a hearing ... The hearing shall be requested within 10 days of the notice of such assessment, seizure or sealing and shall set forth the reasons why the tax, penalties and interest on cigarettes, vending machines or other property should be returned or released. Any such request for hearing shall be denied if the assessed tax, penalties and interest have not been paid as required ... Appropriate relief shall be given by the administrator if he is convinced by the preponderance of the evidence that said seized cigarettes were in the possession of a person other than the petitioner without the petitioner's consent or that petitioner was authorized to possess such untaxed cigarettes. Any petitioner who is unsatisfied with the written decision may, within 30 days of the date of such decision, appeal the decision to the appropriate court.

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<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
New Market	\$0.10	Any roll of any size or shape for smoking, whether filtered or unfiltered, with or without a mouthpiece, made wholly or partly of cut, shredded or crimped tobacco or other plant or substitute for tobacco, whether flavored, adulterated or mixed with another ingredient, if the wrapper or cover is made of any material other than leaf tobacco or homogenized leaf tobacco, regardless of whether the roll is labeled or sold as a cigarette or by any other name.	Any person violating any of the provisions shall be guilty of a Class 1 misdemeanor. Any person who fails to pay any cigarette tax at the time it is due shall pay a late payment penalty in the amount of 10% of the unpaid tax per month. Any person who shall perform any fraudulent act or any act for the purpose of evading the payment of tax shall be required to pay a penalty in the amount of 50% of the tax due.	Any cigarettes, coin-operated vending machines, counterfeit stamps, or other property found in violation of this article, other than motor vehicles, shall be declared contraband goods and may be seized by the treasurer. Notice of sealing or seizure shall be sent to any party having a known property interest therein by certified mail within 24 hours of the sealing or seizure. When such parties are not known, notice shall be posted to the door or wall of the room or building that contained the sealed or seized property. All notices shall include procedures for appeal and the defenses available. Any seized cigarettes, vending machines or other property used in the furtherance of any illegal evasion of the tax may be disposed of by sale or other method deemed appropriate by the treasurer after all administrative appeals have been exhausted by the aggrieved party. No credit from any sale of cigarettes, vending machines or other seized property shall be allowed.	Any person assessed with cigarette tax or penalties, and any person whose cigarettes, vending machines and other property have been sealed or seized may appeal the action to the town manager. Appeals must be made in writing and received within 10 days of notice and must state the reasons why the action taken was in error. Within 5 days, the town manager shall notify the aggrieved party by certified mail of the date and time for a hearing to be held within 15 days of the notification. A request for a hearing will be denied if the assessment has not been paid. An appeal may be granted if the aggrieved party shows by a preponderance of the evidence that the sale or use of seized property was not intentional, the seized property was in possession of a person other than the aggrieved without consent, was authorized to possess the cigarettes. The town manager shall notify the party by certified mail within 5 days of the hearing stating whether the appeal has been granted or denied. The party may appeal the decision of the town manager to the appropriate court.

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<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Newport News	\$0.65	Not set out.	Any person violating any of the provisions shall, upon conviction thereof, be punished by a fine of not less than \$25.00 nor more than \$500.00, and such conviction and payment of fine shall not relieve any such person from the payment of any tax. Each violation of or noncompliance with any of the provisions shall constitute a separate offense and shall subject every person convicted thereof to the penalties. <b>See also Seizure of Cigarettes.</b>	Cigarettes subject to the tax, but upon which such tax has not been paid and upon which stamps have not been affixed or evidence of payment shown thereon by printed markings of a meter machine, can be seized and deemed forfeited to the town. Such cigarettes may, within a reasonable time hereafter, and after written notice is posted at the front door of the municipal building at least 5 days before, be sold; from the proceeds of such sale, the tax due thereon, together with a penalty in the amount of 50% thereof, and the cost incurred in such proceedings shall be collected, and the balance, if any, of such proceedings given to the seller in whose possession such forfeited cigarettes were found.	Not set out.

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Jurisdiction	Rate per Pack/20	Definition of Cigarettes	Unstamped Penalties	Seizure of Cigarettes	Appeals Procedures
Norfolk	\$0.65	Not set out.	<p>Any person violating any of the provisions shall be guilty of a Class 1 misdemeanor.</p> <p>Any person who fails to pay any cigarette tax at the time it is due shall pay a late payment penalty in the amount of 10% of the unpaid tax per month.</p> <p>Any person who shall perform any fraudulent act or fail to perform any act for the purpose of evading the payment of tax shall be required to pay a penalty in the amount of 50% of any tax found to be overdue and unpaid.</p> <p>Each violation of, or noncompliance with, any of the provisions shall be and constitute a separate offense.</p>	Cigarettes upon which tax has not been paid and stamps have not been affixed or evidence of payment is not shown thereon by printed markings of a meter machine may be seized and be deemed to be forfeited. Such cigarettes may, within a reasonable time thereafter, and after notice has been provided, be sold.	Not set out.



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<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Norton	\$0.15	Not set out.	See Seizure of Cigarettes.	More than 6 cartons of cigarettes subject to the tax, but upon which such tax has not been paid and upon which stamps have not been affixed or evidence of payment shown thereon by printed markings of a meter machine, can be seized and deemed forfeited to the town. Such cigarettes may, within a reasonable time hereafter, and after written notice is posted at the front door of the municipal building at least 5 days before, be sold; from the proceeds of such sale, the tax due thereon, together with a penalty in the amount of 50% thereof, and the cost incurred in such proceedings shall be collected, and the balance, if any, of such proceedings given to the seller in whose possession such forfeited cigarettes were found.	Not set out.
Orange**	\$0.12				

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<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Petersburg	\$0.10	Not set out.	Any person violating any of the provisions shall be guilty of a class 1 misdemeanor. See also Seizure of Cigarettes.	More than 6 cartons of cigarettes subject to the tax, but upon which such tax has not been paid and upon which stamps have not been affixed or evidence of payment shown thereon by printed markings of a meter machine, can be seized and deemed forfeited to the town. Such cigarettes may, within a reasonable time hereafter, and after written notice is posted at the front door of the municipal building at least 5 days before, be sold; from the proceeds of such sale, the tax due thereon, together with a penalty in the amount of 50% thereof, and the cost incurred in such proceedings shall be collected, and the balance, if any, of such proceedings given to the seller in whose possession such forfeited cigarettes were found.	Not set out.

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**Matrix of Local Cigarette Tax Ordinances**

<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Poquoson	\$0.10	Not set out.	<p>Any person violating any of the provisions shall be guilty of a Class 1 misdemeanor.</p> <p>Any person who fails to pay any cigarette tax at the time it is due shall pay a late payment penalty in the amount of 10% of the unpaid tax per month.</p> <p>Any person who shall perform any fraudulent act or willfully evades the payment of tax shall be required to pay a penalty in the amount of 50% of the tax due.</p> <p>Each violation of, or noncompliance with, any of the provisions shall be and constitute a separate offense.</p>	<p>More than 6 cartons of cigarettes which are subject to the tax and upon which the tax has not been paid or upon which stamps have not been affixed or evidence of such tax is not shown thereon by the printed markings of an authorized meter machine, may be seized and confiscated.</p> <p>All cigarettes seized and confiscated shall be deemed to be forfeited to the city and may be sold after proper notice of such seizure is given to the known holders of property interests in the cigarettes or other property.</p> <p>Such notice shall be given to known holders of property interests by certified mail at least 14 days before the sale before the sale. No credit from any sale shall be allowed toward penalties owed.</p>	<p>Any person aggrieved by such forfeiture and sale of any property seized may request an appeal of such actions directly to the commissioner of revenue, if such appeal is requested before the sale.</p>

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**Matrix of Local Cigarette Tax Ordinances**

<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Portsmouth	\$0.60	Not set out.	Any person violating any of the provisions shall be guilty of a Class 1 misdemeanor. Any person who shall perform any fraudulent act or fail to perform any act for the purpose of evading the payment of tax shall be required to pay a penalty in the amount of 50% of any tax found to be overdue and unpaid. Each violation of, or noncompliance with, any of the provisions shall be and constitute a separate offense.	Cigarettes upon which tax has not been paid and stamps have not been affixed or evidence of payment is not shown thereon by printed markings of a meter machine may be seized and be deemed to be forfeited. Such cigarettes may, within a reasonable time thereafter, and after notice has been provided, be sold.	Not set out.
Pound**	\$0.10				

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<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Pulaski	\$0.25	Not set out.	See Seizure of Cigarettes.	Cigarettes subject to the tax, but upon which such tax has not been paid and upon which stamps have not been affixed or evidence of payment shown thereon by printed markings of a meter machine, can be seized and deemed forfeited to the town. Such cigarettes may, within a reasonable time hereafter, and after written notice is posted at the front door of the municipal building at least 5 days before, be sold; from the proceeds of such sale, the tax due thereon, together with a penalty in the amount of 50% thereof, and the cost incurred in such proceedings shall be collected, and the balance, if any, of such proceedings given to the seller in whose possession such forfeited cigarettes were found. No credit from any sale shall be allowed toward any penalties owed.	Not set out.
Purcellville*	\$0.65	See NVCTB	See NVCTB	See NVCTB	See NVCTB

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<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Radford	\$0.15	Any roll of any size or shape for smoking, whether filtered or unfiltered, with or without a mouthpiece, made wholly or partly of cut, shredded or crimped tobacco or other plant or substitute for tobacco, whether the same is flavored, adulterated or mixed with another ingredient, if the wrapper or cover is made of any material other than leaf tobacco or homogenized leaf tobacco, regardless of whether the roll is labeled or sold as a cigarette or by any other name.	Any person violating any of the provisions shall be guilty of a Class 1 misdemeanor. Any person who fails to pay any cigarette tax at the time it is due shall pay a late payment penalty in the amount of 10% of the unpaid tax per month. Any person who shall perform any fraudulent act or fail to perform any act for the purpose of evading the payment of tax shall be required to pay a penalty in the amount of 50% of any tax found to be overdue and unpaid. Each day's violation of, or noncompliance with, any of the provisions shall be and constitute a separate offense.	Cigarettes upon which tax has not been paid and stamps have not been affixed or evidence of payment is not shown thereon by printed markings of a meter machine may be seized and be deemed to be forfeited. Such cigarettes may, within a reasonable time thereafter, and after written notice is posted at the front door of the municipal building at least 5 days before the sale, be sold.	Not set out.

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<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Roanoke City	\$0.54	Any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains (i) any roll of tobacco wrapped in paper or in any substance not containing tobacco; (ii) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (iii) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in clause (i) of this definition. The term "cigarette" includes "roll-your-own" tobacco...	Any person violating any of the provisions shall be guilty of a Class 1 misdemeanor. Any person who fails to pay any cigarette tax at the time it is due shall pay a late payment penalty in the amount of 10% of the unpaid tax per month. Any person who shall perform any fraudulent act or fail to perform any act for the purpose of evading the payment of tax shall be required to pay a penalty in the amount of 50% of any tax found to be overdue and unpaid. Each violation of, or noncompliance with the provisions shall constitute a Class 1 misdemeanor. Each pack of cigarettes not having proper stamps affixed thereto as herein required shall be deemed a separate offense for the purposes of monetary penalties imposed by this section.	Any cigarettes found in violation shall be subject to forfeiture, and may be seized by the city and destroyed. Any seized and confiscated cigarettes, vending machines and other property used in the furtherance of any illegal evasion of the tax may be destroyed by the director after the prescribed length of time to appeal. Such seizure does not relieve the person of any penalties owed.	Any person whose cigarettes, vending machines and other property have been sealed or seized, may file a request for a hearing ... The hearing shall be requested within 10 days of the notice of such assessment, seizure or sealing and shall set forth the reasons why the tax, penalties and interest and cigarettes, vending machines or other property should be returned or released. Any such request for hearing shall be denied if the assessed tax, penalties and interest have not been paid as required ... Appropriate relief shall be given by the director if he is convinced by the preponderance of the evidence that said seized cigarettes were in the possession of a person other than the petitioner without the petitioner's consent or that petitioner was authorized to possess such untaxed cigarettes. Any petitioner who is unsatisfied with the written decision may, within 30 days of the date of such decision, appeal the decision to the appropriate court in the jurisdiction...

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<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Rocky Mount	\$0.10	Any roll of any size or shape for smoking, whether filtered or unfiltered, with or without a mouthpiece, made wholly or partly of cut, shredded or crimped tobacco or other plant or substitute for tobacco, whether the same is flavored, adulterated or mixed with another ingredient, if the wrapper or cover is made of any material other than leaf tobacco or homogenized leaf tobacco, regardless of whether the roll is labeled or sold as a cigarette or by any other name.	Any person violating any of the provisions shall be guilty of a Class 1 misdemeanor. Any person who fails to pay any cigarette tax at the time it is due shall pay a late payment penalty in the amount of 10% of the unpaid tax per month. Any person who shall perform any fraudulent act or fail to perform any act for the purpose of evading the payment of tax shall be required to pay a penalty in the amount of 50% of any tax found to be overdue and unpaid. Each day's violation of, or noncompliance with, any of the provisions shall be and constitute a separate offense.	Any cigarettes, coin operated vending machines, counterfeit stamps, or other property found in violation shall be declared contraband goods and may be seized by the director. Any seized and confiscated cigarettes, vending machines or other property used in the furtherance of any illegal evasion of the tax may be disposed of by sale or other method 30 days after notice to the person from whom the items were seized, and any other known holder of a property interest in the sale of cigarettes, vending machines or other property seized shall be allowed toward any tax, penalties or interest assessed.	The owner or holder of a property interest may challenge a proposed sale and forfeiture by written appeal to the town manager at least 5 days prior to the date of the proposed sale. The appellant shall have the right to personally appear before the town manager and to present any relevant evidence or witnesses, to question any witness for the town, and to assert any available affirmative defense. The city manager shall render a written decision on the appeal within 10 working days. If a timely appeal is filed, no sale and forfeiture shall occur unless and until the town manager renders a decision rejecting the appeal.
Round Hill*	\$0.15	See NVCTB	See NVCTB	See NVCTB	See NVCTB



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Jurisdiction	Rate per Pack/20	Definition of Cigarettes	Unstamped Penalties	Seizure of Cigarettes	Appeals Procedures
Salem	\$0.15	A roll of finely cut tobacco enclosed in paper.	<p>If the taxpayer shall fail or refuse to pay to the city the tax required to be paid within the time and in the amount as provided, there shall be added to such tax a penalty in the amount of 10% of the tax due or the sum of \$10.00 whichever is greater, provided, however, that the penalty shall in no case exceed the amount of the tax due.</p> <p>Any person violating any of the provisions shall be guilty of a Class 1 misdemeanor. Each violation of, or noncompliance with, any of the provisions shall be and constitute a separate offense.</p>	<p>Any cigarettes found in violation shall be subject to forfeiture, and may be seized by the city and destroyed. Any seized and confiscated cigarettes, vending machines and other property used in the furtherance of any illegal evasion of the tax may be destroyed by the director after the prescribed length of time to appeal. Such seizure does not relieve the person of any penalties owed.</p>	<p>Any person whose cigarettes, vending machines and other property have been sealed or seized, may file a request for a hearing ...</p> <p>The hearing shall be requested within 10 days of the notice of such assessment, seizure or sealing and shall set forth the reasons why the tax, penalties and interest and cigarettes, vending machines or other property should be returned or released. Any such request for hearing shall be denied if the assessed tax, penalties and interest have not been paid as required ...</p> <p>Appropriate relief shall be given by the director if he is convinced by the preponderance of the evidence that said seized cigarettes were in the possession of a person other than the petitioner without the petitioner's consent or that petitioner was authorized to possess such untaxed cigarettes. Any petitioner who is unsatisfied with the written decision may, within 30 days of the date of such decision, appeal the decision to the appropriate court in the jurisdiction...</p>
Saltville**	\$0.05				

Appendix II  
Matrix of Local Cigarette Tax Ordinances

Jurisdiction	Rate per Pack/20	Definition of Cigarettes	Unstamped Penalties	Seizure of Cigarettes	Appeals Procedures
Scottsville** Shenandoah	\$0.10 \$0.10	Any roll of any size or shape for smoking, whether filtered or unfiltered, with or without a mouthpiece, made wholly or partly of cut, shredded, or crimped tobacco, or other plant or substitute for tobacco, whether the same is flavored, adulterated, or mixed with another ingredient, if the wrapper or cover is made of any material other than leaf tobacco or homogenized leaf tobacco, regardless of whether the roll is labeled or sold as a cigarette or by any other name.	Any person violating any of the provisions shall be guilty of a Class I misdemeanor. Any person who shall perform any fraudulent act or fail to perform any act for the purpose of evading the payment of tax shall be required to pay a penalty in the amount of 50% of any tax found to be overdue and unpaid. Each day's violation of, or noncompliance with, any of the provisions shall be and constitute a separate offense.	Any cigarettes, coin-operated vending machines, counterfeit stamps, or other property found in violation of this article shall be declared contraband goods and may be seized by the treasurer. Any seized and confiscated cigarettes, vending machines, or other property used in the furtherance of any illegal evasion of the tax may be disposed of by sale or other method deemed appropriate by the treasurer after 30 days' notice to the person from whom the items were seized.	Not set out.

**Appendix II**  
**Matrix of Local Cigarette Tax Ordinances**

<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Smithfield	\$0.25	Not set out.	Any person violating any of the provisions shall be guilty of a class 1 misdemeanor. <b>See also Seizure of Cigarettes.</b>	Cigarettes subject to the tax, but upon which such tax has not been paid and upon which stamps have not been affixed or evidence of payment shown thereon by printed markings of a meter machine, can be seized and deemed forfeited to the town. Such cigarettes may, within a reasonable time hereafter, and after written notice is posted at the front door of the municipal building at least 5 days before, be sold; from the proceeds of such sale, the tax due thereon, together with a penalty in the amount of 50% thereof, and the cost incurred in such proceedings shall be collected, and the balance, if any, of such proceedings given to the seller in whose possession such forfeited cigarettes were found. Such seizure and sale shall not be deemed to relieve any person from any fine provided	Not set out.
St. Paul**	\$0.05				

**Appendix II**  
**Matrix of Local Cigarette Tax Ordinances**

<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Staunton	\$0.15	Any roll of any size or shape for smoking, whether filtered or unfiltered, with or without a mouthpiece, made wholly or partly of cut, shredded or crimped tobacco or other plant or substitute for tobacco, whether the same is flavored, adulterated or mixed with another ingredient, if the wrapper or cover is made of any material other than leaf tobacco or homogenized leaf tobacco, regardless of whether the roll is labeled or sold as a cigarette or by any other name.	Any person violating any of the provisions shall be guilty of a Class 1 misdemeanor. Any person who fails to pay any cigarette tax at the time it is due shall pay a late payment penalty in the amount of 10% of the unpaid tax per month. Any person who shall perform any fraudulent act or fail to perform any act for the purpose of evading the payment of tax shall be required to pay a penalty in the amount of 50% of any tax found to be overdue and unpaid. Each day's violation of, or noncompliance with, any of the provisions shall be and constitute a separate offense.	Any cigarettes, coin operated vending machines, counterfeit stamps, or other property found in violation shall be declared contraband goods and may be seized by the director. Any seized and confiscated cigarettes, vending machines or other property used in the furtherance of any illegal evasion of the tax may be disposed of by sale or other method 30 days after notice to the person from whom the items were seized, and any other known holder of a property interest in the property. No credit from any sale of cigarettes, vending machines or other property seized shall be allowed toward any tax, penalties or interest assessed.	The owner or holder of a property interest may challenge a proposed sale and forfeiture by written appeal to the town manager at least 5 days prior to the date of the proposed sale. The appellant shall have the right to personally appear before the town manager and to present any relevant evidence or witnesses, to question any witness for the town, and to assert any available affirmative defense. The city manager shall render a written decision on the appeal within 10 working days. If a timely appeal is filed, no sale and forfeiture shall occur unless and until the town manager renders a decision rejecting the appeal.
Stephens City**	\$0.25				

**Appendix II**  
**Matrix of Local Cigarette Tax Ordinances**

<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Strasburg	\$0.25	Any roll of any size or shape for smoking, whether filtered or unfiltered, with or without a mouthpiece, made wholly or partly of cut, shredded or crimped tobacco or other plant or substitute for tobacco, whether the same is flavored, adulterated or mixed with another ingredient, if the wrapper or cover is made of any material other than leaf tobacco or homogenized leaf tobacco, regardless of whether the roll is labeled or sold as a cigarette or by any other name.	Any persons violating any of the provisions of this article shall be guilty of a class I misdemeanor. The sale of any quantity or the use, possession, storage, or transportation of more than 60 packages of cigarettes upon which the town stamp has not been affixed shall be and constitute a separate violation. Each continuing day of violation shall be deemed to constitute a separate offense.	Any cigarettes, coin-operated vending machines, counterfeit stamps, or other property found in violation of this article, other than motor vehicles, shall be declared contraband goods and may be seized by the treasurer. Notice of sealing or seizure shall be sent to any party having a known property interest therein by certified mail within 24 hours of the sealing or seizure. When such parties are not known, notice shall be posted to the door or wall of the room or building that contained the sealed or seized property. All notices shall include procedures for appeal and the defenses available. Any seized cigarettes, vending machines or other property used in the furtherance of any illegal evasion of the tax may be disposed of by sale or other method deemed appropriate by the treasurer after all administrative appeals have been exhausted by the aggrieved party. No credit from any sale of cigarettes, vending machines or other seized property shall be allowed.	Any person assessed by the board with a cigarette tax, penalties and interest or any person whose cigarettes, vending machines and other property have been sealed or seized, may file a request for a hearing ... The hearing shall be requested within 10 days of the notice of such assessment, seizure or sealing and shall set forth the reasons why the tax, penalties and interest on cigarettes, vending machines or other property should be returned or released. Any such request for hearing shall be denied if the assessed tax, penalties and interest have not been paid as required ... Appropriate relief shall be given by the town if he is convinced by the preponderance of the evidence that said seized cigarettes were in the possession of a person other than the petitioner without the petitioner's consent or that petitioner was authorized to possess such untaxed cigarettes. Any petitioner who is unsatisfied with the written decision may, within 30 days of the date of such decision, appeal the decision to the appropriate court.

**Appendix II**  
**Matrix of Local Cigarette Tax Ordinances**

<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Suffolk	\$0.50	Not set out.	Any person violating any of the provisions shall be guilty of a class 4 misdemeanor. <b>See also Seizure of Cigarettes.</b>	Cigarettes subject to the tax, but upon which such tax has not been paid and upon which stamps have not been affixed or evidence of payment shown thereon by printed markings of a meter machine, can be seized and deemed forfeited to the town. Such cigarettes may, within a reasonable time hereafter, and after written notice is posted at the front door of the courthouse at least 5 days before, be sold; from the proceeds of such sale, the tax due thereon, together with a penalty in the amount of 50% thereof, and the cost incurred in such proceedings shall be collected, and the balance, if any, of such proceedings given to the seller in whose possession such forfeited cigarettes were found. Such seizure and sale shall not be deemed to relieve any person from any fine provided.	Not set out.

**Appendix II**  
**Matrix of Local Cigarette Tax Ordinances**

<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Tappahannock	\$0.15	Not set out.	Any person violating any of the provisions shall be guilty of a class 1 misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$2,500 or imprisonment for not more than 12 months or by both fine and imprisonment. The sale of any quantity or the use, possession, storage or transportation of more than 60 packages of cigarettes upon which the town stamp has not been affixed shall be and constitutes a separate violation. Each continuing day of violation shall be deemed to constitute a separate offense.	Cigarettes upon which tax has not been paid and stamps have not been affixed or evidence of payment is not shown thereon by printed markings of a meter machine may be seized and be deemed to be forfeited. Such cigarettes may, within a reasonable time thereafter, and after written notice is posted at the front door of the municipal building at least 5 days before the sale, be sold.	Not set out.

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Matrix of Local Cigarette Tax Ordinances

<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Tazewell	\$0.03	Not set out.	Any person violating any of the provisions shall be guilty of a class 1 misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$2,500 or imprisonment for not more than 12 months or by both fine and imprisonment. Such persons found guilty of violation shall be required to pay a penalty for late payment not to exceed 10% per month, a penalty for fraud and evasion of tax not to exceed 50% upon any tax found to be due and unpaid. <b>See also Seizure of Cigarettes.</b>	Cigarettes subject to the tax, but upon which such tax has not been paid and upon which stamps have not been affixed or evidence of payment shown thereon by printed markings of a meter machine, can be seized and deemed forfeited to the town. Such cigarettes may, within a reasonable time hereafter, and after written notice is forward to the last known address of the former property holders and is posted at the front door of the municipal building at least 5 days before, be sold; from the proceeds of such sale, the tax due thereon, together with a penalty in the amount of 50% thereof, and the cost incurred in such proceedings shall be collected, and the balance, if any, of such proceedings given to the seller in whose possession such forfeited cigarettes were found. No credit from any sale shall be allowed toward any penalties owed.	The sale of any seized property may be stayed by the former holders of such property by their noting an appeal of the treasurer's decision to the cigarette tax appeals board ("CTAB") comprising of 3 members of the finance committee for the town council. Said notice of appeal must be in writing and shall be filed with the treasurer within 5 days. A hearing shall be scheduled to occur within 30 days of the filing, at which hearing the appellant may present evidence, subpoena witnesses, and be represented by counsel. The written decision of the CTAB shall be forwarded to the appellant and to the treasurer. The aggrieved party may appeal the CTAB decision upon written application filed with the clerk of the circuit court within 10 days of the decision.
Timberville** Vienna*	\$0.10 \$0.75	See NVCTB	See NVCTB	See NVCTB	See NVCTB



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**Matrix of Local Cigarette Tax Ordinances**

<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Vinton	\$0.30	Any roll of any size or shape for smoking, whether filtered or unfiltered, with or without a mouthpiece, made wholly or partly of cut, shredded or crimped tobacco or other plant or substitute for tobacco, whether the same is flavored, adulterated or mixed with another ingredient, if the wrapper or cover is made of any material other than leaf tobacco or homogenized leaf tobacco, regardless of whether the roll is labeled or sold as a cigarette or by any other name.	Any person violating any of the provisions shall be guilty of a Class 1 misdemeanor. Any person who shall perform any fraudulent act or fail to perform any act for the purpose of evading the payment of tax shall be required to pay a penalty in the amount of 50% of any tax found to be overdue and unpaid. Each violation of, or noncompliance with, any of the provisions shall be and constitute a separate offense.	Any cigarettes, coin-operated vending machines, counterfeit stamps, or other property found in violation of this article shall be declared contraband goods and may be seized by the director. Any seized and confiscated cigarettes, vending machines or other property used in the furtherance of any illegal evasion of the tax may be disposed of by sale or other method deemed appropriate by the director 30 days after notice to the person from whom the items were seized, and any other known holder of a property interest in the property. The notice shall state that the owner or holder of a property interest may challenge the proposed sale and forfeiture by written appeal to the Vinton Town Manager at least 5 days prior to the date of the proposed sale.	At least 5 days prior to the date of proposed sale, the owner of seized property may challenge the sale by written appeal. The appellant shall have the right to personally appear before the town manager, or his or her designee, and to present any relevant evidence or witnesses, to question any witness for the town, and to assert any available affirmative defense. The town manager shall render a written decision on the appeal within ten working days. If a timely appeal is filed, no sale and forfeiture shall occur unless and until the town manager renders a decision rejecting the appeal.

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**Matrix of Local Cigarette Tax Ordinances**

<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Virginia Beach	\$0.65	Not set out.	Any person violating any of the provisions shall be guilty of a Class 1 misdemeanor. Any person who shall perform any fraudulent act or fail to perform any act for the purpose of evading the payment of tax shall be required to pay a penalty in the amount of 50% of any tax found to be overdue and unpaid. Each violation of, or noncompliance with, any of the provisions shall be and constitute a separate offense.	Cigarettes in quantities of more than 6 cartons which are subject to the tax and upon which the tax has not been paid or upon which stamps have not been affixed or evidence of such tax is not shown thereon by the printed markings of an authorized meter machine, may be seized and confiscated. All cigarettes seized and confiscated shall be deemed to be forfeited to the city and may be sold after proper notice of such seizure is given to the known holders of property interests in the cigarettes or other property. Such notice shall be given to known holders of property interests by certified mail and by written notice posted on the bulletin board of the courthouse of the circuit court at least 7 days before the sale. Such notice shall contain procedures for administrative appeal, as well as affirmative defenses. No credit from any sale shall be allowed toward any tax or penalties owed.	Not set out.
Warrenton*	\$0.15	See NVCTB	See NVCTB	See NVCTB	See NVCTB
Warsaw**	\$0.25				

Appendix II  
Matrix of Local Cigarette Tax Ordinances

<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Waynesboro	\$0.20	Not set out.	See Seizure of Cigarettes.	Cigarettes subject to the tax, but upon which such tax has not been paid and upon which stamps have not been affixed or evidence of payment shown thereon by printed markings of a meter machine, can be seized and deemed forfeited to the town. Such cigarettes may, within a reasonable time hereafter, and after written notice is posted at the front door of the municipal building at least 5 days before, be sold; from the proceeds of such sale, the tax due thereon, together with a penalty in the amount of 50% thereof, and the cost incurred in such proceedings shall be collected. The seizure and sale of any cigarettes shall not be deemed to relieve any of the persons of any other penalties.	Not set out.

Appendix II  
Matrix of Local Cigarette Tax Ordinances

<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Williamsburg	\$0.25	Not set out.	<p>Any person violating any of the provisions shall be guilty of a Class 1 misdemeanor.</p> <p>Any person who fails to pay any cigarette tax at the time it is due shall pay a late payment penalty in the amount of 10% of the unpaid tax per month.</p> <p>Any person who shall perform any fraudulent act or willfully evades the payment of tax shall be required to pay a penalty in the amount of 50% of the tax due.</p> <p>Each violation of, or noncompliance with, any of the provisions shall be and constitute a separate offense.</p>	<p>More than 6 cartons of cigarettes which are subject to the tax and upon which the tax has not been paid or upon which stamps have not been affixed or evidence of such tax is not shown thereon by the printed markings of an authorized meter machine, may be seized and confiscated.</p> <p>All cigarettes seized and confiscated shall be deemed to be forfeited to the city and may be sold after proper notice of such seizure is given to the known holders of property interests in the cigarettes or other property.</p> <p>Such notice shall be given to known holders of property interests by certified mail at least 14 days before the sale before the sale. No credit from any sale shall be allowed toward penalties owed.</p>	<p>Any person aggrieved by such forfeiture and sale of any property seized may request an appeal of such actions directly to the commissioner of revenue, if such appeal is requested before the sale.</p>

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Matrix of Local Cigarette Tax Ordinances

Jurisdiction	Rate per Pack/20	Definition of Cigarettes	Unstamped Penalties	Seizure of Cigarettes	Appeals Procedures
Winchester	\$0.25	Any roll of any size or shape for smoking, whether filtered or unfiltered, with or without a mouthpiece, made wholly or partly of cut, shredded or crimped tobacco or other plant or substitute for tobacco, whether the same is flavored, adulterated or mixed with another ingredient, if the wrapper or cover is made of any material other than leaf tobacco or homogenized leaf tobacco, regardless of whether the roll is labeled or sold as a cigarette or by any other name.	Any person violating any of the provisions shall be guilty of a Class 1 misdemeanor. Any person who shall perform any fraudulent act or fail to perform any act for the purpose of evading the payment of tax shall be required to pay a penalty in the amount of 50% of any tax found to be overdue and unpaid. Each day's violation of, or noncompliance with, any of the provisions shall be and constitute a separate offense.	Any cigarettes, coin operated vending machines, counterfeit stamps, or other property found in violation shall be declared contraband goods and may be seized by the director. Any seized and confiscated cigarettes, vending machines or other property used in the furtherance of any illegal evasion of the tax may be disposed of by sale or other method 30 days after notice to the person from whom the items were seized. No credit from any sale of cigarettes, vending machines or other property seized shall be allowed toward any tax, penalties or interest assessed.	Not set out.

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**Matrix of Local Cigarette Tax Ordinances**

<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Windsor	\$0.25	Not set out.	Any person violating any of the provisions shall be guilty of a class 4 misdemeanor. <b>See also Seizure of Cigarettes.</b>	Cigarettes subject to the tax, but upon which such tax has not been paid and upon which stamps have not been affixed or evidence of payment shown thereon by printed markings of a meter machine, can be seized and deemed forfeited to the town. Such cigarettes may, within a reasonable time hereafter, and after written notice is posted at the front door of the courthouse at least 5 days before, be sold; from the proceeds of such sale, the tax due thereon, together with a penalty in the amount of 50% thereof, and the cost incurred in such proceedings shall be collected, and the balance, if any, of such proceedings given to the seller in whose possession such forfeited cigarettes were found. Such seizure and sale shall not be deemed to relieve any person from any fine provided	Not set out.
Wise**	\$0.05				

**Appendix II**  
**Matrix of Local Cigarette Tax Ordinances**

<b>Jurisdiction</b>	<b>Rate per Pack/20</b>	<b>Definition of Cigarettes</b>	<b>Unstamped Penalties</b>	<b>Seizure of Cigarettes</b>	<b>Appeals Procedures</b>
Woodstock	\$0.10	Any roll of any size or shape for smoking, whether filtered or unfiltered, with or without a mouthpiece, made wholly or partly of cut, shredded or crimped tobacco or other plant or substitute for tobacco, whether the same is flavored, adulterated or mixed with another ingredient, if the wrapper or cover is made of any material other than leaf tobacco or homogenized leaf tobacco, regardless of whether the roll is labeled or sold as a cigarette or by any other name.	Any person violating any of the provisions shall be guilty of a class I misdemeanor. The sale of any quantity or the use, possession, storage or transportation of more than 60 packages of cigarettes upon which the stamp has not been affixed shall be deemed to constitute a separate violation. Each continuing day of violation shall be deemed to constitute a separate offense.	Any cigarettes, coin-operated vending machines, counterfeit stamps or other property found in violation shall be declared contraband goods, shall be subject to forfeiture, and may be seized by the town and sold. Any seized and confiscated cigarettes, vending machines and other property used in the furtherance of any illegal evasion of the tax may be disposed of by sale or other method deemed appropriate by the town manager after any petitioner has exhausted all administrative appeal procedures. No credit from any sale or other disposition of cigarettes, vending machines or other property seized shall be allowed toward any tax and penalties assessed.	Any person assessed by the board with a cigarette tax, penalties and interest or any person whose cigarettes, vending machines and other property have been sealed or seized, may file a request for a hearing ... The hearing shall be requested within 10 days of the notice of such assessment, seizure or sealing and shall set forth the reasons why the tax, penalties and interest and cigarettes, vending machines or other property should be returned or released. Any such request for hearing shall be denied if the assessed tax, penalties and interest have not been paid as required ... Appropriate relief shall be given by the town if he is convinced by the preponderance of the evidence that said seized cigarettes were in the possession of a person other than the petitioner without the petitioner's consent or that petitioner was authorized to possess such untaxed cigarettes. Any petitioner who is unsatisfied with the written decision may, within 30 days of the date of such decision, appeal the decision to the appropriate court.

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Matrix of Local Cigarette Tax Ordinances

Jurisdiction	Rate per Pack/20	Definition of Cigarettes	Unstamped Penalties	Seizure of Cigarettes	Appeals Procedures
Wytheville	\$0.09	Not set out.	If any package of cigarettes is found in the possession of a seller without proper stamps or authorized printed markings thereon, and the seller is unable to submit evidence establishing that he received such packages, containers or items within the immediately preceding 48 hours, and that he has not offered the same for sale, then it shall be presumed that such packages, containers, or items are being kept in violation of the provisions, and the seller shall be subject to the tax and a penalty in the amount of 50% thereof, even though such seller is also an agent.	Cigarettes upon which tax has not been paid and stamps have not been affixed or evidence of payment is not shown thereon by printed markings of a meter machine may be seized and be deemed to be forfeited. Such cigarettes may, within a reasonable time thereafter, and after written notice is posted at the front door of the municipal building at least 5 days before the sale, be sold. The seizure and sale of any property shall not be deemed to relieve any of the persons of any other penalties.	Not set out.

\* Members of the Northern Virginia Cigarette Tax Board

\*\*The Department could not locate the ordinances imposing the local cigarette tax for the shaded localities.

Notes:

**Tax rates have been standardized to be per pack of 20 cigarettes; however, not all localities impose the rate per pack of 20 cigarettes. Some provide for rates per cigarette or provide separate rates for packs containing a different number of cigarettes.**

**This only lists procedures and penalties set out in the local ordinance. Some localities have provided for penalties and appeals procedures to be set forth administratively.**



Appendix III  
Matrix of Other States' Civil and Criminal Cigarette Tax Penalties

**ENFORCEMENT OF PAYMENT OF CIGARETTE TAX BY MONETARY PENALTIES\***

<u>State</u>	<u>Tax Rate</u>	<u>Stamps?</u>	<u>Civil Penalties</u>	<u>Criminal Penalties**</u>	<u>Other Comments</u>
Virginia	\$0.30	Yes	Improper sale of unstamped by wholesaler (up to \$500 per pack)  Failure to affix (\$2.50 per pack, up to \$500, for the first violation by a legal entity within a 36 month period, \$5 per pack, up to \$1,000, for the second violation by the legal entity within a 36 month period, and \$10 per pack, up to \$50,000, for the third or subsequent violation by the legal entity within a 36 month period)/ With willful intent to defraud (\$25 per pack, up to \$250,000)  Possession/sale/etc. except as provided by law (same as above)  No specific civil penalties	Rarely used  Improper sale of unstamped by wholesaler (M)  Possession/sale/etc. for purposes of evading tax (M/ 3,000 packs or more = F)	Retailer can avoid penalty if Wholesaler signs an affidavit that it is liable
North Carolina	\$0.45	No	No specific civil penalties	General violation of Cigarette Tax laws (M)	Unauthorized cigarettes subject to seizure***
South Carolina	\$0.57	No	No specific civil penalties	General violation of business tax laws (M- up to \$5,000 and/or up to 2 years imprisonment	General penalties that apply to many taxes are also applicable to the Cigarette Tax  Unauthorized cigarettes subject to seizure***
Tennessee	\$0.62	Yes	No specific civil penalties	Sell, distribute tobacco products without a license (M)  Sell or possess unstamped cigarettes in violation of the law (M/ more than 25 cartons = F)	Unauthorized cigarettes subject to seizure***  Unauthorized cigarettes subject to seizure***

Appendix III  
Matrix of Other States' Civil and Criminal Cigarette Tax Penalties

**ENFORCEMENT OF PAYMENT OF CIGARETTE TAX BY MONETARY PENALTIES\***

<u>State</u>	<u>Tax Rate</u>	<u>Stamps?</u>	<u>Civil Penalties</u>	<u>Criminal Penalties**</u>	<u>Other Comments</u>
Kentucky	\$0.60	Yes	Uniform civil penalty of a total of \$500 for any violation of law	Willfully fail to pay taxes with intent to evade (F)	Uniform Civil Penalty Act that apply to many taxes are also applicable to the Cigarette Tax
Maryland	\$2.00	Yes	No specific civil penalties	Willfully possesses or sells unstamped cigarettes in violation of the law (M= 30 cartons or less- fine up to \$500 and/or up to 3 months imprisonment; more than 30 cartons- fine up to \$1,000 and/or up to 1 year imprisonment)  Willfully transports unstamped cigarettes in violation of the law (F= fine up to \$50 a carton or up to 2 years imprisonment)	
West Virginia	\$0.55	Yes	No specific civil penalties	Sell unstamped cigarettes/ Possession by a retailer or other person of unstamped cigarettes (M= \$1,000- \$25,000 fine)	
Washington, D.C.	\$2.50	Yes	General violation of cigarette tax law or regulations (assess tax due on unstamped cigarettes or in other cases up to 500% of the retail value of the cigarettes involved or \$5,000)	General penalties that apply to many taxes are also applicable to the Cigarette Tax	General penalties that apply to many taxes are also applicable to the Cigarette Tax  Can revoke or suspend both retail sales licenses and cigarette business licenses for violations. 2 or more violations and stamping license must be revoked for minimum of 1 year

Appendix III  
Matrix of Other States' Civil and Criminal Cigarette Tax Penalties

**ENFORCEMENT OF PAYMENT OF CIGARETTE TAX BY MONETARY PENALTIES\***

<u>State</u>	<u>Tax Rate</u>	<u>Stamps?</u>	<u>Civil Penalties</u>	<u>Criminal Penalties**</u>	<u>Other Comments</u>
Alabama	\$0.425	Yes	Failure to affix (State= \$25 to \$500 per pack; locals may also assess= \$100 to \$500 per pack)	Possession/sale/etc. for purposes of evading tax (M- fine of at least \$25 and may add 30 days to 60 days imprisonment)	
Alaska	\$2.00	Yes	No specific civil penalties	Sell unstamped cigarettes with reckless disregard (M/5,000 packs or more =F)  Unauthorized possession of stamps (M)	
Arizona	\$2.00	Yes	Intentionally fail to comply with cigarette law (\$1,000)  Intentionally fail to pay over cigarette tax (An additional civil penalty of 10% of the unpaid tax)	Wholesaler sells/distributes untaxed cigarettes (M)  Any person transporting or selling 10,000 or more unstamped cigarettes (F)  Criminal intent to evade taxes (F and fine of 300% retail value of the cigarettes)	If cigarettes packs bear no visible stamps, the retailer is advised to return the packs to wholesaler for re-stamping, only in extenuating circumstances are the packs seized.
Arkansas	\$1.15	Yes	Failure to apply tax (10% of the tax)  Attempt to evade the tax (Not more than 50% of the tax)  If found guilty of the criminal offense, may be subject to a civil penalty of \$25 a pack	Unlawful sale/possession of unstamped cigarettes (M/ F = tax value of \$100 or more)	Unstamped cigarettes subject to seizure***
California	\$0.87	Yes	Nonpayment of stamps/ Negligence (10% of the tax)  Intentional disregard of law with intent to evade or fraud (35% of the tax)	Possession/sale/etc. of unstamped cigarettes (M with fines)  Possession/sale/etc. for purposes of evading tax of \$25,000 or more(F)	Penalties are capped at 10% of the amount of tax due for each return unless fraud or intent to evade (additional 25%). Reasonable cause will relieve wholesaler of penalties.

Appendix III  
Matrix of Other States' Civil and Criminal Cigarette Tax Penalties

**ENFORCEMENT OF PAYMENT OF CIGARETTE TAX BY MONETARY PENALTIES\***

<u>State</u>	<u>Tax Rate</u>	<u>Stamps?</u>	<u>Civil Penalties</u>	<u>Criminal Penalties**</u>	<u>Other Comments</u>
Colorado	\$0.84	Yes	Possession of unstamped cigarettes except by a licensed wholesaler (Up to 25¢ per cigarette)	Willfully evasion or defeat of tax (F/\$100,000 fine for an individual or \$500,000 for a corporation)	Unauthorized cigarettes subject to seizure***
Connecticut	\$3.40	Yes	Deficiency of stamps due to negligence or intentional disregard (10% of the deficiency or \$50)  Deficiency of stamps due to fraudulent intent to evade taxes (25% of the deficiency)	Knowingly sell unstamped cigarettes (Up to \$1,000 fine and/or up to 1 year imprisonment; 20,000 or more cigarettes- up to \$5,000 fine and/or 1 to 5 years imprisonment)	Unauthorized cigarettes subject to seizure***
Delaware	\$1.60	Yes	No specific civil penalties	Sell untaxed cigarettes (Up to \$1,000 fine and/or up to 1 year imprisonment)  Failure to affix, etc. (\$100 to \$1,000 fine and/or up to 90 days imprisonment)	Unauthorized cigarettes subject to seizure and destruction***
Florida	\$1.339	Yes	Failure to pay tax (500% of the tax)	Possession/ transport/sell unstamped cigarettes (M/ 2 <sup>nd</sup> or subsequent offense = F)	Unauthorized cigarettes subject to seizure***
Georgia	\$0.37	Yes	Nonpayment of tax (10% of the deficiency)  Unlawful possession of unstamped cigarettes (up to \$25 a carton)	Willful attempt to evade taxes(M/ 2 <sup>nd</sup> or subsequent offense = F)  Transportation of unstamped cigarettes with the intent to evade(M)	Unauthorized cigarettes subject to seizure***

Appendix III  
Matrix of Other States' Civil and Criminal Cigarette Tax Penalties

**ENFORCEMENT OF PAYMENT OF CIGARETTE TAX BY MONETARY PENALTIES\***

<u>State</u>	<u>Tax Rate</u>	<u>Stamps?</u>	<u>Civil Penalties</u>	<u>Criminal Penalties**</u>	<u>Other Comments</u>
Hawaii	\$3.20	Yes	No specific civil penalties	Knowingly possess 1,000 or more unstamped cigarettes or sell less than 1,000 unstamped cigarettes (M and up to \$25,000 fine)  Knowingly possess 3,000 or more unstamped cigarettes or sell 1,000 or more unstamped cigarettes (F and up to \$50,000 fine)	General penalties that apply to many taxes are also applicable to the Cigarette Tax  Criminal penalties are for non-licensees and the fines are only if its a corporation
Idaho	\$0.57	Yes	Possession of unstamped cigarettes (300% of tax, minimum of \$50)  General violation of cigarette tax law or regulations (assess tax due on unstamped cigarettes or in other cases up to 500% of the retail value of the cigarettes involved or \$5,000)	General violation of cigarette tax law or regulations (Up to \$1,000 fine and/or up to 1 year imprisonment)	Violations of Cigarette Tax law are subject to the penalty provisions of the Income tax laws
Illinois	\$0.98	Yes	Possession of unstamped cigarettes (\$20 per pack for 10-100 packs, \$25 for each pack in excess of 100 packs)	Improper sale of unstamped cigarettes by distributor (M, 100 or more packs =F)  Possession or sale of unstamped cigarettes by non-distributor (M, 251 or more packs =F, 2 <sup>nd</sup> and subsequent offense of 101 or more packs =F)	Unauthorized cigarettes subject to seizure***
Indiana	\$0.995	Yes	No specific civil penalties	Sell or intend to sell unstamped cigarettes (M)  Recklessly violate Cigarette Tax laws (M)  2 <sup>nd</sup> or subsequent offense and knowingly possess more than 12,000 unstamped cigarettes (F)	Unauthorized cigarettes subject to seizure***

Appendix III  
Matrix of Other States' Civil and Criminal Cigarette Tax Penalties

**ENFORCEMENT OF PAYMENT OF CIGARETTE TAX BY MONETARY PENALTIES\***

<u>State</u>	<u>Tax Rate</u>	<u>Stamps?</u>	<u>Civil Penalties</u>	<u>Criminal Penalties**</u>	<u>Other Comments</u>
Iowa	\$1.36	Yes	Possession of unstamped cigarettes (\$200 for 1 <sup>st</sup> offense of 40-400 cigarettes, \$500 for 1 <sup>st</sup> offense of 401-2,000 cigarettes, and \$25 per pack for more than 2,000 cigarettes) (\$400 for 2 <sup>nd</sup> offense of 40-400 cigarettes, \$1,000 for 401-2,000 cigarettes, and \$35 per pack for more than 2,000 cigarettes) (\$600 for 3 <sup>rd</sup> offense of 40-400 cigarettes, \$1,500 for 401-2,000 cigarettes, and \$45 per pack for more than 2,000 cigarettes)  General violation of Cigarette Tax law (\$200 for 1 <sup>st</sup> offense, \$500 for 2 <sup>nd</sup> offense within 3 years, \$1,000 for 3 <sup>rd</sup> offense within 3 years)	Unlawful acts are provided by statute, including possession of unstamped cigarettes, however, no specific penalties are set out	Unauthorized cigarettes subject to seizure***
Kansas	\$0.79	Yes	General violation of Cigarette Tax laws, including sell unstamped cigarettes and knowingly possess more than 200 unstamped cigarettes (100% of the tax)	General violation of Cigarette Tax laws, including sell unstamped cigarettes and knowingly possess more than 200 unstamped cigarettes (M= up to \$1,000 fine and/or up to 1 year imprisonment)	
Louisiana	\$0.36	Yes	Failure to affix stamps (\$1 per pack for 1 <sup>st</sup> offense, \$5 per pack for 2 <sup>nd</sup> offense, \$10 per pack for 3 <sup>rd</sup> offense, and \$20 to \$100 per pack for subsequent offenses within 5 years)  No specific civil penalties	Possession or selling unstamped cigarettes (fine and/or imprisonment)	Unauthorized cigarettes subject to seizure***
Maine	\$2.00	Yes		Unlawful acts are provided by statute- including importation or sell of unstamped cigarettes, specific penalties are set out in the Criminal Code	Unauthorized cigarettes subject to seizure***

Appendix III  
Matrix of Other States' Civil and Criminal Cigarette Tax Penalties

**ENFORCEMENT OF PAYMENT OF CIGARETTE TAX BY MONETARY PENALTIES\***

<u>State</u>	<u>Tax Rate</u>	<u>Stamps?</u>	<u>Civil Penalties</u>	<u>Criminal Penalties**</u>	<u>Other Comments</u>
Massachusetts	\$2.51	Yes	Unauthorized possession of cigarettes (not more than \$5,000 for each violation)	Knowingly possess/transport/sell unstamped cigarettes (Up to \$1,000 fine and/or up to 1 year imprisonment; 12,000 or more cigarettes- up to \$5,000 fine and/or up to 5 years imprisonment)	Unauthorized cigarettes subject to seizure***
Michigan	\$2.00	Yes	Unauthorized sale of unstamped cigarettes (500% of the tax)  If found guilty of the crime of unauthorized possession of less than 600 unstamped cigarettes may be subject to a civil penalty of up to \$100	Possession or selling unstamped cigarettes (M= fine of up to \$1,000 or 500% of the retail value, whichever is greater, and/or up to 1 year imprisonment)	Unauthorized cigarettes subject to seizure***
Minnesota	\$1.586	Yes	Negligence or intentional disregard of rules with intent to defraud (10% of the tax)  Attempt to evade tax (50% of tax)	Possession of unstamped cigarettes by other than a licensed distributor (M= less than 5,000 cigarettes, 5,000-20,000 =gross M, more than 20,000 =F)	Retail Sales permit may be revoked if purchase unstamped cigarettes for resale
Mississippi	\$0.68	Yes	General violation of Cigarette Tax laws (50% of the tax- may be waived for good cause)	No specific criminal penalties	General penalties that apply to sales tax are also applicable to the Cigarette Tax
Missouri	\$0.17	Yes	Failure to affix (100% of the tax)	General violation of Cigarette Tax law or regulations (M= up to \$500 fine and/or up to 1 year imprisonment)	Unauthorized cigarettes subject to seizure***
Montana	\$1.70	Yes	General penalty for failure to pay tax (1.2% a month, up to 12%; where willful- a court can assess 300% of the tax)  Specific civil penalties for contraband	Knowing or purposefully violating Cigarette Tax laws (M= up to \$1,000 fine and/or up to 1 year imprisonment; 2 <sup>nd</sup> or subsequent offense- up to \$50,000 fine and/or more than 1 year imprisonment =F)	Unauthorized cigarettes subject to seizure***

Appendix III  
Matrix of Other States' Civil and Criminal Cigarette Tax Penalties

**ENFORCEMENT OF PAYMENT OF CIGARETTE TAX BY MONETARY PENALTIES\***

<u>State</u>	<u>Tax Rate</u>	<u>Stamps?</u>	<u>Civil Penalties</u>	<u>Criminal Penalties**</u>	<u>Other Comments</u>
Nebraska	\$0.64	Yes	Failure to pay use tax (25% of tax) Violations of Cigarette Tax Act (up to \$1,000)	General violation of Cigarette Tax laws (F)	Unauthorized cigarettes subject to seizure***
Nevada	\$0.80	Yes	Failure to pay tax (10% of the tax)	Possession of unstamped cigarettes for sale (F)	
New Hampshire	\$1.68	Yes	No specific civil penalties	Failure to file return and pay tax(F) Sale/transport/possess/etc. unstamped cigarettes (F)	Unauthorized cigarettes subject to seizure***
New Jersey	\$2.70	Yes	Unauthorized possession by retailer/wholesaler (up to \$250 per carton) Failure to pay tax (5% of the underpayment each month unpaid, capped at 25%) Civil Fraud (50% of the tax)	Possession by non-licensee of 2,000 or more unstamped cigarettes(M= Up to \$500 fine and/or up to 6 months imprisonment; 20,000 or more cigarettes- up to \$1,000 fine and/or up to 1 year imprisonment) Sale of unstamped cigarettes(M= Up to \$1,000 fine and/or up to 1 year imprisonment)	Unauthorized cigarettes subject to seizure***
New Mexico	\$1.66	Yes	Knowingly fail to comply with Cigarette Tax laws(\$1,000 for 1 <sup>st</sup> offense, \$1,500 - \$2,500 for 2 <sup>nd</sup> offense, \$5,000+ for subsequent offenses) (No reset) Failure to pay tax (500% of the tax)	Failure to comply with Cigarette Tax laws with intent to defraud the state (F) General violation of Cigarette Tax laws (M)	Unauthorized cigarettes subject to seizure***



Appendix III  
Matrix of Other States' Civil and Criminal Cigarette Tax Penalties

**ENFORCEMENT OF PAYMENT OF CIGARETTE TAX BY MONETARY PENALTIES\***

<b>State</b>	<b>Tax Rate</b>	<b>Stamps?</b>	<b>Civil Penalties</b>	<b>Criminal Penalties**</b>	<b>Other Comments</b>
New York	\$4.35	Yes	Failure to pay the tax (50% of the tax/ fraud = 200% of the tax; additional penalty of up to \$150 for each 200 cigarettes-pro-rated- over 1,000 unstamped cigarettes possessed or \$30-\$200 each 200 cigarettes-pro-rated- over 1,000 and up to 5,000 unstamped cigarettes)	Willfully attempt to evade/ possess/ sell 10,000 cigarettes or more (F)	Anecdotally- prefer to use criminal sanctions
North Dakota	\$0.44	No	No specific civil penalties	Unlawful acts are provided by statute, including possession of unstamped cigarettes, however, no specific penalties are set out	Unauthorized cigarettes subject to seizure***
Ohio	\$1.25	Yes	No specific civil penalties	Failure to affix (M/ 2 <sup>nd</sup> or subsequent offense = F)  Possession of unstamped cigarettes (1,200 or less cigarettes-M/ more than 1,200 cigarettes- F)  General violation of other Cigarette Tax laws (M)	If a motor vehicle was used in the violation, the person's driver's license is suspended for at least 30 days  Unauthorized cigarettes subject to seizure***

Appendix III  
Matrix of Other States' Civil and Criminal Cigarette Tax Penalties

**ENFORCEMENT OF PAYMENT OF CIGARETTE TAX BY MONETARY PENALTIES\***

<b>State</b>	<b>Tax Rate</b>	<b>Stamps?</b>	<b>Civil Penalties</b>	<b>Criminal Penalties**</b>	<b>Other Comments</b>
Oklahoma	\$1.03	Yes	<p>Possession of unstamped cigarettes by retailer (200% of the tax)</p> <p>Knowing or intentionally selling unstamped cigarettes (\$200, if by a wholesaler or retailer- up to \$10,000 for 1<sup>st</sup> offense, up to \$20,000 for 2<sup>nd</sup> offense) (No Reset)</p> <p>Consumption of unstamped cigarettes by consumer (\$200 fine)</p> <p>Knowingly violate the Cigarette Tax laws with intent to defraud (Up to \$10,000 and 500% of the tax)</p>	No specific criminal penalties	Unauthorized cigarettes subject to seizure***
Oregon	\$1.18	Yes	<p>General violation of Cigarette Tax laws (Up to \$1,000)</p>	General violation of Cigarette Tax laws (M)	Unauthorized cigarettes subject to seizure***
Pennsylvania	\$1.60	Yes	<p>Violation of stamping laws (\$2,500-\$5,000 for 1<sup>st</sup> offense, \$5,000 - \$15,000 or subsequent offenses) (No Reset)</p> <p>Incorrectly labeled or stamped cigarettes (200% of the retail value or \$2,500)</p>	<p>Sale of unstamped cigarettes (M-\$100 to \$1,000 and/or up to 60 days imprisonment)</p> <p>Sale of unstamped cigarettes with intent to evade tax (F- up to \$15,000 and/or up to 5 years imprisonment)</p>	<p>Dealers, wholesalers, and retailers can have licenses revoked for noncompliance and violations of the law</p> <p>Unauthorized cigarettes subject to seizure***</p>

Appendix III  
Matrix of Other States' Civil and Criminal Cigarette Tax Penalties

**ENFORCEMENT OF PAYMENT OF CIGARETTE TAX BY MONETARY PENALTIES\***

<b>State</b>	<b>Tax Rate</b>	<b>Stamps?</b>	<b>Civil Penalties</b>	<b>Criminal Penalties**</b>	<b>Other Comments</b>
Rhode Island	\$3.46	Yes	Neglect or refuse to comply with Cigarette Tax laws (Greater of 500% of the retail value or \$1,000)  Failure to pay tax (500% of the tax)	Unlawful possession of unstamped cigarettes (M- \$150-\$500 and/or up to 1 year imprisonment)  Unlawful sale of unstamped cigarettes (Greater of 500% of the retail value or \$1,000 and/or up to 3 years imprisonment)  General violation of Cigarette Tax laws (Up to \$1,000; Knowingly- up to \$5,000 and/or up to 1 year imprisonment; Intent to defraud- up to \$10,000 and/or up to 5 years imprisonment)	Unauthorized cigarettes subject to seizure***
South Dakota	\$1.53	Yes	Possession of 2,000 or more unstamped cigarettes (10% of the tax)	Sell or intend to sell unstamped cigarettes (M/ 2 <sup>nd</sup> or subsequent offense = F)	Unauthorized cigarettes subject to seizure***
Texas	\$1.41	Yes	General penalty for failure to pay tax (5% of the tax each 30 days late, minimum of \$50)  General violation of Cigarette Tax laws (Up to \$2,000 for each violation- Attorney General brings suit for penalties)	Unlawful possession of unstamped cigarettes (M/ 10,000 or more cigarettes = F)  Sale of unstamped cigarettes or knowingly consuming unstamped cigarettes (M)	Unauthorized cigarettes subject to seizure***
Utah	\$1.70	Yes	Failure to affix stamps (Up to \$25 a pack)	No specific criminal penalties	Unauthorized cigarettes subject to seizure***
Vermont	\$2.62	Yes	No specific civil penalties	Possession of more than 10,000 unstamped cigarettes/ Sale or Intent to sell unstamped cigarettes (Up to \$1,000 fine and/or up to 1 year imprisonment; Tax value of more than \$500 in tax due- up to \$10,000 fine and/or up to 3 years imprisonment)	Unauthorized cigarettes subject to seizure***

Appendix III  
Matrix of Other States' Civil and Criminal Cigarette Tax Penalties

**ENFORCEMENT OF PAYMENT OF CIGARETTE TAX BY MONETARY PENALTIES\***

<u>State</u>	<u>Tax Rate</u>	<u>Stamps?</u>	<u>Civil Penalties</u>	<u>Criminal Penalties**</u>	<u>Other Comments</u>
Washington	\$3.025	Yes	Failure to affix stamps (Greater of up to \$10 a pack or \$250- may be waived for good cause)	Sell or Possess unstamped cigarettes unlawfully (M)	Unauthorized cigarettes subject to seizure***
Wisconsin	\$2.52	Yes	No specific civil penalties	Attempt to evade the tax (Up to \$10,000 fine and/or up to 9 months imprisonment)  Unlawful possession of unstamped cigarettes (Up to \$200 fine and/or up to 6 months imprisonment; 6,001 to 36,000 cigarettes- up to \$1,000 fine and/or up to 1 year imprisonment; More than 36,000 cigarettes =F)  General violation of Cigarette Tax rules (\$100-\$500 and/or up to 6 months imprisonment)	Unauthorized cigarettes subject to seizure***
Wyoming	\$0.60	Yes	Violation of Cigarette Tax laws to willfully or intentionally evade the tax (Up to 500% of the retail value of the cigarettes involved or \$1,000)  Failure to pay tax (500% of the tax)	Violation of Cigarette Tax laws to willfully or intentionally evade the tax (M- \$100 and/or up to 6 months imprisonment)  Failure to comply with Cigarette Tax laws with intent to defraud (M-\$10,000 and/or up to 1 year imprisonment)	Unauthorized cigarettes subject to seizure***

\*Penalties listed are in addition to the tax due. It does not include penalties for contraband cigarettes; counterfeit, reused, or unauthorized sale of stamps; or delivery sales, inspection, or recordkeeping violations. Most states have provisions allowing for the revocation and suspension of stamping/wholesale licenses for violations.

\*\* M= misdemeanor; F= felony

\*\*\* States have a variety of treatments for seized cigarettes including forfeiture and auction sales, destruction, or redemption by the wholesaler (Indiana allows the wholesaler to either stamp the cigarettes which are then sold or redeem for 50% of the tax). Many states also provide for the seizure of machines, equipment, and motor vehicles involved in the violation.

Appendix IV  
Virginia Code § 58.1-3832 Text

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§ 58.1-3832. Local ordinances to administer and enforce local taxes on sale or use of cigarettes.

Any county, city or town having a tax upon the sale or use of cigarettes may by ordinance, provide for the administration and enforcement of any such cigarette tax. Such local ordinance may:

1. Provide for the registration of any distributor, wholesaler, vendor, retailer or other person selling, storing or possessing cigarettes within or transporting cigarettes within or into such taxing jurisdiction for sale or use. Such registration may be conditioned upon the filing of a bond with a surety company authorized to do business in Virginia as surety, which bond shall not exceed one and one-half times the average monthly liability of such taxpayer. The county, city or town may revoke registration if such bond is impaired, but for no other reason. Any such distributor, wholesaler, retailer or other person whose business and residence is outside the taxing jurisdiction, who shall sell, store or possess in the taxing jurisdiction therein any cigarettes shall, by virtue of such sale, storage or possession submit himself to its legal jurisdiction and appoint as his attorney for any service of lawful process such officer or person as may be designated in the local ordinance for that purpose. A copy of any such process served on the said officer or person shall be sent forthwith by registered mail to the distributor, wholesaler or retailer.

2. Provide for the use of a tax stamp or meter impression as evidence of payment of the tax or other method or system of reporting payment and collection of such tax.

3. Provide that tobacco products found in quantities of more than six cartons within the taxing jurisdiction shall be conclusively presumed for sale or use within the jurisdiction and may be seized and confiscated if:

a. They are in transit, and are not accompanied by a bill of lading or other document indicating the true name and address of the consignor or seller and of the consignee or purchaser, and the brands and quantity of cigarettes so transported, or are in transit and accompanied by a bill of lading or other document which is false or fraudulent, in whole or in part; or

b. They are in transit and are accompanied by a bill of lading or other document indicating:

(1) A consignee or purchaser in another state or the District of Columbia who is not authorized by the law of such other jurisdiction to receive or possess such tobacco products on which the taxes imposed by such other jurisdiction have not been paid, unless the tax of the state or District of destination has been paid and the said products bear the tax stamps of that state or District; or

(2) A consignee or purchaser in the Commonwealth of Virginia but outside the taxing jurisdiction who does not possess a Virginia sales and use tax certificate, a Virginia retail cigarette license and, where applicable, both a business license and retail cigarette license issued by the local jurisdiction of destination; or

c. They are not in transit and the tax has not been paid, nor have approved arrangements for payment been made, provided that this subparagraph shall not apply to cigarettes in the possession of distributors or public warehouses which have filed notice and appropriate proof with the taxing jurisdiction that those cigarettes are temporarily within the taxing jurisdiction and will be sent to consignees or purchasers outside the jurisdiction in the normal course of business.

4. Provide that cigarettes and other property, other than motor vehicles, used in the furtherance of any illegal evasion of the tax so seized and confiscated may be disposed of by sale or other method deemed appropriate by the local taxing authority. No credit from any sale or other disposition shall be allowed toward any tax or penalties owed.

5. Provide that persons violating any provision thereof shall be deemed guilty of a Class 1 misdemeanor, and require the payment of penalties for late payment not to exceed ten percent per month, penalties for fraud or evasion of the tax not to exceed fifty percent, and interest not to exceed three quarters of one percent per month, upon any tax found to be overdue and unpaid. The mere possession of untaxed cigarettes in quantities of not more than six cartons shall not be a violation of any such ordinance.

6. Provide for the forfeiture and sale of any property seized; provided, however, that proper notice of such seizure shall be given to the known holders of property interests in such property and shall include procedures for administrative appeal as well as affirmative

[http://leg1.state.va.us/cgi-bin/legp1.1.exe?000+cod+58.1-3832\\_1\\_of\\_2/021/2011%2001%20AM](http://leg1.state.va.us/cgi-bin/legp1.1.exe?000+cod+58.1-3832_1_of_2/021/2011%2001%20AM)

Appendix V  
Materials and Comments Provided by Working Group Members

**Potential Issue- Security Procedures (sent by The Smith Group on behalf of VWDA)**

**From:** TheSmithGrp@aol.com  
**Sent:** Monday, May 23, 2011 11:32 AM  
**To:** Muse, Andrea (TAX)  
**Cc:** Haskins, Mark (TAX); Mayer, Joseph (TAX)  
**Subject:** Re: Local Cigarette Tax Study- List of Potential Issues

Andrea,

I would like to pass along for future meeting agenda's a consideration to address security issues with local stamps. Although there may be some jurisdictions that have proper controls, there are a number that do not and as more are added to the taxing rolls , security procedures should be on our list.

We have had situations where stamps were stolen from the back door of a municipal bldg to the FED X truck----- no claimed to be at fault--- local government said it went out the door and FED X reported they delivered the package given to them when picked up ----- our wholesaler had to pay another \$10,000 for another roll of local stamps. With Tidewater now going to \$7.50 a carton tax like Fairfax at \$8.50 a carton--a Virginia \$10.50- \$11.50 tax creates more incentive for mischief and tax avoidance.

Last week I had a meeting with State Police and Col Flaherty about product stolen recently in Amherst. Since stamping agents maintain prepaid stamp inventory this is a problem along with drivers traveling the State with expensive inventories these days.

Our July meeting is tentatively set to travel to Mc Lane to provide the study group a visual representation of what we have been reporting. TAX may consider then, that they hear a report from Retail regarding various methods of product receipt-then to the shelf.

Thank you for the update and the web site. Very helpful with our communications for this study.

Regards,

Jeff

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In a message dated 5/20/2011 4:22:12 P.M. Eastern Daylight Time, [andrea.muse@tax.virginia.gov](mailto:andrea.muse@tax.virginia.gov) writes:

A broad outline of the topics discussed at the April 19, 2011 meeting as issues that should be considered by the working group is attached and has been placed on TAX's webpage for the study, <http://www.tax.virginia.gov/site.cfm?alias=StudyLocalCigarette>, under the "Study Documents" section. Members of the working group are encouraged to send any additional issues that they believe should be included in future discussions to me and I will post them to the webpage. I encourage everyone to visit the webpage regularly to keep abreast as to the progress of the study.

if you have any questions, please do not hesitate to contact me.

Appendix V  
Materials and Comments Provided by Working Group Members

**Potential Issue- Stamp Selection (sent by The Smith Group on behalf of VWDA)**

**From:** TheSmithGrp@aol.com [mailto:TheSmithGrp@aol.com]  
**Sent:** Monday, July 11, 2011 1:11 PM  
**To:** Muse, Andrea (TAX)  
**Cc:** Haskins, Mark (TAX); Mayer, Joseph (TAX); jdsiv@smithgroupva.com  
**Subject:** Local Tax Study

Andrea,

Following our meeting Friday and the discussion, I would like to include on our list of issues:

local government stamp selection for enforcement  
<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+58.1-3832> (paragraph 2)

Local government's who choose to impose a local cigarette tax and require the use of a local stamp should adopt the same stamp technology as the State.

Thank you,

Jeff

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Appendix V  
Materials and Comments Provided by Working Group Members

**NVCTB Revenue Information (Sent by Deborah Cannon, NVCTB Administrator)**

## **Northern Virginia Cigarette Tax Board**

**07/01/2010 – 06/30/2011**

- The Northern Virginia Cigarette Tax Board is responsible for the enforcement of the cigarette tax ordinances for 17 jurisdictions covered by the Board. Through auditing, stamping and enforcing the local taxes the Board collected total revenue of \$16,938,052.20 for fiscal year 2011.
- Total Revenue for court imposed fines and penalties were \$43,884.36.
- Total approved budget for Fiscal Year 2011 was \$654,200.00.
- Total numbers of seizures were 238 seizing 17,957 packs of untaxed cigarettes generating \$39,340.50.



Appendix V  
Materials and Comments Provided by Working Group Members

**Suggested Local Government Best Management Practices (Sent by The Smith Group on behalf of VWDA)**

**LG-BMP for Local Smoke Tax**

**Narrative Summary:**

**Issue:** As local governments increase their local cigarette tax or impose for the first time a cigarette tax, licensed wholesale distributor stamping agents are caught in the middle between retailers and local enforcement agents in determining legitimate stamping mistakes vs tax avoidance activity.

**BMP-**

**Local Stamp Security**

The State requires extensive disclosure information before a stamping agent license is granted and a significant licensing fee. Local government in general does not. Local government taxes range from \$1.00/carton to \$8.50/carton. The State tax is \$3.00/carton. In general, the local tax is higher than the State, but the security to purchase stamps is lower than the State, opening the door for tax mischief. Confiscation being the only penalty, repeated offenses are likely.

**Visibility Requirements**

The State does not have a stamp de minimus visibility requirement, but some local governments include this in their violations. Local government should only penalize for violations relating to their own stamp. Further, the State stamping penalties are monetary and not confiscation. Partial visibility requirements should be set at 50% of the local stamp as evidence that the tax has been paid.

**Appeals**

The State and NVCTB provide for a uniform appeals process but many local governments do not. Local governments should provide for an appeals process for both the retailer and or wholesaler stamping agent. (Provided in 58.1-3832) The appeal process should include offers in compromise when it is concluded to be a stamping agent mechanical error or a stamping agent delivery mistake.

We believe if these issues are addressed uniformly among local governments imposing a cigarette tax, compliance rates will improve and those that continue to try and avoid the tax will surface and should be dealt with more seriously.

Appendix VI  
Response Provided by the Virginia Municipal League

**Response to the Draft Report by the Virginia Municipal League, with Alexandria and Norfolk in Agreement (Sent by Neal Menkes, Director of Fiscal Policy)**

October 19, 2011

Mr. Mark C. Haskins  
Director of Policy Development Division  
Virginia Department of Taxation  
Post Office Box 1115  
Richmond, VA 23218-1115

Dear Mark:

Thank you for the opportunity to respond to the draft report. I am also writing on behalf of the Cities of Norfolk and Alexandria.

Enforcing local cigarette tax ordinances is complicated, affecting the operations of and costs for local governments, wholesalers and retailers alike. I'd like to acknowledge the hard work you and your staff put into the effort, particularly in researching the issues, facilitating the discussions, and faithfully capturing the gist of the issues.

The recommendations you suggest concerning seizure notices and administrative appeals are fair. VML has been and remains committed to work with our members and tobacco wholesalers to develop "best management practices" for cities and towns, and wholesalers to address the issues outlined in the draft report.

It is VML's position that much can be done to smooth the rough edges of enforcement without resorting to legislative remedies. Improving the stamping process, paying greater attention to the "readability" of the stamps on the cigarette packages, and providing an administrative means to sort out honest mistakes from criminal activity should be the goals for all the stakeholders.

However, I would be remiss if I didn't point out that even a successful implementation of best management practices will not resolve all the outstanding issues. At some point in time, sooner rather than later, "smart stamp" technology will have to be embraced as a means to improve administration and enforcement for government, wholesalers and retailers. For localities, over \$67.0 million in taxes is at stake. For the state, cigarette taxes bring in more than twice the amount collected by local governments. Moreover, the state revenues leverage roughly \$157.0 million in federal Medicaid dollars. The issue is money. The bill to pay for technological upgrades cannot fall solely on the wholesalers or on cities and towns. The Tax Department's work on this subject may not be over.

Sincerely,

Neal Menkes  
Director of Fiscal Policy  
Virginia Municipal League