



COMMONWEALTH of VIRGINIA

Department of Taxation

October 30, 2020

To: The Honorable Janet D. Howell
Chairwoman, Senate Finance and Appropriations Committee

The Honorable Luke E. Torian
Chairman, House Appropriations Committee

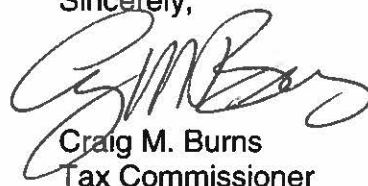
The Honorable Vivian E. Watts
Chairwoman, House Finance Committee

Effective July 1, 2021, House Bill 785 and Senate Bill 588 (2020 Acts of Assembly, Chapters 1214 and 1263), authorize all counties to levy a tax on cigarettes. Under prior law, only cities, towns, and two counties were authorized to tax cigarettes.

In addition, the sixth enactment clause of this legislation directed the Department of Taxation to convene a work group of stakeholders to identify and make recommendations for modernizing the process for using stamps to certify that tax has been paid on cigarettes and unifying the stamping process so that it is administered solely by the Department of Taxation.

Attached is the report summarizing the findings of the work group mandated by and the sixth enactment clause of 2020 House Bill 785 and Senate Bill 588. Please let me know if you have any questions.

Sincerely,



Craig M. Burns
Tax Commissioner

c: The Honorable Aubrey L. Layne, Jr., Secretary of Finance
The Honorable Emmett W. Hanger, Jr.

**Workgroup on Modernizing and Unifying Cigarette Stamping
Pursuant to 2020 Senate Bill 588 and House Bill 785**

Final Report

Department of Taxation

October 30, 2020

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Executive Summary

Effective July 1, 2021, Senate Bill 588 and House Bill 785 (2020 Acts of Assembly, Chapters 1263 and 1214), authorize all counties to levy a tax on cigarettes. Under prior law, only cities, towns, and two counties were authorized to tax cigarettes.

In its sixth enactment clause, the legislation directed the Department of Taxation (the "Department") to convene a work group of stakeholders to identify and make recommendations for:

- Modernizing the process for using stamps to certify that tax has been paid on cigarettes; and
- Unifying the stamping process so that it is administered solely by the Department of Taxation

Background on Cigarette Taxes in Virginia

In Virginia, cigarettes are subject to a state cigarette tax administered by the Department of Taxation (the "Department"). Additionally, all cities and towns and two counties (Arlington and Fairfax) are authorized to levy local cigarette taxes.

The state tax is paid by wholesalers who are licensed as stamping agents by the Department. Wholesalers pay the tax by purchasing rolls of stamps from the Department and recover the cost of the stamps when they sell the cigarettes to retailers. Alternatively, stamping agents may post a bond to obtain stamps prior to payment. The stamps must be affixed to each individual package of cigarettes and serve as proof that the tax has been paid. As with the state tax, most cities and towns that impose a local cigarette tax, require the use of their own tax stamp. Wholesalers pay the tax by purchasing rolls of stamps from each locality.

The Northern Virginia Cigarette Tax Board (the "NVCTB") administers and enforces local cigarette taxes on behalf of 19 Northern Virginia jurisdictions. The Department of Taxation sells a dual stamp at the state rate for use in NVCTB localities. Since jurisdictions have different tax rates, wholesalers remit the local cigarette tax to the NVCTB using a monthly return that lists sales to retailers by jurisdiction. The NVCTB audits stamping agents to verify the local cigarette tax has been paid on all stamps sold. The NVCTB conducts retail inspections to ensure proper tax payments and to prevent retailers from shifting stamped cigarettes from lower tax localities to high tax localities.

Work Group

Stakeholders were identified by the Department and placed in three groups for initial discussions. The groups were cigarette wholesalers, cigarette retailers, and local governments. Representatives in each group were contacted to participate in an initial teleconference with Department staff. When contacted by the Department, representatives of cigarette retailers declined to participate in the workgroup.

The initial teleconference for representatives of cigarette wholesalers was held on July 27, 2020. The initial teleconference for local government representatives was held on July 29, 2020. A joint virtual meeting was held on October 14, 2020 with representatives of cigarette wholesalers and local governments. At the conclusion of these meetings, official comments were solicited from attendees. Those comments are attached. This is the final report of the workgroup studying cigarette stamping procedures in Virginia.

WVDA Proposal

The Virginia Wholesalers and Distributors Association (the "WVDA") primarily represents the businesses that stamp cigarettes and sell them to retailers. The WVDA expressed its concerns about the difficulty its members would have complying with new local cigarette taxes in up to 93 counties, each potentially with its own tax stamp. Wholesalers would need to invest significant capital in an inventory of different local tax stamps. Different localities would also have different ordinances and different enforcement policies.

The WVDA advocates for a county cigarette tax board structure to manage the new county taxes. With either one board or several regional boards, wholesalers would benefit from a process that is more uniform and consistent throughout all the new taxing jurisdictions. The board or boards would enforce the county taxes much like the NVCTB. The Department of Taxation would sell dual stamps to wholesalers at the state tax rate. Wholesalers would file a monthly report with the board listing sales to retailers by jurisdiction. The board would distribute revenues to each locality. Administration and enforcement of the tax would be the same in each locality covered by the board. The WVDA acknowledges that it will be difficult to stand up a new board or boards in time for the possible July 1, 2021 effective date of the new county taxes. Accordingly, the effective date of the authority for the new taxes may need to be extended past July 1, 2021 if the new board or boards cannot be implemented by July 1, 2021.

Reaction to WVDA Proposal

Representatives of counties that do not currently tax cigarettes recognized that they will face challenges implementing and administering new cigarette taxes.

Generally, all participants recognize the potential benefits of forming regional cigarette tax enforcement bodies similar to the NVCTB. Localities can share the costs of administering and enforcing their local cigarette taxes. Wholesalers can benefit from uniform compliance provisions in every locality that is a member of the same board. Wholesalers can avoid the cost of financing inventories of different local cigarette stamps because they can pay local cigarette taxes after they have sold the cigarettes. All participants recommend that localities consider this approach. All localities are currently authorized to form or join such regional bodies under current law. There is also an example, the Northern Virginia Cigarette Tax Board (the "NVCTB"), of how such boards can be established and operated.

No county, however, expressed any interest in delaying the effective dates of its new cigarette taxes for the time necessary to form such bodies and get them in operation. A few county representatives also expressed doubt that there is sufficient interest among their neighboring localities to form regional enforcement bodies so they would not be viable in the near term unless the state mandated that counties join regional boards. Most county representatives have no interest in making regional bodies mandatory.

Representatives of local governments that currently impose local cigarette taxes made it clear that they are not interested in any changes that would affect their administration and enforcement of their local cigarette taxes, including delegating their enforcement powers.

Background

History and Rate

The Virginia Cigarette Tax was enacted in 1960 at the rate of 3 cents per pack of 20 cigarettes. In 1966, the rate was lowered to 2.5 cents per pack when the Retail Sales and Use Tax was enacted. The rate was increased to 20 cents per pack in 2004, and again to 30 cents per pack in 2005, and most recently to 60 cents per pack on July 1, 2020.

Administration of State Tax

The tax is paid by state licensed stamping agents through the purchase of stamps from the Department. Stamping agents may post a bond to obtain stamps prior to payment. Stamps must be affixed to individual packages in which cigarettes are sold.

Sales Tax on Cigarettes

Cigarettes sold at retail in Virginia are subject to the Retail Sales and Use Tax. For many years, those involved in the illicit transportation and sale of cigarettes improperly used resale exemption certificates to purchase stamped cigarettes without paying sales and use tax. Legislation passed during the 2017 General Assembly, House Bill 1913 and Senate Bill 1390 (2017 *Acts of Assembly*, Chapters 112 and 453) was aimed at stopping this activity by prohibiting the use of the self-executed resale exemption certificate when purchasing stamped cigarettes. The legislation required that businesses have a Department-issued exemption certificate when purchasing stamped cigarettes exempt from the sales and use tax.

Local Cigarette Stamps

Other than Virginia, local cigarette taxes are only common in Alabama and Missouri. New York City; Anchorage, Alaska; and Cook County, Illinois also have local cigarette taxes.

As of June 2020, over 120 Virginia cities and towns and 2 Virginia counties (Arlington and Fairfax) have local cigarette taxes. These local taxes are typically administered and enforced at the local level. Localities generally sell stamps to wholesalers or retailers. Some localities require the tax to be paid by monthly returns.

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.

The Northern Virginia Cigarette Tax Board (the "NVCTB"), which was established in 1970, administers and enforces local cigarette taxes on behalf of 19 Northern Virginia jurisdictions:

- Cities of Alexandria, Fairfax, Falls Church, Fredericksburg, Manassas and Manassas Park;
- County of Fairfax; and
- Towns of Clifton, Dumfries, Haymarket, Herndon, Hillsboro, Leesburg, Lovettsville, Middleburg, Purcellville, Round Hill, Vienna, and Warrenton.

Stamping agents remit the local cigarette tax to the NVCTB using 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 ensure proper tax payments and to prevent retailers from shifting stamped cigarettes from lower tax localities to high tax localities.

The Department of Taxation sells a dual stamp at the state rate for use in NVCTB localities. The NVCTB pays for the dual stamps as part of a statewide contract which allows them to acquire the stamps at a lower rate than individual localities because they can take advantage of larger purchase volumes. Since jurisdictions have different tax rates, wholesalers remit the local cigarette tax to the NVCTB using a monthly return that lists sales to retailers by jurisdiction.

2011 Working Group Report

House Bill 2038 and Senate Bill 1085 (2011 *Acts of Assembly*, Chapters 366 and 293), enacted by the 2011 General Assembly, required the Department to convene a working group to review 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.

While the working group did not recommend fundamental changes to the stamping process in place at the time, it did recommend the following:

- That local governments ensure that notices of seizures include procedures for administrative appeals as well as the affirmative defenses that may be asserted.
- 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.
- 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.

2020 Legislative Changes

Senate Bill 588 and House Bill 785 (2020 Acts of Assembly, Chapters 1263 and 1214) extend to all localities the authority to levy a tax cigarettes.

Effective July 1, 2021, any county, city, or town will be authorized to levy taxes on the sale or use of cigarettes subject to rate limitations:

- If a locality is (i) a city or town that, on January 1, 2020, had in effect a rate not exceeding two cents (\$0.02) per cigarette sold or (ii) a county, then the maximum rate shall be two cents (\$0.02) per cigarette sold; or
- If a locality is a city or town that, on January 1, 2020, had in effect a rate exceeding two cents (\$0.02) per cigarette sold, then the maximum rate shall be the rate in effect on January 1, 2020.

No county cigarette tax will apply within the limits of a town if the town imposes a cigarette tax unless the town allows the county cigarette tax to apply within the town.

The Department was directed by the sixth enactment clause of the above-referenced legislation to convene a work group of stakeholders to identify and make recommendations for:

- Modernizing the process for using stamps to certify that tax has been paid on cigarettes; and
- Unifying the stamping process so that it is administered solely by the Department of Taxation.

Work Group Meetings

Interested parties were identified by the Department and were placed in three groups for initial discussions with the individual groups. The groups identified were those who work in wholesale and distribution of cigarettes, local government officials and their representatives, and representatives of retailers. Interested parties were contacted to schedule initial teleconferences with the identified groups individually. When contacted by the Department, retailers did not indicate interest in being part of the work group.

Initial Meeting with VWDA

The Virginia Wholesalers and Distributors Association (the "VWDA") represents the businesses that stamp cigarettes and sell them to retailers. A teleconference was held for representatives of the VWDA on July 27, 2020.

The topic of new technology was discussed and it was agreed that stamp technology exists that could solve many current stamping problems. However, funding for such technology is a significant challenge.

The VWDA expressed its members' concerns about the difficulty they will have complying with new local cigarette taxes in up to 93 counties, each with its own tax stamp. For example, some local jurisdictions only sell their stamps in a 15,000 stamp roll, which could last more than a year if the wholesaler has only one customer in the jurisdiction. This requires the wholesaler to invest significant capital in an inventory of different local tax stamps. If the wholesaler loses its only customer in the locality, some localities refuse to pay refunds on unused returned stamps, claiming that a refund is time-barred by a statute of limitations, a provision of their local ordinances, or their records retention policies. Different localities also have different ordinances and different enforcement policies.

The VWDA put forward options for changes to local cigarette tax administration:

- **Option 1: Department Would Assume Responsibility for Local Cigarette Excise Taxes**

Under this proposal, the Department would be the sole administrative agency for state and local cigarette taxes. The Department would distribute all revenues, either for all localities or solely for counties. Local governments would do their own enforcement.

Distributors stated that if new technology is needed, there are many companies and products that could fulfill such requirements. Research suggests that some companies could provide reader machines that meet current stamping needs.

Industry representatives stated that distributors are not willing to pay for that technology and should not bear the cost of taxing a product and enforcing the tax.

They believe this should be accomplished through either tax revenue or a General Fund appropriation from General Assembly.

- **Option 2: Regional Boards Similar to NVCTB**

This proposal would create a more regional approach. To begin this process, the NVCTB could add some counties to its current membership after July 1, 2021.

- **Option 3: Move All Local Stamping to Retail Establishments**

In this proposal, distributors would not stamp locally when delivering a product, as long as it bears a state stamp. Local retailers would apply stamps at the point of sale. This would put compliance on retail establishments instead of distributors.

- **Option 4: Do Nothing**

The last proposal would continue under the current procedures. This idea is less palatable for distributors as the number of taxing jurisdictions could increase significantly depending on the number of counties that enact a cigarette tax beginning July 1, 2021.

Initial Meeting with Local Officials

A teleconference was held on July 29, 2020 with local officials, their representatives, and staff from the Department. One concern raised initially was the funding for any proposed modernization of the stamping process. Currently, there is no funding to cover the additional cost of new stamping technologies. Local representatives stated that this was one of the main issues with the 2011 Study on Local Cigarette Tax Enforcement Policies, and the main reason that the study made no recommendations in this area.

Discussion then turned to the ideas put forward by VWDA:

- **Option 1: The Department Would Assume Responsibility for Local Cigarette Excise Taxes**

Most local officials opposed this option. Others in attendance, while not opposing this idea outright, did raise some concerns about the level of enforcement the Department would be able to provide and what portion of the cigarette tax revenues would be needed to support the Department's costs.

- **Option 2: Regional Boards Similar to NVCTB**

Local officials expressed interest in learning more about establishing such local or regional boards. The NVCTB has offered to help in this regard. If a locality is planning to implement a cigarette tax independently, the NVCTB can provide copies of forms and notices, or provide education and resources to counties that

have never had a cigarette tax. A suggestion was presented that there should be a "grandfather clause" for existing cigarette tax boards. Any localities participating would be allowed to continue to participate in their current board.

Questions about the implementation process for such boards were also raised. Attendees asked whether this tax could be implemented quickly or would require a two to three year period. Current state law authorizes localities to join into regional organizations, so they would not need a law change to establish an entity like the NVCTB. There was a suggestion that it could take 2 or 3 years for a regional body to be created and staffed, however the exact timeframe for creating such an organization is uncertain.

- **Option 3: Move All Local Stamping to Retail Establishments**

Local officials discussed the challenges involved with Option 3. The NVCTB representative shared her belief that this is not a workable option. She shared her experiences in attempting to investigate retail establishments and the difficulty it presents.

- **Option 4: Do nothing**

No comments were put forward for Option 4, which is to do nothing and continue with the current system of administration and enforcement.

After consideration of the VWDA options, officials from some smaller communities asked for additional information on the stamping process. They explained that they are in the learning phase because they have never had the tax and indicated that insight from localities that have had a local tax would be helpful. County representatives also expressed concerns about how enforcement would work and what they may need to spend in order to administer and enforce the tax as compared to revenues that would be generated. The representative from the NVCTB stated that expenses for the NVCTB are minimal (less than 5%) and that boards work well. Originally, the NVCTB had five members. It currently has 19 members, as additional localities applied to join based on the success of NVCTB. Potentially, regional boards could be formed by a small number of localities and grow gradually over time. The board would not need to have all localities as members by July 1, 2021.

Meeting with All Interested Parties

The work group held a meeting for all interested parties on October 14, 2020. This meeting was attended by representatives from the VWDA, local governments, and the NVCTB.

Industry representatives stated that they have no interest in the Department administering local taxes unless new technology is put in place. They made a strong recommendation that a county cigarette tax board structure be put in place, involving either one board for

all counties or multiple regional boards. They believe this would create a more manageable way to handle additional taxing jurisdictions. It would create a single process (like the NVCTB) that is uniform and consistent throughout all the jurisdictions. On a monthly basis, distributors would remit taxes to the regional boards and file reports to report where the cigarettes were sold. They suggested making it mandatory for any county imposing the tax to participate in such a structure.

One challenge identified with this approach is getting such boards operational within short timeframe. The wholesalers suggested that the Department, NVCTB, and a group of county administrators work together to find solutions to this challenge. Further, they suggest extending the effective date of the tax beyond July 1, 2021 if it is not possible to implement boards within short timeframe.

Representatives from the NVCTB reiterated that they are open to helping anyone set up a new board and would help answer questions about what should be in the ordinance. They pointed out that stamps are less expensive for a board because it is part of the state contract and costs are shared among members. The NVCTB shared its experiences with administering the tax for multiple jurisdictions and explained that they are also able to assist with other business tax issues, such as business license verification.

Local government representatives stated their position that local taxes should be administered locally, and they would not want to delay in the effective date for county authority to impose cigarette taxes because many counties are relying on this funding. They suggested creating a few boards for localities that want to pursue this option on July 1, 2021 and add additional boards or increase current board membership as needed.

The issue of current NVCTB capacity and membership was discussed. There was general support and agreement among the group for allowing current NVCTB members to continue as part of the Board, and to allow Virginia cities and towns that currently impose and administer the Cigarette Tax locally to continue to do so. Two other members of the board expressed their experience that the cigarette tax is the one tax that was easy to administer because of the NVCTB.

There are, however, capacity concerns for NVCTB. The Board is currently at its limit and cannot add additional localities without more staffing and funding. Under current state law, each county needs to make its own decision regarding implementing a cigarette tax and joining a local or regional board. In addition to Arlington and Fairfax, there are 93 counties that could potentially impose a cigarette tax beginning on July 1, 2021. Many of these localities are small and do not have resources to build the framework necessary for imposing the tax, so the idea of a regional board is a desirable option.

Conclusion

The work group mandated by 2020 Senate Bill 588 and House Bill 785 brought together different constituencies involved in cigarette tax administration in Virginia. The work group had three official meetings, as well as informal discussion with representatives from all the different groups. The Department is grateful to all those who participated and provided input for this report.

Findings

The work group identified the following areas of consensus:

1. As regional cigarette tax boards can provide many benefits to local governments and wholesalers, the work group members expressed interest in exploring the creation of regional cigarette tax boards under current law.
2. Given opposition to mandates on local governments, there was consensus among local officials that localities should not be required to join regional cigarette tax boards.
3. Local governments, wholesalers, and any other interested parties should continue to work together to make the local taxation of cigarettes, including the addition of counties as taxing jurisdictions, as efficient as possible.

APPENDIX A

CHAPTER 1263

An Act to amend and reenact §§ 58.1-3818, 58.1-3819, 58.1-3823, as it is currently effective and as it may become effective, 58.1-3825.3, 58.1-3830, 58.1-3833, 58.1-3834, and 58.1-3840 of the Code of Virginia and to repeal §§ 58.1-3818.01, 58.1-3818.03, 58.1-3818.04, 58.1-3820, 58.1-3821, and 58.1-3831, relating to local taxing authority.

[S 588]

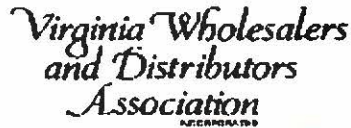
Approved April 22, 2020

Be it enacted by the General Assembly of Virginia:

* * *

6. That the Department of Taxation (the Department) shall convene a workgroup of stakeholders to identify and make recommendations for (i) modernizing the process for using stamps to certify that tax has been paid on cigarettes and (ii) unifying the stamping process so that it is administered solely by the Department of Taxation. The Department shall submit a summary of its recommendations, including any proposed amendments to the Code of Virginia, to the Chairmen of the House Committees on Appropriations and Finance and the Senate Committee on Finance and Appropriations no later than October 31, 2020.

APPENDIX B



MEMBERSHIP SERVICE
RECEIVED VIRGINIA STATE
TAX DEPARTMENT
APR 20 11 2011

The Virginia Wholesalers and Distributors Association (VWDA) is the statewide business trade group representing the interests of corporations and individuals involved in the manufacturing, sales, and distribution of convenience and grocery store products. Our membership plays a key role in tax administration through cigarette excise stamp purchasing and application. This experience provides us a front row seat to the many shortfalls of cigarette tax ordinances around the State for local governments.

Outside economic surveys have reported that VWDA members handle better than 86% of all tobacco products arriving and moving through the Virginia Market. Currently there are over 125 cities and towns and two counties that impose cigarette taxes which require each distributor stamping agent to purchase tax stamps and apply prior to all deliveries. Exposing VWDA member stamping agents to include 95 additional jurisdictions that could impose a cigarette tax will not work under the current local tax process.

There is no interest in our group for Dept. of TAX to take over local tax administration unless new technology was purchased and put in place, stamps provided at no charge, tax discounts provided with uniform reporting and remittance. Additional stamping machines may be required at some point where distributors would need reimbursements or tax credits.

As an alternative:

The NVCTB has been in place since the early 1970's (Va Code 58.1-3832 (9)) and a good example where they have created a uniform process that is administratively manageable, efficient and cost effective among their 19 jurisdictions they serve. They provide free stamps to distributors upfront and the tax is remitted monthly based on retail delivery reports. They do not provide the distributor a tax discount when remitting taxes which needs addressing since distributors do their work by imposing, collecting, reporting and enforcing their taxes.

Using this historic example and in the spirit of compromise, it would be the VWDA position that cities and towns could remain status quo with their tax process, but that counties would be required to form among themselves a county tax board /boards and require counties that decide to impose a tax to participate. The newly formed board/boards would follow the NVCTB process and those counties located in adjacent jurisdictions to NVCTB cities and towns would join the NVCTB.

Although this does not solve the problems we have with current cities and towns it does create a uniform manageable and efficient process with all counties deciding to tax. Any legislation needed can be done in January and the county board structure needs to be in place in some form prior to July 1, 2021 unless date extended.

APPENDIX C



COMMISSIONERS OF THE REVENUE ASSOCIATION OF VIRGINIA

October 14, 2020

The Commissioners of the Revenue's Association has reviewed SB588. The legislation extends the cigarette taxing authority to counties. Approximately 96 cities and towns have adopted an ordinance to tax cigarettes. The counties of Fairfax and Arlington are the only two counties granted this taxing authority by the General Assembly.

The Commissioners recognize the cigarette tax as a local tax. There are other similar taxes such as meals, lodgings or admissions which are local taxes and are administered by the local tax official. Local administration of these taxes ensures compliance and a constant revenue stream to the local government.

The Northern Virginia Cigarette Tax Board (NVCTB) is also an option which has worked well on a regional basis. The NVCTB is composed of 19 localities which includes 12 towns, 6 cities and the County of Fairfax. The NVCTB allows smaller localities with limited resources to benefit from combining of resources in the region. This regional board provides limited local involvement in the administration of the local tax by including a representative from each locality on the board.

To summarize, the Commissioners of the Revenue prefer to have the administration of the cigarette tax performed by the local assessing official. Issuing the stamps and collecting the revenue by local officials allows the best option for compliance. We also recognize that some localities without the necessary resources may be best served by combining efforts with other localities through a regional board. In all situations, the local administration of this tax is preferred.

APPENDIX D

Virginia Association of Counties

Connecting County Governments since 1934



President
Stephen W. Bowen
Stafford County

President-Elect
Jeffrey C. McKay
Fairfax County

First Vice President
Mog Bohmke
Stafford County

Second Vice President
Jason D. Bellows
Lancaster County

Secretary-Treasurer
Donald L. Hart, Jr.
Accomack County

Immediate Past President
Sherrin C. Alsop
King and Queen County

Executive Director
Dean A. Lynch, CAE

General Counsel
Phyllis A. Emico Esq., CAE

VIA ELECTRONIC MAIL

October 22, 2020

Mr. Steve Klos
Policy Analyst
Office of Tax Policy, Policy Development Division
Virginia Department of Taxation
Post Office Box 27185
Richmond, VA 23261-7185

Dear Mr. Klos:

On behalf of the Virginia Association of Counties, please allow me to extend our appreciation for the work of the Department of Taxation in carrying out the study of streamlining the cigarette tax stamping process directed by HB 785 and SB 588. We are grateful for the opportunity to share the county perspective and appreciate being included in the stakeholder workgroup that the Department convened.

As you know, the authority to impose a cigarette tax has been long sought by our members, and we view it as an important avenue of revenue diversification that will help counties to raise necessary funds to meet local needs. Many of our member counties are in the process of determining how best to implement the new authority when it takes effect on July 1, 2021.

We understand from the discussion at the stakeholder workgroup on October 14 that the representatives of the cigarette wholesalers and distributors would prefer that all counties imposing a cigarette tax belong to a regional board similar to the Northern Virginia Cigarette Tax Board. Based on our informal survey of members this summer, some counties would be interested in establishing such an entity in their respective regions, and we stand ready to assist and support those counties in these efforts. However, we would not support mandating participation in such a regional body. Similarly, we would not support delaying the effective date of the new authority.

As stamping technology evolves, such as through the development of enhanced technology that may allow a consolidated state/local stamp, we would be interested in working with the state on ways to update the process of affixing stamps.

We look forward to continuing to work with the Department and other interested parties as counties move toward implementing this important new authority. Thank you for including us in the workgroup and for the opportunity to provide comments.

Sincerely,

Dean A. Lynch, CAE
Executive Director

cc: Members, Virginia Association of Counties Board of Directors

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APPENDIX E



BETTER COMMUNITIES THROUGH SOUND GOVERNMENT

October 29, 2020

Officers

President

Willie Greene
Guix Mayor

President-Elect

Jar Stehla
Fairfax Council Member

Vice President

Jill Carson
Farrington Gap
Vice Mayor

Past President

Thomas R. Smigiel, Jr.
Norfolk Council Member

Executive Director

Michelle Gowdy

Publications

Virginia Town & City
eNews

Mr. Steve Klos
Policy Analyst
Office of Tax Policy, Policy Development Division
Virginia Department of Taxation
Post Office Box 27185
Richmond, Virginia 23261-7185

Dear Steve,

Thank you for the opportunity to comment on the TAX report. Although the issue targeted by the 2020 legislation focuses on counties, VML is always interested in ways to improve the efficiency and effectiveness of tax administration.

VML does support the concept of establishing regional cigarette boards where geographically and politically practical. As in the case of the Northern Virginia Cigarette Tax Board, the regional idea has proven to be both efficient and effective and shows that regional cooperation can work. Several VML localities belong to the NVCTB, and it is our understanding that the arrangement has worked well.

To that end, VML believes that as part of the TAX Study the issue of state financial assistance to encourage the formation of regional cigarette tax boards should be raised. It is safe to assume that local governments would incur costs to develop forms, regulations and policies, hire, train and supervise enforcement staff, and administer a board. State assistance could persuade localities or, at the very least, consider launching a regional board. Perhaps the NVCTB could assist TAX in developing the cost estimates to establish one or two pilot projects to prove the concept will work in areas outside of Northern Virginia.

Sincerely,

Michelle Gowdy, Executive Director
Virginia Municipal League

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