

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.

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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.