

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 72

(Senators McCray and Lam)

Budget and Taxation

Ways and Means

Tobacco Tax Stamp Refunds - Loss Due to Theft

This bill authorizes a claimant who buys tobacco stamps to receive a refund for tobacco tax stamps lost due to theft, subject to specified documentation requirements. If the stolen property is recovered, the claimant must notify the Comptroller and return any refund received under the bill. In addition to other penalties authorized by law, a claimant is subject to a fine of double the amount of any refund received under the bill for making a false claim. The Comptroller may adopt regulations to carry out the bill's provisions. **The bill takes effect June 1, 2024.**

Fiscal Summary

State Effect: General fund revenues decrease by an indeterminate amount, potentially beginning as early as FY 2024. The Comptroller's Office can implement the bill's changes with existing budgeted resources.

Local Effect: None.

Small Business Effect: Minimal overall, but potential meaningful for a small business that receives a refund for lost tobacco tax stamps as a result of the bill.

Analysis

Bill Summary: To receive a refund for tobacco tax stamps lost due to theft, a claimant must provide to the Comptroller (1) a copy of the police report with a detailed inventory of the stolen property, including when the property was ordered, loaded onto the truck, and stamped and (2) a notarized affidavit signed by the claimant under penalty of perjury attesting to the truth of the information provided in the claim for a refund.

Current Law: The tobacco tax rate for cigarettes is \$3.75 for each package of 20 cigarettes and 17.5 cents for each cigarette in a package of more than 20 cigarettes. In general, a person may not possess, sell, or attempt to sell unstamped cigarettes in the State.

A licensed wholesaler may buy tax stamps in the manner and at the time that the Comptroller requires by regulation, and the Comptroller must allow a licensed wholesaler a discount of 0.82% of the purchase price of tax stamps. With specified exceptions, within 72 hours after receiving cigarettes in the State and before selling or attempting to sell the cigarettes, a licensed wholesaler who first possesses the cigarettes must affix, to the smallest cigarette package, tax stamps in a total amount that at least equals the tobacco tax due on the number of cigarettes in the package. The tax stamps must be affixed to the package in the manner that is visible to a buyer and otherwise meets the Comptroller's requirements.

A taxpayer may file a claim for a refund for tobacco tax stamps that:

- are affixed erroneously to anything other than a package of cigarettes;
- are affixed to a package of unsalable cigarettes;
- are canceled by the Comptroller;
- if the claim is at least \$250, are lost or destroyed in the State due to fire, flood, or other disaster, vandalism, or malicious mischief, *except loss due to theft*; or
- mutilated or damaged, whether or not affixed to a package of cigarettes.

In general, a claim for a refund of tobacco tax may be filed within one year from the date of the event that caused the refund. A refund claim for tobacco tax stamps that are affixed to anything other than a package of cigarettes or to a package of unsalable cigarettes may be filed within three years from the date the tax was paid.

State Revenues: General fund revenues decrease by an indeterminate amount to the extent that the Comptroller's Office issues refunds for tobacco tax stamps lost due to theft, potentially beginning as early as fiscal 2024 due to the bill's June 1, 2024 effective date. Due to data limitations, the Department of Legislative Services is unable to estimate the potential volume of such refunds. *As a point of reference*, the refunding of tax stamps for 50,000 packages of 20 cigarettes would result in a decrease of approximately \$186,000 in general fund revenue.

General fund revenue losses are offset to the extent that fines are collected for false claims under the bill.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: HB 147 (Delegate Hartman) - Ways and Means.

Information Source(s): Comptroller's Office; Alcohol, Tobacco, and Cannabis Commission; Department of Legislative Services

Fiscal Note History: First Reader - January 17, 2024
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