

May 17, 2010

**S 1197. REINSTATE CIGARETTE TAX STAMPS.** Filed 5/17/10. *TO IMPROVE THE ENFORCEMENT OF THE CIGARETTE EXCISE TAX AND TO DETER THE UNLAWFUL SALE OF NON-TAX-PAID CIGARETTES BY REINSTATING THE REQUIREMENT THAT CIGARETTES BEAR A STAMP INDICATING PAYMENT OF THE TAX.*

Enacts new GS 105-113.8A to require that a heat transfer tax stamp be marked on a package of cigarettes for sale or for use in North Carolina to indicate if the pack of cigarettes is taxable or nontaxable under North Carolina law. Makes it unlawful for a person who is not a licensed distributor (1) to receive or possess a package of unstamped cigarettes, or (2) to place a stamp on a pack of cigarettes. Requires a licensed distributor who receives a package of unstamped cigarettes to place a stamp on the package within 48 hours of receipt exclusive of Saturdays, Sundays, and legal holidays. Makes the licensed distributor responsible for placing the stamp on the package in a manner that ensures that the stamp cannot be removed without being mutilated or destroyed. Makes it the responsibility of the Secretary of the Department of Revenue to arrange for the manufacture and sale of the stamps and to keep a record of the tax-paid and tax exempt stamps transferred to a licensed distributor.

Amends GS 105-113.9 regarding the setting aside of unstamped cigarettes by licensed distributors engaged in interstate business. Amends GS 105-113.10 to specify exceptions when a licensed distributor may ship a package of unstamped cigarettes. Amends GS 105-113.18 to require that a distributor pays the tax levied on the sale or possession of a package of cigarettes via the tax-paid stamp that the distributor must obtain and place on the cigarettes. Provides that a person who is not a distributor pays the levied tax when that person is required to file a report. Provides guidelines for reports that must be filed with the Secretary. Requires that a distributor's report include (1) data on the number of tax paid and tax exempt stamps obtained during the month, (2) the distributor's cigarette inventory, (3) the number of stamps actually placed on packages of cigarette during the month, and (4) the number of packages transferred without charge after a tax-paid stamp was placed on the packages. Requires that a person who is not a distributor who acquires a package of unstamped cigarettes for sale, use or consumption that are subject to the tax must file a report within 96 hours after receiving the package of cigarettes. Requires a person who is not a licensed distributor who is engaged in transporting cigarettes on the state's public roadways must file a report upon notice from the Secretary.

Amends GS 105-113.21 to allow a distributor to discount 2% of the charge for a tax-paid stamp to cover the distributor's expenses in placing the stamps on the cigarettes and maintaining the required records. Provide that a distributor may apply for a refund for unused or mutilated stamp.

Amends GS 105-113.33 to make forging a stamp or knowingly placing a forged stamp on a package of cigarettes a Class H felony.

Makes additional technical corrections and conforming changes.

Requires a distributor who has unstamped cigarettes on hand as of the effective date of the act to stamp the cigarettes as required by the act within 48 hours of the effective date.

Effective January 1, 2011.

**Intro. by Hartsell.**

GS 105