

New Hampshire Department of Revenue Administration

Fiscal Note Quick Guide

24-2876

SB 305, *relative to allowing wholesalers of cigarettes to retain tax revenue collected for package of cigarettes with tax stamps sold.*

Ways and Means

Permits wholesalers of cigarettes to retain one cent of the tax collected for each package of cigarettes to which a tax stamp is affixed as compensation for affixing tax stamps and collecting and remitting tax revenue.

Section 1 of the proposed legislation amends RSA 78 Tobacco Tax by inserting new section 78:11-a Compensation for Collecting and Remitting Tax. This section allows the Department (DRA) to permit wholesalers of cigarettes to retain one cent of the tax revenue collected for each stamped package of cigarettes as compensation for affixing stamps and collecting and remitting tax revenue to the DRA.

The DRA would be responsible for updating all necessary tax return forms and electronic management system related to this proposed legislation.

The proposed legislation would not result in any additional administrative costs that could not be absorbed in the DRA operating budget.

The proposed legislation shall be effective July 1, 2024. The DRA assumes that the proposed legislation will not apply to stamps purchased before July 1, 2024, even if they are affixed to packages sold at retail on or after July 1, 2024. The DRA recommends that language be provided to clarify the applicability of the legislation specific to the purchase date of tax stamps.

The DRA is unable to determine a fiscal impact. The proposed legislation does not provide guidance as to how the DRA would administer the one cent retention of the tax revenue collected for each package of cigarettes sold with an affixed tax stamp. Under current law, the Tobacco Tax is a direct tax imposed upon the retail consumer of the tobacco product. This tax is prepaid by the wholesaler of the tobacco product through the purchase of tobacco tax stamps. A wholesaler is able obtain a refund of the purchase price of the stamps if the wholesaler returns unused tax stamps to the DRA, demonstrates the destruction of unused stamps in circumstances beyond the control of the wholesaler, or demonstrates the destruction of stamps that were affixed to outdated, damaged, or unsaleable cigarettes. The DRA does not know which stamps have been affixed to packages of cigarettes until the wholesaler files the quarterly "Resident Wholesaler Cigarette Tax Report" or "Non-Resident Wholesaler Cigarette Tax Report". The DRA suggests that additional legislative guidance be provided as to the intent of how the one cent retention is to be effectuated.

To the extent that the wholesalers retaining one cent does not affect the sales volume of cigarettes, the proposed legislation would result in an indeterminable decrease to state revenues to be deposited into the General Fund and Education Trust Fund starting from FY 2025.