

March 25, 2009

**S 895. RESTORE CIGARETTE TAX STAMPS.** Filed 3/25/09. *TO PROVIDE FOR PAYMENT OF CIGARETTE TAXES BY STAMP AND TO LIMIT THE RECEIPT AND SALE OF NON-TAX-PAID CIGARETTES.*

To be summarized in tomorrow's *Daily Bulletin*.

**Intro. by Hartsell.**

GS 105

March 26, 2009

**S 895. RESTORE CIGARETTE TAX STAMPS.** Filed 3/25/09. *TO PROVIDE FOR PAYMENT OF CIGARETTE TAXES BY STAMP AND TO LIMIT THE RECEIPT AND SALE OF NON-TAX-PAID CIGARETTES.*

Current law (GS 105-113.5) provides that there is a tax rate of one and three-fourths cents per cigarette levied on the sale or possession for sale of cigarettes in North Carolina by a distributor. This proposed act makes changes that will allow the payment of cigarette taxes by stamp.

Amends GS 105-113.4 to add definitions for: (1) *affiliated sales entity*—an entity that sells cigarettes or other tobacco products that it acquired from a manufacturer that is controlled by the manufacturer, controls the manufacturer, or both are commonly controlled by another entity; (2) *duty free transaction*—a sale or distribution of cigarettes that is exempt from federal excise tax; (3) *importer*—a person who directly or indirectly imports a finished cigarette into the U.S. to be sold or distributed in this state; (4) *non-tax-paid cigarettes*—a package of cigarettes that does not have the required stamp; (5) *stamp*—markings that are required to be placed on a package of cigarettes as evidence that the tax under GS 105-113.5 has been paid or markings to indicate that the cigarettes are exempt from state tax; and (6) *U. S. government transaction*—a sale or distribution of cigarettes to an agency or instrumentality of the United States, including the armed forces exchange and commissary services. Modifies the definitions for: (1) *distributor* to include persons who import cigarettes or cause them to be imported; (2) *manufacturer* to include an *affiliated sales entity* for purposes of this section and GS 105-113.5, 105-113.10, 105-113.18, 105-113.20A, 105-113.27, and 105-113.28, and to include a person who fabricates, processes, or labels tobacco products. Amends GS 105-113.18(1) to provide that every distributor required to affix stamps per this proposed legislation is to file a report. Prescribes the content of that report.

Enacts new GS 105-113.19A to direct that the Secretary on a form prescribed by the Secretary of Revenue (Secretary) make arrangements for the manufacture of the required cigarette stamps and provide guidelines regarding the format and distribution of the stamps. Directs that the cigarette tax levied under GS 105-113.5 is to be paid or evidence of payment is to be shown by the use of tax stamps. Also directs that evidence of exemption from the taxes levied under GS 105-113.5 is to be shown by the use of tax-exempt stamps.

Enacts new GS 105-113.20A permitting only licensed distributors to affix stamps or possess or receive non-tax-paid cigarettes. Provides details regarding licensed distributor duties and authority regarding affixing stamps. Provides that the receipt, shipment, or delivery of non-tax-paid cigarettes in a duty-free transaction or a U.S. government transaction is not a violation of this section.

Amends GS 105-113.21(a1) to allow a discount per stamp of 2% of the total tax due on each pack of cigarettes.

Enacts new GS 105-113.23A to provide that the Secretary may authorize the use of metering machines by any licensed distributor. Enacts new GS 105-113.25A to provide policy regarding the redemption and refund of any unused or mutilated but identifiable stamps.

Amends GS 105-113.27 adding new subsection (d) to provide that only a licensed distributor may deliver non-tax-paid cigarettes in, into, or from this state. Includes responsibilities of the licensed distributor regarding the delivery of non-tax-paid cigarettes. Amends GS 105-113.31(b)(4) to direct that contraband cigarettes seized in violation of prohibitions against the transportation and possession of non-tax-paid cigarettes are not to be sold at public auction and must be destroyed. Makes conforming change to GS 105-113.31(b)(5).

Enacts new (1) GS 105-113.33A regarding limitations on sales by a retail dealer; (2) GS 105-113.33B directing the Secretary to impose a fine on a retail dealer found to have unlawfully

sold or possessed non-tax-paid cigarettes; and (3) GS 105-113.34A providing that a person who forges or counterfeits stamps or possess such stamps or any counterfeit impression device is guilty of a felony and subject to a fine of not more than \$2,000 or a state prison term of not more than five years, or both, at the discretion of the court.

Effective July 1, 2009.

**Intro. by Hartsell.**

GS 105