

2016 First Extraordinary Session

HOUSE BILL NO. 12

BY REPRESENTATIVE COX

TAX/TOBACCO TAX: Repeals the discounts to licensed tobacco dealers for accurately reporting and remitting excise taxes on certain tobacco products and for stamping cigarettes (Item #22)

1 AN ACT

2 To amend and reenact R.S. 47:843(C)(3), (6), and (10) and 851(B)(4) and (5) and to repeal
3 R.S. 47:843(B), relative to the state excise tax on tobacco; to provide relative to the
4 discounts for the reporting and remitting of excise taxes on cigarettes and certain
5 tobacco products and the stamping of cigarettes; to repeal the discounts for the
6 reporting and remitting of excise taxes on cigarettes and certain tobacco products and
7 the stamping of cigarettes; to provide for an effective date; and to provide for related
8 matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 47:843(C)(3), (6), and (10) and 851(B)(4) and (5) are hereby
11 amended and reenacted to read as follows:

12 §843. Use of stamps or meter impression required; limitations

13 * * *

14 C. Purchase of stamps.

15 * * *

16 (3) Cigarette tax stamps shall be sold by the secretary of the Department of
17 Revenue to bonded registered Louisiana tobacco dealers in the state of Louisiana

1 who hold a valid stamping agent designation in accordance with R.S. 26:902(2)(a)
2 and who have a direct purchasing contract with a manufacturer ~~at a discount of six~~
3 ~~percent from the face value, when purchased in quantities of not less than one~~
4 ~~hundred dollars face value, and the same provisions and discount shall apply where~~
5 ~~the metered stamping machine or device is used.~~

6 * * *

7 (6) Any wholesale dealer who fails to timely file the reports and pay the
8 taxes due on an open account shall ~~forfeit the discount allowed at the time of~~
9 ~~purchase of such tax stamps and meter impressions and shall~~ be subject to a penalty
10 of five percent on the amount of the tax due if the period of delinquency is ten days
11 or less, or twenty percent on the amount of the tax due if the period of delinquency
12 is greater than ten days, plus any interest due.

13 * * *

14 (10) As an additional method of refunding the cost of stamps affixed to
15 damaged goods as provided in R.S. 47:857, the secretary shall allow a wholesale
16 dealer to present affidavits evidencing the cost of stamps, ~~less previous discount~~
17 ~~allowed~~, affixed to goods returned to the manufacturer as payment for all or a portion
18 of the price of tax stamps purchased under this Section. The credit must be in an
19 amount less than or equal to the cost of stamps or meters purchased per individual
20 invoice.

21 * * *

22 §851. Dealers receiving unstamped and/or nontax paid cigarettes, cigars, and
23 smoking tobaccos required to file monthly reports and maintain records;
24 vending machine restrictions

25 * * *

26 B. Registered tobacco dealers and stamping agents.

27 * * *

28 (4)(a) Every registered tobacco dealer receiving and handling cigars and
29 smoking tobaccos in Louisiana upon which the tax has not been previously paid

1 shall, within twenty days after the expiration of each calendar month, file with the
 2 secretary a report, under oath, of the total amount of such cigars and smoking
 3 tobaccos received and handled during the preceding month, and shall pay the taxes
 4 due thereon, and all out-of-state Louisiana registered tobacco dealers shall file a
 5 report, under oath, disclosing all sales of cigars and smoking tobaccos in Louisiana
 6 during the preceding calendar month, and shall pay the taxes due thereon. This
 7 report shall be made on forms prescribed and furnished by the secretary and shall
 8 show such other information as the secretary may require so that the taxes levied in
 9 R.S. 47:841 can be reported and computed.

10 ~~(b) A six percent discount is allowable for timely and accurately filing such~~
 11 ~~report only on those purchases made by registered tobacco dealers in Louisiana who~~
 12 ~~have a direct purchasing contract with a manufacturer. The secretary shall allow~~
 13 ~~wholesale tobacco dealers of other states serving a trade area of retail dealers in this~~
 14 ~~state who have a direct purchasing contract with a manufacturer to sell in this state~~
 15 ~~with the benefit of the discount provided, however, in no instance shall the discount~~
 16 ~~be greater than that which is received by such wholesale tobacco dealers in their state~~
 17 ~~of domicile and further provided that regardless of the discount extended by other~~
 18 ~~states, such discount shall not exceed six percent, provided said dealers meet the~~
 19 ~~requirements of a wholesale dealer as set forth in R.S. 47:842(5). The transfer or~~
 20 ~~disposal by a qualified dealer of any benefit herein conferred is prohibited except in~~
 21 ~~the case of the original recipient.~~

22 (5) Failure to file the monthly report on or before the twentieth day of the
 23 following month ~~will~~ shall subject the dealer to forfeiture of the discounts as
 24 authorized in R.S. 47:843 and 851 and all other penalties as provided in the
 25 administrative provisions in Chapter 18, Title 47, however, the collector can upon
 26 timely application extend this date in his discretion upon cause shown.

27 * * *

28 Section 2. R.S. 47:843(B) is hereby repealed in their entirety.

1 Section 3.. This Act shall become effective upon signature by the governor or, if not
2 signed by the governor, upon expiration of the time for bills to become law without signature
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
5 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 12 Original

2016 First Extraordinary Session

Cox

Abstract: Repeals the 6% discount for the accurate reporting and timely remittance of state excise taxes on tobacco products and the 6% discount for stamping cigarettes.

Present law requires cigarette tax stamps to be sold to bonded, registered La. tobacco dealers who have a direct purchasing contract with a manufacturer at a discount of 6% from the face value when purchased in quantities of not less than \$100 face value. Further requires the same discount to apply where metered stamping machines or devices are used.

Present law requires the Dept. of Revenue to allow out-of-state wholesale tobacco dealers who have a direct purchasing contract with a manufacturer and who serve a trade area of retail dealers in this state to purchase La. stamps with the benefit of a discount that shall not exceed 6% regardless of the discount extended by other states. Further provides that the amount of the discount shall not exceed the discount received by wholesale tobacco dealers in their state of domicile.

Proposed law repeals the 6% discount for both in-state and out-of-state wholesale tobacco dealers.

Present law authorizes the refunding of the cost of stamps, less the amount of the discount, to wholesale dealers for damaged goods returned to the manufacturer.

Proposed law retains present law but removes references to the discount given for stamps that were affixed to damaged goods returned to the manufacturer.

Present law requires every registered tobacco dealer receiving and handling cigars and smoking tobaccos in this state in which the tax has not been previously paid, to file a report of the total amount of cigars and smoking tobaccos received and handled during the preceding month and to pay the taxes due within 20 days after the expiration of each month. Further requires all out-of-state La. registered tobacco dealers to file a report disclosing all sales of cigars and smoking tobaccos in this state during the preceding month and to pay the taxes due.

Proposed law retains present law.

Present law authorizes a 6% discount for timely and accurately filing the report on purchases made by registered tobacco dealers in this state who have a direct purchasing contract with a manufacturer. Failure to file the report timely shall result in the forfeiture of the 6% discount.

Proposed law repeals the 6% discount for timely and accurately filing the report on purchases made by registered tobacco dealers in this state and removes references to the forfeiture of the discount for failing to timely and accurately file the report.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 47:843(C)(3), (6), and (10) and 851(B)(4) and (5); Repeals R.S. 47:843(B))