



Albemarle County

Legislation Details (With Text)

File #: 21-490 **Version:** 1 **Name:**

Type: Ordinance **Status:** Public Hearing

File created: 9/30/2021 **In control:** Board of Supervisors

On agenda: 10/20/2021 **Final action:**

Title: Ordinance to Implement a Cigarette Tax. To receive public comment on its intent to adopt an ordinance to amend County Code Chapter 15, Taxation, to add Article 15, Cigarette Tax, to implement provisions for the collection of a cigarette tax in the County to be effective on and after January 1, 2022. Article 15 would include §§ 15-1500 (Definitions), 15-1501 (Levy and rate) (the proposed tax imposed would be at a rate of \$0.02 per cigarette sold, stored, or received), 15-1502 (Methods of collection), 15-1503 (Registered agents), 15-1504 (Requirements for retail dealers), 15-1505 (Presumption of illegality; seizure of contraband goods, sealing/seizing of machines), 15-1506 (Illegal acts), 15-1507 (Jeopardy assessment), 15-1508 (Erroneous assessment: notices and hearings in event of sealing of vending machines or seizure of contraband property), 15-1509 (Disposal of seized property), 15-1510 (Extensions), 15-1511 (Penalty for violation of article), 15-1512 (Each violation a separate offense), 15-1513 (Severability), and 15-1514 (Application within towns).

Sponsors:

Indexes:

Code sections:

Attachments: 1. Att.A - Proposed Ordinance

Date	Ver.	Action By	Action	Result
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AGENDA DATE: 10/20/2021

TITLE:

Ordinance to Implement a Cigarette Tax

SUBJECT/PROPOSAL/REQUEST: Public hearing to consider the adoption of an ordinance to amend County Code 15, Taxation, to implement a cigarette tax

ITEM TYPE: Regular Action Item

STAFF CONTACT(S): Richardson, Kamptner, Bessette, Birch, Allshouse, Lin

PRESENTER (S): Lori Allshouse

LEGAL REVIEW: Yes

REVIEWED BY: Jeffrey B. Richardson

BACKGROUND: During the 2020 General Assembly session, Virginia counties received the authority to levy taxes on the sale of cigarettes, effective July 1, 2021. State legislation encourages local cigarette stamping and tax collection through regional cigarette tax boards and establishes a state-level taskforce to develop methods to modernize stamping and tax collection.

On December 2, 2020, the Board discussed this new enabling authority and directed staff to move forward with a process to support the development of a regional board to administer cigarette taxes for this region, and to consider this tax through an equity lens, provide estimated revenue projections, and schedule a public hearing in the future on an ordinance to levy the tax.

Albemarle County participated in several informational meetings with TJPDC staff and members of other local jurisdictions about establishing a regional entity to administer this tax.

On March 22, 2021, staff provided an update on the cigarette tax equity impact assessment and provided information regarding TJPDC's discussions with area localities about the potential development of a regional cigarette tax board.

On May 5, 2021, the Board adopted a Resolution of Interest in participating in a regional cigarette tax board because its establishment would promote the uniform administration of local cigarette taxes throughout the region, and on September 1, 2021, the Board held a public hearing and adopted an ordinance to approve the formation of the Blue Ridge Cigarette Tax Board (BRCTB), as well as an agreement establishing the BRCTB and defining its powers, duties, and other procedures.

Since that date, additional counties also have approved formation of the BRCTB. These include Augusta, Fluvanna, Greene, Nelson, and Orange counties. The City of Charlottesville and Madison County are also considering participation. The regional board is modeled on the Northern Virginia Cigarette Tax Board, which serves 19 localities.

On September 15, 2021, the Board authorized scheduling a public hearing to consider the adoption of the proposed ordinance (Attachment A) to implement a Cigarette Tax.

TJPDC has been meeting with the County and the other participating localities to discuss the role of the BRCTB, timeline, shared costs, and activities required to stand up the BRCTB by January 1, 2022. For the first year of operation, the BRCTB's administrative expenses is anticipated to include start-up and one-time expenses currently estimated at \$217,500. These expenses would include stamp development, technology equipment, start-up staffing costs, the purchase of a vehicle for compliance/enforcement activities, tracking software, and the establishment of a \$140,000 reserve.

STRATEGIC PLAN: Mission - To enhance the well-being and quality of life for all community members through the provision of the of the highest level of public service consistent with the prudent use of public funds.

DISCUSSION: The proposed Ordinance in Attachment A outlines a tax imposed upon the sale or use of cigarettes within the County, as well as the rate and collection method.

The tax would be imposed at a rate of two cents per cigarette, or 40 cents per 20-cigarette pack, which is the maximum rate counties can levy pursuant to Virginia Code § 58.1-3830. The term "sale" means the transfer of cigarettes from a dealer to another person, and includes the use of vending machines. Virginia Code § 58.1-1000 defines the term "use" as the exercise of any right or power over cigarettes incident to the ownership thereof or by any transaction where possession is given, except that it does not include the sale of cigarettes in the regular course of business. The tax would be reported to the BRCTB by the 10th of the following month.

Staff recommends that the implementation of the Cigarette Tax be effective beginning January 1, 2022, to be consistent with the tax year cycles for local taxes, to provide adequate time for the BRCTB to become operational, and to provide adequate time for communication to wholesalers, retailers and the communities encompassed by the BRCTB.

BUDGET IMPACT: The FY 22 Adopted Budget includes an initial revenue assumption of \$516,000 based on

the collection of the cigarette tax beginning on January 1, 2022. Albemarle County's portion of the BRCTB's administrative costs will be dependent on the number of localities that join the BRCTB and cigarette sales within the County. The current estimated administrative costs for the County for the period of January 1, 2022 to June 30, 2022 is \$93,000, which includes an estimated \$69,000 in one-time/start-up costs and \$24,000 in on-going administrative costs.

RECOMMENDATION:

Staff recommends that the Board adopt the attached proposed Ordinance. (Attachment A).

ATTACHMENTS:

A - Proposed Ordinance