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## THE TOBACCO TAX ACT, 1998

### GENERAL INFORMATION

This bulletin outlines the Tobacco Tax rates, reporting requirements, refunds and marking requirements under *The Tobacco Tax Act, 1998*. It is a general guide and not a substitute for the legislation.

*Changes to this bulletin are indicated by a (I) in the left margin.*

The contents of this bulletin are presented under the following sections:

- A. Tobacco Tax Rates
- B. Licensing and Reporting Requirements
- C. Marking Program
- D. Tax Refunds and Credits

#### **A. TOBACCO TAX RATES (Effective March 23, 2017)**

<u>Product</u>	<u>Tax Rate</u>
Cigarettes and Tobacco Sticks	27.0¢ per cigarette (or tobacco stick)
Cigars	100% of taxable value, with a minimum tax of 35.0¢ per cigar and a maximum tax of \$5.00 per cigar
Smokeless Tobacco	27.0¢ per gram
Other Tobacco (Including Raw Leaf)	27.0¢ per gram

The taxable value of a cigar is calculated by one of the methods outlined below:

- If the cigar was manufactured in Canada, the taxable value is the manufacturer's selling price, before any volume discount, multiplied by 1.3. The manufacturer's selling price includes any charges for delivery or transportation and any duty and excise tax imposed under the laws of Canada, but not the Goods and Services Tax (GST).
- If the cigar was manufactured outside Canada, the taxable value is the importer's selling price, before any volume discount, multiplied by 1.3. The importer's selling price includes any charges for delivery or transportation and any duty and excise tax imposed under the laws of Canada, but not the GST.
- If the importer sells to a party who is not dealing at arm's length with the importer and subsequently sells the cigar, the importer's selling price is the greater of the price charged by the importer or the price charged to the third party.
- If the manufacturer or importer of a cigar is also the retailer of the cigar, the taxable value is the price paid by the consumer, including any charges for delivery or transportation but excluding the Saskatchewan Tobacco Tax and GST.

"Cigar" means a tobacco product that is sold as a cigar, cigarillo, mini-cigar or cheroot and is in the form of a roll or tube intended for smoking that consists of:

- i. a filler composed of natural tobacco, reconstituted tobacco or natural and reconstituted tobacco;
- ii. a wrapper, or binder and wrapper, composed of natural tobacco, reconstituted tobacco or natural and reconstituted tobacco in which the filler is wrapped; and,
- iii. may include a mouthpiece (tip) or filter.

For the purposes of the definition of cigar "reconstituted tobacco" is a product that is comprised of 50 per cent or more tobacco.

"Cigarette" includes any roll or tubular construction of tobacco intended for smoking other than a cigar or a tobacco stick, and where any cigarette exceeds 102 mm in length, each 76 mm or less of the cigarette shall be considered to be a separate cigarette.

"Fine Cut Tobacco" means loose tobacco that has been refined up to the point where it is ready to be formed into a cigarette or tobacco stick.

"Smokeless Tobacco Products" means tobacco products that are not smoked but used in another form, and includes chewing tobacco or snuff.

"Tobacco Stick" means any roll of tubular construction of tobacco intended for smoking, other than a cigar, that requires further preparation to be consumed, and where any tobacco stick exceeds 90 mm in length or 800 mg in weight, each 60 mm or less, respectively, of the tobacco stick shall be considered to be a separate tobacco stick.

## **B. LICENSING AND REPORTING REQUIREMENTS**

### **Licensing Requirements**

Wholesalers selling tobacco products to other retailers, and retailers importing tobacco products directly from manufacturers or from other unlicensed non-resident suppliers, are required to be licensed to report tobacco tax.

To become licensed you must complete an application form, provide security in the form of a bond or letter of credit, and agree to other reporting and filing requirements, including the reporting and remitting of tax on all tobacco purchases by the 20<sup>th</sup> of the month following the purchase.

### **Reporting Requirements**

Manufacturers must report to the Ministry of Finance by the 10<sup>th</sup> of the month their invoices to wholesalers from the previous month for tobacco product marked for sale in Saskatchewan.

Finance provides tax memos to wholesalers based on the information provided by manufacturers and the tax is reported on their tobacco tax return.

Inventory required to be reported on the Tobacco Tax Return must be reconciled on a monthly basis. (See the Tobacco Tax Return Instructions for additional information.)

### **Individuals and Unlicensed Retailers**

An individual may import, for personal consumption, up to 200 cigarettes, 200 tobacco sticks, 200 grams of loose tobacco and 50 cigars from another province or country, over a 48 hour period, without paying the tax and having the cigarettes and loose tobacco packages marked. Where the product is being imported from the United States, customs officers will collect the appropriate Tobacco Tax. Since these products will not be marked at the border, an individual may be asked to produce his or her receipt issued by the Canada Revenue Agency as verification that the tax was paid.

No exemption is provided for tobacco that is mailed or shipped from outside Saskatchewan. In fact, it is in contravention of the federal *Tobacco Act* to mail tobacco products between provinces. In addition, the Provincial Sales Tax must be paid on the tobacco products, based on the price including the Saskatchewan Tobacco Tax but excluding the GST.

The details of tobacco imports, in excess of the personal exemption, must be reported to Finance on or before entry into Saskatchewan. The details to be reported include the name and address of your supplier, the name and address of your transporting company, the date of the purchase and importation, and the quantity of tobacco products that you acquired. Also, copies of the purchase invoices must be submitted along with your cheque made payable to the "Minister of Finance" for your tax remittance. This information must be submitted before or immediately after you import the tobacco.

Tobacco products that are not properly marked may be seized and forfeited.

The general penalty for committing an offence under *The Tobacco Tax Act, 1998* is, in the case of an individual, a fine of up to \$10,000, two years imprisonment, or both. A corporation is subject to a fine of up to \$50,000 and any corporate officers or directors who participated in an offence by the corporation are also liable to be prosecuted. In addition, the convicting judge is required to impose an additional fine equal to two times the amount of any tax evaded.

### **C. MARKING PROGRAM**

All packages, cartons and cases of cigarettes and tins of fine cut tobacco that are imported or sold in Saskatchewan must be properly marked for sale in the province. However, packages of pipe tobacco, snuff, chewing tobacco, cigars and raw leaf tobacco are not being marked for tax purposes at this time.

Effective October 1, 2012, amendments were made to phase in a modified federal excise stamp for packages of cigarettes and fine cut tobacco sold in Saskatchewan. The new stamp is green in colour and marked with the letters SK.

*The Tobacco Tax Act, 1998* includes a provision which prohibits persons from purchasing, possessing, storing or selling tobacco products in Saskatchewan that are marked for sale in another jurisdiction. This provision does not apply to the personal exemption limit for tobacco imports or where the Saskatchewan tax has been accounted for prior to bringing the tobacco into the province and arrangements have been made with Finance to obtain the proper markings.

Finance works closely with Canada Revenue Agency, Health Canada, tax administrators in other provinces, the RCMP and other enforcement agencies to detect and curb tobacco smuggling. The tobacco marking program is an important enforcement measure in this regard. The legislation provides a fine of up to \$1,000,000 for counterfeiting markings on tobacco packages.

### **D. TAX REFUNDS AND CREDITS**

#### **Tobacco Stolen from a Wholesale or Retail Outlet**

In order to receive a credit/refund of tax on tobacco that is stolen from a wholesale or retail outlet, the claimant must submit the following documents to Finance:

1. copies of the actual invoices relating to the stolen tobacco;
2. a police file number (in the absence of a police file number, an affidavit including a report on the details and quantities of tobacco stolen may suffice); and,
3. a copy of the insurer's report or letter that establishes that the insurer has accepted liability for the stolen product.

In the case of a wholesaler, the amount of the claim that is approved by Finance may be deducted from the next monthly tax remittance.

In the case of a retail dealer, Finance will reimburse the retailer directly for the approved amount of their claim.

**Tobacco Products Destroyed by Flood or Fire**

The procedures and requirements for a wholesale or retail outlet to follow in claiming reimbursement for the tax on tobacco products that are destroyed by flood or fire are the same as when tobacco is stolen, except an affidavit with the details surrounding the loss is required instead of a police report.

**Damaged and Stale-dated Tobacco Products**

To receive credit for the tax on damaged or stale-dated tobacco products, the tobacco must be returned to the manufacturer; or if it is to be destroyed, Finance must be notified in advance.

Where the product is returned to the manufacturer, the manufacturer must make the appropriate deduction on their monthly report to Finance.

**FOR FURTHER INFORMATION**

Write: Ministry of Finance  
Revenue Division  
PO Box 200  
REGINA SK S4P 2Z6

Telephone: Toll Free 1-800-667-6102  
Regina 306-787-6645

Email: sask.tax.info@gov.sk.ca

In-Person: Ministry of Finance  
Revenue Division  
2350 Albert St  
REGINA SK S4P 4A6

Fax: 306-787-9644

Internet: Bulletins, forms and information are available on the Internet at:  
<http://www.finance.gov.sk.ca/taxes>

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