



# Excise Duty Notice

Under the *Excise Act* and the *Excise Act, 2001*

EDN20

March 2008

## Budget 2008 – Excise Duty on Imitation Spirits

The information in this notice is provided for your reference and convenience and does not replace the law found in the *Excise Act, 2001*, the *Excise Act* or their regulations. It also reflects proposed measures included in Bill C-50, the *Budget Implementation Act, 2008*, which received first reading in the House of Commons on March 14, 2008. Any references to these amendments should not be taken as a statement by the Canada Revenue Agency (CRA) that they will be enacted in their current form.

As the information in this publication may not completely address your particular operation, you may wish to refer to the proposed measures, the relevant act or regulations, or contact your regional excise duty office for additional information.

The federal budget tabled by the Minister of Finance on February 26, 2008 proposed a measure relating to the excise duty on imitation spirits. This proposed measure is included in Bill C-50, the *Budget Implementation Act, 2008*, which received first reading in the House of Commons on March 14, 2008. This measure would place a limit of 11.9% as the maximum allowable alcohol concentration at which the excise duty rates on beer or malt liquor would continue to apply on imitation spirit products.

Effective February 27, 2008, the definition of “beer” or “malt liquor” in section 4 of the *Excise Act* is replaced with the following:

“Beer” or “malt liquor” means all fermented liquor that is brewed in whole or in part from malt, grain or any saccharine matter without any process of distillation and that has an alcoholic strength not in excess of 11.9% absolute ethyl alcohol by volume, but does not include wine as defined in section 2 of the *Excise Act, 2001*;

### Transitional issues

Bill C-50 also states that, effective February 27, 2008, a person who is currently licensed as a brewer under the *Excise Act* and who produces fermented liquor in whole or in part of malt, grain or any saccharin matter without any process of distillation, to an alcohol strength in excess of 11.9%, will have their brewery licence deemed to be a valid spirits licence until the day that is 30 days after the day on which the proposed amendment receives Royal Assent. After that day such a person must have a spirits licence under the *Excise Act, 2001*, in order to continue producing such “high alcohol” beer or malt liquor.

Additional information on the requirement for a spirits licence can be found in Excise Duty Memorandum EDM3.1.1, *Producers and Packagers of Spirits*. Information on how to obtain a spirits licence can be found in Excise Duty Memorandum EDM2.2.1, *Obtaining and Renewing a Licence*.

### Domestic production

High alcohol beer or malt liquor that was produced on or before February 26, 2008, and still in bulk form is subject to excise duty as beer at the time of packaging, at the rate applicable to beer and malt liquor products, even if the packaging takes place on or after February 27, 2008.

High alcohol beer or malt liquor that was in process but had not yet reached the finished bulk product stage prior to February 27, 2008 is now regarded as spirits under the proposed legislation.

La version française de la présente publication est intitulée *Budget de 2008 – Droit d'accise sur les spiritueux d'imitation*.



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A person who is currently licensed as a brewer under the *Excise Act* must, beginning February 27, 2008, account for any new finished production of high alcohol beer or malt liquor as spirits under the *Excise Act, 2001*. Such a person is now required to file a separate return and report this production on or after February 27, 2008, on form B266, *Excise Duty Return – Spirits Licensee*. The current rate of excise duty for spirits containing more than 7% absolute ethyl alcohol by volume is \$11.696 per litre of absolute ethyl alcohol. Detailed instructions on how to complete form B266 are provided in Excise Duty Memorandum 10.1.7, *Completing an Excise Duty Return – Spirits Licensee*.

### **Importations**

To coincide with these proposed changes, the definition of “spirits” under section 21 of the *Customs Tariff* is also proposed to be amended, effective February 27, 2008, by adding the following paragraph:

(a.1) of an alcoholic strength by volume exceeding 11.9%, of heading No. 22.03, that are classified under that heading or with the container in which they are imported; or

Therefore, all importations of fermented liquor on or after that date that was previously classified as “beer” or “malt liquor”, but whose alcohol content by volume exceeds 11.9%, will be treated as importations of spirits for the purposes of determining the rate of additional duty equal to excise duty under section 21.1 and subsection 21.2(1) of the *Customs Tariff*.

Questions relating to the rules that apply at the time of importation of goods should be directed to the Canada Border Services Agency (CBSA) at [www.cbsa-asfc.gc.ca/import/menu-eng.html](http://www.cbsa-asfc.gc.ca/import/menu-eng.html).

### **Warehousing rules**

Importations on or after February 27, 2008, of packaged high alcohol beer or malt liquor may be entered into an excise warehouse as packaged spirits. Under limited circumstances, such as for use as ships’ stores, for sale in duty free shops, or for sale to accredited representatives, high alcohol beer or malt liquor products may still be entered into a customs bonded warehouse. This treatment is consistent with the possession rules that apply to other imported packaged spirits and packaged wine.

Any domestically produced high alcohol beer or malt liquor that is produced on or after February 27, 2008, must be treated as spirits at the time of packaging. The packaged spirits must then be excise duty paid at that time or else be entered immediately into an excise warehouse on an excise duty-deferred basis.

### **Interest**

Bill C-50 also provides that for the purposes of the *Excise Act, 2001* and the *Customs Act*, the payment of, or liability to pay, interest in respect of products defined to be spirits shall be determined, and the interest computed on the duty, as though the proposed measures in Bill C-50 had come into force on February 27, 2008.

For more information on this subject, contact your nearest regional excise duty office. A list of regional excise duty offices is available in Excise Duty Memorandum 1.1.2, *Regional Excise Duty Offices* on CRA Web site at [www.cra-arc.gc.ca/menu/EXMS-e.html](http://www.cra-arc.gc.ca/menu/EXMS-e.html).

All technical publications related to the <i>Excise Act</i> and <i>Excise Act, 2001</i> and regulations are available on the CRA Web site at <a href="http://www.cra.gc.ca/exciseduty">www.cra.gc.ca/exciseduty</a> .
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