



## What to Expect from a Tobacco Inspection

This bulletin was revised June 2008 to incorporate formatting changes and changes in ministry name and contact information only.

- This bulletin will be of interest to tobacco retail dealers.
- This bulletin provides information about the Ministry of Revenue Tobacco Retailer Inspection Program.
- “Tobacco” means tobacco in any form in which it is used or consumed.
- A listing of common tobacco products subject to tobacco tax includes, but is not limited to: cigarettes, cigars, cigarillos, pipe tobacco, fine cut tobacco, chewing tobacco, snuff, water pipe tobacco, blunt wraps and snus.
- This bulletin provides general information. It is not exhaustive and should not be considered as a substitute for the *Tobacco Tax Act* and its regulations.

### Background

<b>Authority for Tobacco Inspection and Audit</b>	Ministry of Revenue tobacco tax inspectors and tax auditors are authorized under the <i>Tobacco Tax Act (Act)</i> to conduct tobacco inspections at locations throughout Ontario, including tobacco retail locations. Inspectors and auditors are also responsible for assisting retail dealers and others in understanding their obligations under the Act.
<b>Tobacco Inspection Process – Retail Locations)</b>	<p>Unannounced inspections will be conducted by uniformed inspectors who may be accompanied by a tax auditor. Upon entering the business location, they will identify themselves by providing ministry-issued identification.</p> <p>Inspectors and auditors will thoroughly inspect the retail location to determine the full tobacco inventory, and will audit and examine books and records.</p> <p>The inspection may take a few hours to complete. Inspectors and auditors will make every effort to not interrupt the retail business. Retail staff will have the opportunity to contact retail owners during the inspection.</p>

### Preparing for a Tobacco Inspection

The Act requires proof of payment of applicable tobacco tax on tobacco held in inventory. The ministry recommends that documents to prove tobacco tax payment on all inventories be kept at the business or retail location.

Documentation may include receipts, invoices and shipping documents for tobacco purchased from the supplier. When original copies of documentation are not kept at the business location, inspectors and auditors may accept photocopies for examination.

## Legal Cigarettes

Every package of cigarettes intended for sale to a consumer in Ontario must be marked with Ontario's yellow tear strip. See example below. The term "ON" must also be printed on the outside of the package. All tobacco must be purchased from a wholesaler registered under the Act.

### EXAMPLE OF ONTARIO'S YELLOW TEAR STRIP

CANADA DUTY PAID – DROIT ACQUITTÉ – ONTARIO – CANADA DUTY PAID – DROIT ACQUITTÉ – ONTARIO

## Possible Tobacco Inspection Findings and Results

Cigarettes	<p>If illegal cigarettes are found during an inspection, the inspector will immediately seize and remove the cigarettes. The inspector will issue a Preliminary Advice of Assessment stating the proposed penalty. A formal Notice of Assessment will follow.</p> <p>Some examples of illegal cigarettes are cigarettes sold in clear plastic bags, cigarette packages with a tear strip other than Ontario's yellow tear strip, or cigarette packages that do not have a tear strip.</p> <p>Cigarette packages with peach-coloured "CANADA - DUTY PAID - DROIT ACQUITTÉ" tear strips are also illegal, subject to certain limited exceptions.<sup>1</sup></p>
Cigars and Tobacco other than Cigarettes	<p>The inspector or tax auditor will request proof that tax was paid on cigars and tobacco other than cigarettes kept at the location being inspected. If there is no proof, a Preliminary Advice of Assessment will be issued stating the proposed penalty. The retail dealer will have 30 business days to provide the ministry with documentation showing that all taxes have been paid. A formal Notice of Assessment will be issued for all inventory on which there is no proof of tax paid.</p>
Temporary Prohibition	<p>The Act also provides for the temporary prohibition of persons from selling, offering for sale and storing tobacco at the particular location where repeated contraventions of the Act have occurred. For more details on the prohibition program, please see <a href="#">Ontario Tax Bulletin TT 3-2008 - Program to Temporarily Prohibit the Selling, Offering for Sale and Storing of Tobacco</a>.</p>

<sup>1</sup> Duty-free stores may be authorized to sell cigarettes with peach tear strips. Also, some retailers located on reserves are authorized to buy limited quantities of cigarette packages with peach tear strips that are to be sold only on the reserve to First Nation peoples who are Indians as defined under the federal *Indian Act*.

Examples of Tobacco Inspection Findings and Results

Inspection Findings	Result
<ul style="list-style-type: none"> <li>• All cigarette packages have Ontario's tear tape and "ON" printed on package</li> <li>• No prohibition order in effect at location</li> <li>• Purchased from registered wholesaler, and</li> <li>• All purchases of cigars and tobacco other than cigarettes supported by tax paid invoices.</li> </ul>	<p>No consequence</p>
<ul style="list-style-type: none"> <li>• Cigarette packages do not have Ontario's tear tape</li> </ul>	<p>Seizure and forfeiture of illegal cigarettes and penalty assessed for 3 to 8 times the tax payable</p>
<ul style="list-style-type: none"> <li>• Cigarette packages do not have "ON" printed on package</li> </ul>	<p>Seizure and forfeiture of illegal cigarettes and penalty assessed for 3 to 8 times the tax payable</p>
<ul style="list-style-type: none"> <li>• Possess, sell, keep or offer for sale cigars and tobacco other than cigarettes where the person cannot prove that tax was paid</li> </ul>	<p>Penalty assessed for 3 to 8 times the tax payable depending on quantity of cigars and tobacco other than cigarettes</p>
<ul style="list-style-type: none"> <li>• Purchased tobacco from an unregistered wholesaler</li> </ul>	<p>Penalty assessed for \$500 to \$10,000 and 3 times the tax payable if cigarettes or other tobacco 170% of the retailer's purchase price if cigars</p>
<ul style="list-style-type: none"> <li>• Any or all of the above outcomes</li> </ul>	<p>Imposition of conditions and limitations on the retail dealer</p>
<ul style="list-style-type: none"> <li>• Repeated contraventions involving any or all of the above outcomes</li> </ul>	<p>Temporary prohibition for a period of up to 180 days depending on number of contraventions</p>
<ul style="list-style-type: none"> <li>• Prohibition order in effect at location and tobacco found at the location</li> </ul>	<p>Seizure and forfeiture of entire tobacco inventory and penalty assessed ranging from \$5,000 to \$10,000 On conviction, minimum fines range from \$5,000 to \$50,000, depending on the circumstances</p>

Assessments

Payment of an Assessment

When a Notice of Assessment is issued, payment is due immediately upon receipt. Payment may be made by cheque, payable to the Minister of Finance and mailed to:

Ministry of Revenue  
33 King Street West, PO Box 620  
Oshawa ON L1H 8E9

Interest is payable on any outstanding amount and is compounded daily until the assessment is paid in full.

**Objecting to an Assessment** If a person disagrees with an assessment, a [Notice of Objection](#) may be filed with the ministry's Tax Appeals Branch. This will result in a review of the assessment by that Branch. The Tax Appeals Branch is a separate Branch within the Ministry of Revenue charged with the administrative review of assessments. Notice of Objection forms can be obtained from the internet at [ontario.ca/taxappeals](http://ontario.ca/taxappeals) or by contacting the Ministry of Revenue, Tax Appeals Branch toll-free at 1 866 ONT-TAXS (1 866 668-8297).

A [Notice of Objection](#) must be filed within 180 days from the day the Notice of Assessment was mailed.

**Retention/ Destruction of Books and Records** Records and books of accounts are required to be kept for a period of seven years following the end of the fiscal year to which the records and books relate.

## Other Tobacco Publications of Interest

- [Ontario Tax Bulletin TT 1-2008 - Summary of Tobacco Tax Rules for Retail Dealers](#)
- [Ontario Tax Bulletin TT 3-2008 - Program to Temporarily Prohibit the Selling, Offering for Sale and Storing of Tobacco](#)

## Additional Information

If this bulletin does not completely address your particular situation, refer to the Act and related regulations, or contact the:

Ministry of Revenue  
Tax Compliance Branch  
Audit and Inspection – Tobacco Tax  
33 King Street West  
Oshawa, ON L1H 8H9

Tel.: 1 866 ONT-TAXS (1 866 668-8297)  
Fax: 905 436-4511  
Teletypewriter (TTY): 1 800 263-7776

This bulletin and various other English and French tax materials published by the Ministry of Revenue may be obtained online at [ontario.ca/revenue](http://ontario.ca/revenue).

The *Tobacco Tax Act* and Ontario's other public statutes and regulations may be obtained online at [www.e-laws.gov.on.ca](http://www.e-laws.gov.on.ca).

*Ce bulletin est disponible en français.*

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