



Excise Taxes and Special Levies Memorandum

X3.2

July 2013

Liability for Tax

1. This memorandum explains the liability for the payment and collection of excise taxes as required under the *Excise Tax Act* (the Act). Information regarding the remittance of excise tax is available in Excise Taxes and Special Levies Memorandum X6.2, *Returns and Payments*.

Disclaimer:

The information in this memorandum is for reference purposes only and does not replace the law found in the Act or its regulations. Should there be any discrepancy between the information in this memorandum and that contained in the Act or its regulations, the legislative provisions apply. As the information in this publication may not completely address your particular situation, you may wish to refer to the Act or appropriate regulation, or call 1-866-330-3304 for additional information.

Excise tax imposed

1. Under section 23 of Part III¹, an excise tax is imposed, levied and collected whenever goods mentioned in Schedule I are imported into Canada, or are manufactured or produced in Canada and delivered to a purchaser. Excise Taxes and Special Levies Memorandum X3.1, *Goods Subject to Excise Taxes*, provides detailed information on which goods are subject to excise tax.
2. The excise tax applies to the goods mentioned in Schedule I unless they are sold under excise tax-exempt conditions.
3. The excise tax is in addition to any other duty or tax that may be payable under the Act, or any other act of Parliament. The excise tax applies at the specific rate set out in Schedule 1.
4. The following terms are used in this memorandum:
 - (a) as per subsection 22(1),

duty-paid value means the value of the article as it would be determined for the purpose of calculating ad valorem duty on the importation of that article into Canada under the laws relating to the customs and the Customs Tariff whether that article is in fact subject to ad valorem or other duty or not, plus the amount of the customs duties, if any, payable on such article;

a *licensed wholesaler* is any wholesaler, jobber or other dealer licensed under Part III of the Act;

sale price, for the purpose of determining the excise tax payable, means the total of the following:

- the amount charged as price before any amount payable in respect of any other tax under this Act is added thereto;
- any amount that the purchaser is liable to pay to the vendor by reason of or in respect of the sale in addition to the amount charged as price, whether payable at the same or any other time, including, without limiting the generality of the foregoing, any amount charged for, or to make provision for, advertising, financing, servicing, warranty, commission or any other matter; and

¹ Unless otherwise stated, all legislative references are to the *Excise Tax Act*.

La version française de la présente publication est intitulée *Assujettissement à la taxe*.



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- the amount of excise duties payable under the Excise Act whether the goods are sold in bond or not.

(b) as per subsection 2(1),

a *manufacturer or producer* includes:

- the assignee, trustee in bankruptcy, liquidator, executor, liquidator or a succession or curator of any manufacturer or producer and, generally, any person who continues the business of a manufacturer or producer or disposes of his assets in any fiduciary capacity, including a bank exercising any powers conferred upon it by the Bank Act and a trustee for bondholders;
- any person, firm or corporation that owns, holds, claims or uses any patent, proprietary, sales or other rights to goods being manufactured, whether by them, in their name or for or on their behalf by others, and whether or not that person, firm or corporation sells, distributes, consigns or otherwise disposes of the goods;
- any department of the government of Canada or any province, any board, commission, railway, public utility, manufactory, company or agency owner, controlled or operated by the government of Canada or any province, or under the authority of the legislature or the lieutenant governor in council of any province, that manufactures or produces taxable goods;
- any person who, by himself or through another person acting for him, prepares goods for sale by assembling, blending, mixing, cutting to size, diluting, bottling, packaging or repackaging the goods or by applying coatings or finishes to the goods, other than a person who so prepares goods for sale exclusively and directly to consumers, in a retail store;
- any person who imports into Canada new motor vehicles designed for highway use, or chassis for such vehicles;
- any person who sells, otherwise than predominantly to consumers, new motor vehicles designed for highway use, or chassis for such vehicles.

Who is liable to pay excise tax

Licensed manufacturers or producers

5. Under subsection 23(2), whenever licensed manufacturers or producers sell goods mentioned in Schedule 1 that they manufacture or produce, they are liable to pay the excise tax at the time the goods are delivered to the purchaser.

Deemed sale and delivery to purchaser

6. Subsection 23(3) states that where gasoline or diesel fuel is delivered to a retail outlet by or on behalf of the manufacturer or producer, the gasoline or diesel fuel is deemed to have been sold and delivered to a purchaser.

Deemed sale

7. According to subsection 23(3.1), persons who, under a labour contract, manufacture or produce goods mentioned in Schedule I from any article or material supplied by another person, other than a licensed manufacturer, for delivery to that other person, are deemed to have sold the goods at a sale price equal to the charge made under the contract in respect of the goods at the time they are delivered to that other person.

Appropriation by manufacturer or producer

8. Under subsection 23(10), where goods of any class mentioned in Schedule I that were manufactured or produced in Canada are appropriated by the manufacturer or producer for their own use:

- the goods are deemed to have been delivered to a purchaser at the time of the appropriation; and
- the sale price of the goods is deemed to be equal to the sale price that would have been reasonable in the circumstances if the goods had been sold at that time to a person with whom the manufacturer or producer was dealing at arm's length.

Licensed wholesalers

9. Under subsection 23(4), whenever licensed wholesalers sell goods mentioned in Schedule I, or retain them for their own use or for rental by them to others, they are liable to pay the excise tax.

10. The excise tax is payable at the time the goods are delivered to the purchaser or are retained by the licensed wholesaler for use or for rental.

Importers

11. Under subsection 23(2), where goods are imported into Canada, excise tax is paid in accordance with the provisions of the *Customs Act* by the importer, owner or any other person liable to pay duty under the *Customs Act*.

When excise tax is not payable

Licensed wholesalers

12. Under subsection 23(6), the excise tax is not payable in the case of goods mentioned in Schedule I that are purchased or imported for resale by a licensed wholesaler. Licensed wholesalers may purchase goods exempt of excise tax by quoting their "W" licence number on a certificate of exemption or on imports, by providing the excise tax status code in the appropriate field on Form B3-3, *Canada Customs Coding Form*, from the Canada Border Services Agency. These codes are found in Appendix H of Memorandum D17-1-10, *Coding of Customs Accounting Documents*, published by the Canada Border Services Agency.

Licensed manufacturers

13. As per paragraph 23(7)(a), the excise tax on goods mentioned in Schedule I is not payable on goods that are purchased or imported by persons holding a manufacturers "E" licence where the goods are to be incorporated into and form a constituent or component part of an article or product that is subject to excise tax under the Act, if the tax has not yet been levied. The "E" licence may be used by the manufacturer to purchase the goods under a certificate of exemption or import the goods under the appropriate excise tax exemption code. These goods are commonly referred to as "partly manufactured goods". This exemption also applies to items deemed to be similar goods under subsection 48(1).

Vehicle manufacturer or producer

14. Paragraph 23(7)(b) states that the excise tax on goods mentioned in Schedule I is not payable on the sale of a new motor vehicle designed for highway use, or a chassis for such a vehicle, to a person who is a licensed manufacturer who sells these goods otherwise than predominantly to consumers.

Other situations

15. The excise tax imposed under subsection 23(1) is not payable on the following goods, according to subsection 23(8):

- goods purchased or imported by a licensed wholesaler for resale exclusively at a duty free shop licensed under the *Customs Act*;
- goods enumerated in sections 12 and 13 of Part III of Schedule III, i.e., educational, technical, cultural, religious and literary goods, as follows:
 - goods for placement as exhibits in public museums, public libraries, universities, colleges or schools and not for sale; or
 - goods, other than spirits or wines, manufactured or produced more than one hundred years prior to the date of their importation or sale;
- goods enumerated in section I of Part VII of Schedule III referred to under heading No. 98.01, 98.02, 98.03, 98.04, 98.05, 98.06, 98.07, 98.10, 98.11, 98.16, 98.19 or 98.21 of Schedule I to the *Customs Tariff* other than tariff item No. 9804.30.00;
- goods imported into Canada and classified under tariff item No. 9804.30.00 of Schedule I to the *Customs Tariff* (i.e., goods valued at not more than \$300 and included in the baggage accompanying the person returning from abroad after an absence from Canada of not less than 48 hours);
- diesel fuel for use in the generation of electricity, except where the electricity so generated is used primarily in the operation of a vehicle.

Enquiries

For a ruling or interpretation or to make a technical enquiry, contact the Excise Taxes and Other Levies Unit at the following address:

Excise Duties and Taxes Division
Excise and GST/HST Rulings Directorate
Canada Revenue Agency
Place de Ville, Tower A
320 Queen Street, 20th floor
Ottawa, ON K1A 0L5

All Excise Taxes and Special Levies Memoranda are available on the CRA Web site at www.cra.gc.ca/etsl.