

Ministry of Finance

Tax Bulletin



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British Columbia's Tobacco Marking Program

Tobacco Tax Act

This bulletin provides information on the Tobacco Marking Program, including the required markings on tobacco products, black stock tobacco and unmarked tobacco. The bulletin also gives the requirements for dealers and consumers and the penalties for contravening these requirements.

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Overview

The purchase and sale of tobacco products in British Columbia is regulated through the Tobacco Marking Program. This program assists consumers, dealers and law enforcement officers to determine legitimate tobacco products from smuggled tobacco products.

Only cigarettes, loose (fine cut) tobacco and tobacco sticks are marked with British Columbia's unique mark. The mark indicates that the tobacco products have been purchased in the province through the legitimate wholesale-retail chain. Consumers will know they are purchasing legitimate tobacco products if they buy from a legitimate retailer and the tobacco bears a genuine mark. Dealers will know they are purchasing legitimate tobacco products if they purchase from a legitimate wholesaler and the tobacco bears a genuine mark.

Only certain individuals and dealers, as outlined in this bulletin, are permitted to purchase, possess, store or sell unmarked tobacco products and black stock tobacco.

Definitions

Black Stock Tobacco

Black stock tobacco consists of packages, cartons and cases of cigarettes, and loose (fine cut) tobacco that bear the federal government's black stock mark.

Dealer

A dealer is a person who sells, offers to sell or keeps tobacco products for sale in British Columbia at either the wholesale or retail level.

Director

The Director of the Consumer Taxation Programs Branch is the director under the *Tobacco Tax Act*.

Exempt Sale Retail Dealer (ESRD)

An ESRD is a retail dealer authorized by the director to make tax-exempt sales of tobacco products to eligible persons.

Marked Tobacco Products

Marked tobacco products are packages, cartons and shipping cases of cigarettes, loose (fine cut) tobacco or tobacco sticks that have British Columbia's unique mark.

Unmarked Tobacco Products

Unmarked tobacco products are packages, cartons and shipping cases of cigarettes, loose (fine cut) tobacco or tobacco sticks that do not have British Columbia's unique mark, including tobacco products bearing another jurisdiction's mark, and are not black stock tobacco.

British Columbia's Unique Mark

Products for Taxable Retail Sale in British Columbia

Cigarettes, loose (fine cut) tobacco and tobacco sticks intended for taxable sales in British Columbia are marked with British Columbia's unique mark as follows.

- Packages of cigarettes and packages of loose (fine cut) tobacco (500g or less that have a tear tape) have a green cellophane tear tape with the words CANADA DUTY PAID—DROIT ACQUITTE—BRITISH COLUMBIA—COLOMBIE BRITANNIQUE printed in black.
- Packages of loose (fine cut) tobacco of 500g or less that do not have a tear tape are marked with the federal stamp required under the *Excise Tax Act (2001)*. The background of the stamp is green and BC appears in black before DUTY PAID, and CB appears in black before DROIT ACQUITTE.
- Cigarette cartons and packages of tobacco sticks (between 100 and 300 sticks) have the English and French abbreviations for the province, BC - CB printed in black on a green background within a black rectangle. This mark appears at each end of the carton or package of tobacco sticks.
- Shipping cases of cigarettes, loose (fine cut) tobacco and tobacco sticks have the English and French abbreviations BC-CB printed in black on two sides of the case.

Markings of Imported Products for Taxable Retail Sales In British Columbia

Cigarettes, loose (fine cut) tobacco and tobacco sticks imported from outside Canada for taxable sales in British Columbia must be marked with British Columbia's unique mark.

Authorized manufacturers who import these products may apply the marks specified above to the products they import for taxable retail sales.

Packages of imported cigarettes, loose (fine cut) tobacco and tobacco sticks that are intended for taxable retail sales and are not marked as above must bear a green provincial stamp with the words:

CANADA - DUTY PAID - DROIT ACQUITTE - CIGARETTES - TABAC -
TOBACCO - BRITISH COLUMBIA - COLOMBIE-BRITANNIQUE

with a serial number printed in black. Dealers who want to sell such imported tobacco products should refer to the procedures for Imported Tobacco Products in the Requirements for Retailers section of this bulletin.

Sales in Which Marked Products May Not Be Sold

The following tax-exempt sales of packages, cartons and shipping cases of cigarettes, loose (fine cut) tobacco or tobacco sticks in British Columbia must not bear the province's unique mark:

- tax-exempt sales to a status Indian purchasing on a reserve,
- tax-exempt sales to members of the diplomatic and consular corps,
- tax-exempt sales by ships' chandlers on commercial vessels operating in out-of-province waters, or
- tax-exempt sales in duty-free shops.

Products for Tax-Exempt Sales in British Columbia - Black Stock Tobacco Program

All packages, cartons and cases of cigarettes, loose (fine cut) tobacco and tobacco sticks intended for tax-exempt sales in British Columbia are required to bear the federal government's black stock mark. This mark indicates that no provincial tobacco tax has been applied, and is as follows.

- Packages of cigarettes and tobacco sticks have a peach coloured tear tape with the words CANADA DUTY PAID—DROIT ACQUITTE printed on the tear tape.
- Loose (fine cut) tobacco in pouches or in tubs have either a transparent tear tape or a stamp with the words CANADA DUTY PAID—DROIT ACQUITTE printed on it.
- Cartons of cigarettes and tobacco sticks have a peach coloured stamp on each end with the words CANADA DUTY PAID—DROIT ACQUITTE printed in black on the stamp.
- Shipping cases of cigarettes and tobacco sticks have the words CANADA DUTY PAID—DROIT ACQUITTE printed in black on two sides of the case.

The black stock program does not apply to cigars, pipe tobacco, chewing tobacco, snuff and raw leaf tobacco. These products do not require a British Columbia mark or stamp and continue to be available for tax-exempt sales, subject to existing allocation restrictions.

Other Tobacco Products

British Columbia's marking program only applies to cigarettes, loose (fine cut) tobacco and tobacco sticks. Cigars, pipe tobacco, snuff, chewing tobacco and raw leaf tobacco intended for retail sales in British Columbia are not marked with the province's unique mark. However, the prohibition against smuggling and making illegal sales of tax-exempt products applies to all tobacco products.

Other Federal and Provincial Marks

In British Columbia, only persons authorized in writing by the director are permitted to possess tobacco with the following marks.

Tobacco for Retail Sales in Other Provinces

Other provinces with marking programs have their own unique mark for tobacco products intended for retail sales in their province. The package and carton marks are a different colour and bear that province's name. Shipping cases are also printed with the province's name. Tobacco that has another province's mark may not be used for retail sale in British Columbia.

Tobacco Sold in Duty-Free Stores

Tobacco products intended for sale in duty-free shops are marked in the following way:

- Canadian manufactured tobacco products are marked on their packages, cartons and shipping cases with the black stock mark as described in the section above, Products for Tax-Exempt Sales in British Columbia - Black Stock Tobacco Program, and
- imported tobacco products are marked on their shipping cases with the words DUTY NOT PAID—DROIT NON ACQUITTE.

Products with these markings can only be sold in duty-free shops to qualifying purchasers.

Tobacco Products Intended for Sale Outside of Canada

Packages, cartons and shipping cases of tobacco products intended for export sales outside of Canada are marked with the words NOT FOR SALE IN CANADA—VENTE INTERDITE AU CANADA. Products marked this way cannot be sold in Canada.

Requirements for Consumers

Purchases of Tobacco in British Columbia

Persons who are required to pay the tobacco tax (including non-residents visiting British Columbia) must ensure that the cigarettes, loose (fine cut) tobacco and tobacco sticks they purchase in British Columbia bear British Columbia's unique mark.

Persons required to pay the tax cannot purchase unmarked tobacco products, tobacco marked for sale outside Canada or black stock tobacco.

Purchases of Tobacco from Out-of-Province Sellers

British Columbia residents who buy tobacco products at retail from out-of-province retailers must pay the British Columbia tax as though the purchases were made in the province, regardless of whether the transaction takes place in British Columbia or at a location outside the province. This includes tobacco products delivered by courier or any other means.

Tax is due at the time the tobacco products are received in the province and must be paid directly to the government. Failure to comply will result in an assessment of the tax due. Interest charges and/or a penalty may also be imposed.

Federal law prohibits distributing tobacco products in Canada through the postal service unless the transaction is between wholesalers and retailers.

For more information, please see [Bulletin TTA 005](#), *Tobacco Tax Rates*.

Exempt Tobacco Purchases

ESRDs must use black stock tobacco for all tax-exempt sales of cigarettes, loose (fine cut) tobacco and tobacco sticks to:

- a status Indian purchasing on a reserve,
- members of the diplomatic and consular corps,
- customers purchasing from ship's chandlers on commercial vessels operating in out-of-province waters, or
- customers in duty-free shops.

1,000 Gram Limit

Only tobacco wholesalers and retailers are permitted to purchase and possess large quantities of tobacco.

Under the *Tobacco Tax Act*, a person who holds more than 1,000 grams of tobacco (equivalent to five cartons of cigarettes) is, in the absence of evidence to the contrary, considered to be holding the tobacco for sale.

Persons are limited to possessing no more than 1,000 grams of tobacco products that do not bear the province's unique mark at any one time.

Requirements for Wholesalers

Dealers Permit

A person must hold a valid *Wholesale Dealer's Permit* issued by the ministry in order to sell or offer to sell tobacco products at wholesale in British Columbia.

Purchases and Sales of Tobacco Products

Wholesalers may only purchase, possess, store and sell marked tobacco products, unless the wholesaler is authorized in writing by the director to purchase, possess, store and sell black stock tobacco or unmarked tobacco products.

Wholesalers must apply in writing to the director for authorization to deal in black stock tobacco or unmarked tobacco products. Wholesalers may only store such tobacco products at locations authorized by the director.

Wholesalers who may be authorized to deal in black stock tobacco include those who supply ESRDs. Wholesalers who may be authorized to deal in unmarked tobacco include those who supply out-of-province retailers.

Wholesalers must remember the following when dealing with black stock tobacco or ESRDs.

- Black stock tobacco can only be sold to ESRDs.
- Wholesalers cannot sell more black stock tobacco to ESRDs than the ESRDs' monthly allocation as designated by the province.
- Marked tobacco products may only be sold to ESRDs who hold a valid *Tobacco Retail Authorization* (TRA) certificate under the *Tobacco Tax Act*.
- Wholesalers must keep the black stock tobacco inventory separate from the marked tobacco product inventory.
- Security is not required on black stock tobacco purchased from manufacturers.

- Security is not collected on sales of black stock tobacco to ESRDs.
- Security must be collected on all sales of marked tobacco products.

Wholesalers must complete and remit the tobacco tax *Collector's Return* ([FIN 125](#)) and the supporting Schedules D and E to report purchases and sales of black stock tobacco.

Tobacco Products Provided by Wholesalers at No Charge

A wholesaler who supplies cigarettes, loose (fine cut) tobacco or tobacco sticks for no charge or for no consideration must only supply marked tobacco products. This applies even if the person receiving the tobacco is eligible to purchase and possess unmarked tobacco products or black stock tobacco.

Security is due by wholesalers on these tobacco products and must be remitted with the *Collector's Return* ([FIN 125](#)).

Records and Reporting

Wholesalers must keep records of their purchases and sales of all tobacco products, including marked tobacco, black stock and unmarked tobacco, and submit these records with their regular tobacco tax return.

For more information, please see [Bulletin TTA 004](#), *Wholesale Dealers, Security Payments, Exemptions and Refunds*.

Requirements for Retailers

Persons who sell or offer to sell tobacco products in British Columbia, including those who operate cigarette vending machines, must hold and prominently display a valid *Tobacco Retail Authorization* (TRA) certificate with a unique permit number assigned to each retail location.

For more information on tobacco retail authorization requirements, please see [Bulletin TTA 003](#), *Tobacco Retailers*.

Purchases and Sales of Tobacco Products

Retailers selling cigarettes, loose (fine cut) tobacco and tobacco sticks in British Columbia may only purchase, possess, store and sell marked tobacco products, unless the retailer is authorized in writing by the director to deal in unmarked tobacco products or black stock tobacco.

Retailers, including ESRDs, may not sell unmarked tobacco products or black stock tobacco to purchasers required to pay tax.

Retailers must not purchase tobacco from a person who is not a registered wholesaler unless authorized by the director. If you are unsure if a person is registered, please contact the ministry.

A person selling tobacco products to a retailer at a price that is substantially lower than the fair market wholesale price is likely an unregistered dealer selling black market, counterfeit or stolen tobacco products. Any person found in possession of these types of tobacco products will have the tobacco products seized and will be subject to the penalties outlined at the end of this bulletin.

Imported Tobacco Products

Retailers who directly import unmarked tobacco products into Canada, or acquire unmarked tobacco products from another importer who has imported the tobacco into Canada, must place a stamp on each package that is to be sold in a taxable sale.

Retailers must apply in writing to the director for authorization to stamp imported tobacco products and to obtain a supply of stamps. Please see the section above, Markings of Imported Products for Taxable Retail Sales in British Columbia.

A retailer may only stamp tobacco products at locations authorized by the director, usually at a federal customs facility, and must account for all stamps received. Unused stamps and stamps affixed to unsold packages must be returned if the dealer's permit is suspended or cancelled, or if they cease to sell imported tobacco products.

The director may cancel or suspend a dealer's authorization to stamp imported tobacco products if the dealer contravenes the Act or regulations.

Retailers importing tobacco from outside the province for resale in British Columbia must collect the tax from their customers and remit the tax to the ministry.

Tobacco Products Provided by Retailers at No Charge

A retailer who supplies cigarettes, loose (fine cut) tobacco or tobacco sticks for no charge or for no consideration must only supply marked tobacco products. This applies even if the person receiving the tobacco is eligible to purchase and possess unmarked tobacco products or black stock tobacco.

Requirements for Exempt Sale Retail Dealers (ESRDs)

Only persons authorized by the director may sell tax-exempt tobacco at retail in British Columbia. Authorized dealers must hold a valid ESRD permit and may only sell tax-exempt products in a retail sale to eligible purchasers. Retailers who may be issued an ESRD permit include retailers who make the following sales:

- tax-exempt sales to a status Indian purchasing on a reserve (refer to [Bulletin TTA 001](#), *Exempt Sales Made by Retail Dealers [ESRDs]*),
- tax-exempt sales to members of the diplomatic and consular corps,
- tax-exempt sales by ship's chandlers on commercial vessels operating in out-of-province waters, or
- tax-exempt sales in duty-free shops.

For more information, please see the section above, Products for Tax-Exempt Sales in British Columbia - Black Stock Tobacco Program.

Prohibited Possession

Unlawful possession of tobacco, or possession of tobacco for an unlawful purpose, is subject to court-imposed fines and penalties. Unlawful possession includes the following:

- possession of tobacco for the purpose of making a sale by a person without a valid dealer's permit,
- possession of over 1,000 grams of unmarked tobacco products by a person who is not a registered tobacco dealer,
- transporting more than 10,000 grams of tobacco (approximately 50 cartons of cigarettes) in British Columbia, unless that person is a dealer or a common carrier under contract to a dealer,
- dealers who possess unmarked tobacco products or black stock tobacco without written authorization to deal in these products,
- dealers who store unmarked tobacco products or black stock tobacco at a location not authorized by the director,
- dealers who possess unmarked tobacco products or black stock tobacco to sell to consumers who are required to pay the tax,
- dealers who possesses unmarked tobacco products or black stock tobacco to sell to dealers who are not authorized to deal in these products,
- an ESRD who possesses tobacco for the purpose of selling it to another dealer for resale, and
- an ESRD who sells tax-exempt tobacco to a person who does not qualify for a tax exemption.

Search and Seizure

Search

It is an offence to refuse to stop a vehicle, vessel or aircraft when requested to do so by a peace officer, or to refuse entry or obstruct a peace officer making a search.

Police and other peace officers have the authority to enter and search a place or premise (other than a residence), vehicle, vessel or aircraft without a search warrant when there are reasonable grounds to believe that tobacco is unlawfully possessed or possessed for an unlawful purpose. A search warrant may be issued in order to enter and search a residence.

The owner or occupant of the premises, or the person in charge of the vehicle, vessel or aircraft, is required to give the peace officer all reasonable assistance with the stoppage, entry or search, and is required to provide all information related to the stoppage, entry or search that the peace officer reasonably requires.

Seizure

A peace officer conducting a search is authorized to seize tobacco that is unlawfully possessed, as well as the tobacco packages and other records, documents or articles that will provide evidence of an offence against the Act or regulations. Seized tobacco is forfeited to the province upon conviction for unlawful possession.

Contravening the *Tobacco Tax Act*

Retailers and wholesale dealers who contravene the requirements of the *Tobacco Tax Act* may be subject to suspension and cancellation of their authorization to sell tobacco products, and to the penalties that follow below.

Consumers who contravene the requirements of the *Tobacco Tax Act* may also be subject to the penalties that follow below.

Penalties

Wilfully Evading Tax

A person who wilfully evades payment of tax may be assessed for the tax due plus interest, as well as an additional penalty equal to 25% of the tax, plus interest. Upon conviction, persons who fail to pay tax as required are also subject to court-imposed penalties.

Wilfully Failing to Remit Tax Collected

A person who wilfully fails to remit tax collected may be assessed for the tax due plus interest, as well as an additional penalty equal to 100% of the tax, plus interest. Persons who fail to remit tax collected are also subject to court-imposed penalties upon conviction.

Court Imposed Penalties

Penalties for contravening the requirements of the Tobacco Marking Program are as follows.

- **For a first conviction**, a fine of \$500 to \$1,000 or imprisonment for one to three months, or both.
- **For a subsequent conviction**, a fine of \$500 to \$2,000 or imprisonment for three to six months, or both.

Penalties for unlawful possession of tobacco or possession for an unlawful purpose are as follows.

- **For a first conviction, if 10,000 grams or less**, forfeiture of the tobacco and a fine equal to three times the tax that would have been due on the retail sale of the tobacco.
- **For a first conviction, if more than 10,000 grams**, forfeiture of the tobacco, a fine equal to three times the tax that would have been due on the retail sale of the tobacco, and an additional fine of \$2,500 to \$25,000 or imprisonment for up to two years, or both.
- **Subsequent conviction for the same offence**, forfeiture of the tobacco, a fine equal to three times the tax that would have been due on the retail sale of the tobacco, and an additional fine of \$10,000 to \$50,000 or imprisonment for up to two years, or both.

Penalties for selling without a permit, for failure to remit the tax collected or for evading compliance with the Act are:

- a fine up to \$25,000 or imprisonment for up to two years, or both, and
- an additional fine equal to the amount of any tax not collected, remitted or paid, including interest and penalties.

Need more info?

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The information in this bulletin is for your convenience and guidance and is not a replacement for the legislation. The *Tobacco Tax Act* and Regulations are on our website at www.sbr.gov.bc.ca/business/Consumer_Taxes/Tobacco_Tax/bulletins-leg-notices.htm

References: *Tobacco Tax Act*, Sections 1, 2, 5, 7, 35, 39, 40(3) and 47-58, and Regulations 1, 2, 3, 6, 6.3, 9, 12, 16, 23-32 and 35