


An Overview of the *Tobacco Tax Act*



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ISBN 978-2-550-53605-5 (Print version)
ISBN 978-2-550-53606-2 (PDF)

Legal deposit – Bibliothèque et Archives nationales
du Québec, 2008

Legal deposit – Library and Archives Canada, 2008



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Introduction

This brochure presents the main rules in the *Tobacco Tax Act*, applicable to wholesale and retail vendors of tobacco, as well as to storers, importers and carriers of tobacco. In particular, it explains the rules pertaining to registration certificates, permits, and the collection and remittance of the tobacco tax.





Glossary

Carrier

A person who, in Québec, carries out the transport or delivery of raw tobacco or tobacco intended for sale and contained in packages that are not identified in accordance with the *Tobacco Tax Act*.

Collection officer

A person, other than a retail vendor, who sells or delivers tobacco (or causes tobacco to be delivered) in Québec. If some or all of the person's commercial activities consist in selling tobacco products wholesale in Québec, the person is considered a collection officer.

Establishment

A place in Québec where tobacco or raw tobacco is manufactured, stored, distributed, sold or traded, as well as a place in Québec where tobacco is packaged.

Importer

A person who brings tobacco or raw tobacco (or causes it to be brought) into Québec for sale or delivery.

Manufacturer

A person who, in Québec, manufactures, produces, mixes, prepares or packages tobacco intended for sale.

Raw tobacco

Tobacco leaves, and fragments thereof, which have not been processed beyond the drying stage.

Retail vendor (retailer)

A person who, in Québec, sells tobacco products to persons for their own consumption or consumption by others. A person who sells tobacco products to persons acquiring them for resale purposes is not considered a retail vendor; nor is a person who sells leaf tobacco or raw tobacco for use in the composition of tobacco products intended for sale.

Storer

A person who, in Québec, warehouses, stores, holds, keeps or preserves raw tobacco or tobacco contained in a package not identified in accordance with the *Tobacco Tax Act*. A carrier is not considered a storer.

Taxable price of a cigar

Sale price paid for the cigar by the retailer, increased by 20%.

Wholesale vendor (wholesaler)

A person who, in Québec, sells tobacco to persons acquiring it for resale purposes.

Registration certificate

Every person who makes retail sales of tobacco products in Québec must hold a registration certificate ("certificat d'inscription"), which is obtained by registering for the Québec sales tax (QST).* In some cases, the person must also hold one or more permits. See "Permits" on page 10.

Application for registration

To obtain a registration certificate, you must file form LM-1-V, *Application for Registration*, and enclose a list of the addresses of all the establishments you wish to operate (or have operated by a third party). You are required to notify Revenu Québec of any change that renders the information in your application inaccurate or incomplete.

* Under the GST system, vendors who are small suppliers need not register for the goods and services tax.

If you are already registered for the QST for other activities, you must so inform Revenu Québec by registered or certified mail before making retail sales of tobacco in Québec. You must also submit a list of the addresses of all the establishments you wish to operate (or have operated by a third party).

Posting

You must post your registration certificate inside your principal place of business, in plain view. In addition, if you have other establishments, a copy of the certificate must be displayed in each of them.

If you do not fulfill the obligations set forth in the *Tobacco Tax Act* or the *Act respecting the Ministère du Revenu*, the registration certificate under which you make retail sales of tobacco may be suspended or revoked, as applicable. If your certificate is suspended, Revenu Québec will serve you with a notice of suspension, to be posted inside your principal place of business. In addition, if you have other establishments, a copy of the notice must be displayed in each of them.

In no case may registration certificates be transferred to another person.



Permits

If you are a collection officer, a manufacturer, an importer, a storer or a carrier, you must hold a permit for each activity carried out in Québec.

Permit application

To obtain the permit(s) you need to carry out certain commercial activities, you must file form TA-6.1-V, *Permit Application*. You must also meet all the requirements set by Revenu Québec while processing your application and provide any additional information requested. Among other things, you must attach to the form a list of the addresses of all the establishments you wish to operate (or have operated by a third party). Furthermore, if you are applying for a storer's, importer's or carrier's permit, you must indicate the establishments to be operated in regard to raw tobacco.

If you acquire an establishment, you must notify Revenu Québec, providing your name and address, the address of the establishment, and the name and address of the person from whom you acquired the establishment.

If you dispose of an establishment, you must also advise Revenu Québec, providing your name and address, the address of the establishment, and the name and address of the person who acquired the establishment. It is important to state your full name and registration number in all correspondence with Revenu Québec.

If you do not have a residence or place of business in Québec and wish to apply for a permit, you must designate a person residing in Québec as your agent. A document attesting to the designation and indicating the agent's address must be enclosed with the permit application.

Posting

You must post your permit(s) inside your principal place of business. In addition, if you operate other establishments (or have other establishments operated by a third party) under the permit(s), a copy of the permit(s) must be displayed in each of these establishments.

If you hold a carrier's permit, you are required to keep a copy of the permit in each vehicle used to transport the tobacco covered by the permit. In addition, if you do not have any establishments in Québec, you must keep a copy of each of your permits in each vehicle.

Period of validity

A permit is valid for two years, and is renewed automatically at the end of the two-year period unless you have not fulfilled the obligations set forth in the *Tobacco Tax Act* and the *Act respecting the Ministère du Revenu*.

If you do not have a residence, establishment or place of business in Québec, Revenu Québec can issue you a temporary permit, which is valid for six months and can be renewed for the same period, on request, between the sixtieth and thirtieth day preceding the date of expiry of the permit.

In no case may permits be transferred to another person. Moreover, they must be used by the holder only for the activity specified on them.



Security

If you are not resident or do not have an establishment in Québec and wish to apply for a permit, you may be required to provide security.

You may also have to provide security if you are in one of the situations set forth in the *Act respecting the Ministère du Revenu*. For example,

- you were convicted of a fiscal offence in the five-year period preceding the date of your permit application;
- you owe a debt to Revenu Québec;
- you did not file all of the required returns.

Lastly, security may be required if Revenu Québec considers that, because of your financial situation, you cannot fulfill the financial obligations arising out of your business.

As a rule, the amount of security is based on the amounts, if any, that a person is likely to collect in the six-month period following the date on which security is required. However, the amount of security may also be based on the amounts, if any, that a person should have remitted in the six-month period prior to the date on which security was required.



Obligations of vendors

Persons who, in Québec, sell tobacco products to a retail vendor must ensure that the retailer has a registration certificate, and that no suspension is in effect with respect to the retailer's commercial activities in the tobacco sector.

Persons who, in Québec, sell tobacco products to a wholesale vendor must ensure that the wholesaler has the required permits.

Persons who sell or deliver raw tobacco in Québec must ensure that their clients hold permits for their activities.

Retailers and wholesalers must ensure that the persons from whom they purchase tobacco products in Québec (or from whom they take delivery of tobacco products) have a collection officer's permit.

You can make sure the person with whom you do business has a valid registration certificate by using the "Validation of a QST registration number" service on the Revenu Québec website, at www.revenu.gouv.qc.ca.

You may be fined if you do business with a person who is in one of the situations below:

- The person does not hold a registration certificate or the required permit.
- The certificate or permit regarding the person's activities in the tobacco sector has been suspended.

Moreover, if you purchase tobacco products from a wholesaler who does not hold the necessary permit, you are required, even if you have paid the wholesaler the tobacco tax or an amount equal to the tax, to remit the amount in question to Revenu Québec.





Collection and reporting

Retail vendors

If you make retail sales of tobacco products in Québec, you are an agent of the Minister of Revenue and, as such, must collect the tobacco tax from consumers at the time of the sale.

As a rule, you are not required to file a return with Revenu Québec concerning the tax collected from consumers, or to remit the amount collected, provided that, in conformity with the *Tobacco Tax Act*, you paid your supplier an amount equal to the tax at the time you acquired the tobacco products.

However, if the amount of tobacco tax you collected from consumers is higher than the amount you paid to your supplier, you must file a return and remit the difference in tax to Revenu Québec no later than the fifteenth day of the month following the one in which the retail sale took place.

You must also file a return and remit an amount equal to the tobacco tax if you did not pay that amount to your supplier.

In no case may a person make retail sales of tobacco for a price that is lower than the total tax applicable to the tobacco, that is, the excise duty and the tobacco tax, plus the GST calculated on the excise duty and tobacco tax.

Wholesale vendors

If you sell tobacco products wholesale, you are an agent of the Minister of Revenue and, as such, are generally required to collect an amount equal to the tobacco tax from every person to whom you sell or deliver (or cause to be delivered) tobacco whose packaging is identified in accordance with the *Tobacco Tax Act*, or any other packages of tobacco intended for retail sale in Québec. However, this requirement does not apply if you sell cigars to another collection officer.

In addition, you must, by the fifteenth day of the month following the one in which the sale was made, file a return with Revenu Québec for the amount you collected or should have collected during the month of the sale. If, contrary to the *Tobacco Tax Act*, you did not pay your supplier an amount equal to the tobacco tax for the tobacco sold during the period in question, you must remit that amount to Revenu Québec. If the amount you collected or should have collected is higher than the amount you remitted to your supplier for the tobacco in question, you must remit the difference to Revenu Québec.

The amount equal to the tobacco tax must always be indicated separately on every document attesting to the sale.

Collection officers must issue to retailers to whom they sell cigars an invoice indicating the sale price, the taxable price and the amount equal to the tobacco tax collected in advance for each cigar, as well as the number of cigars sold, by type. The date of the sale and the name and address of both the vendor and buyer must also be mentioned on the invoice.



Manifest or waybill

If you transport, in Québec, raw tobacco or packages of tobacco intended for sale, you must have a manifest or waybill for each load transported.

The manifest or waybill must be kept in each vehicle used for transporting tobacco and must contain **all** of the following information:

- the date on which the document was drawn up;
- the name and address of the person required to draw up the document and (if applicable) the number of the person's carrier's permit;
- the name and address of the vendor and the purchaser of the shipment;
- the address at which the shipment was loaded, if the address is not the same as the vendor's address;
- the date of loading and the date on which the person required to draw up the document took charge of the shipment;
- the number of bales of raw tobacco transported and their total weight in kilograms, or the number of packages transported (according to product type);
- every address at which the shipment is to be unloaded and the date of unloading, as well as the number of bales of raw tobacco, and their total weight in kilograms, to be unloaded at each place;
- every address at which the shipment is to be unloaded and the date of unloading, as well as the number of packages of tobacco (according to product type) unloaded at each place.

If you are a merchant with more than one establishment, you must keep a manifest or waybill in each vehicle used to transport tobacco or raw tobacco from one establishment to another.

Fines may be imposed for non-compliance.

A police officer, or any person authorized by the Minister of Revenue, may, at any place and at any reasonable time, stop a vehicle for inspection, where there are reasonable grounds to believe that it contains packages of tobacco or raw tobacco, and require the driver to produce the manifest or waybill. As well, the officer or authorized person may ask to see the copy of the carrier's permit, where applicable, and may examine the identification of the packages of tobacco being transported.

If the driver refuses to submit to the inspection or provide the documents requested, or if the police officer or person authorized by the Minister of Revenue has reasonable grounds to believe that the driver has committed an offence, the officer or authorized person may order that the vehicle not be moved until a judge makes a ruling with respect to the search or seizure of the vehicle.



Registers

Collection officers, importers, manufacturers, storers and carriers are required to maintain registers containing basic information. However, if you are a collection officer, storer or carrier, you must include in your registers the additional information indicated below.

Collection officers must record the quantities they sell and the quantities they deliver, distinguishing tobacco that is identified for the purposes of sale in Québec from tobacco that is not identified because it is intended for sale outside Québec.

Storers of raw tobacco must indicate

- the dates on which they receive and ship bales of raw tobacco;
- the number of the document attesting to the receipt or shipment of the tobacco;
- the number of bales of raw tobacco received and shipped, and the total weight of the bales in kilograms;
- the name and address of the shipper and recipient;
- the name and address of the owner, where the tobacco **does not belong** to the storer, as well as the number of bales stored and their total weight in kilograms;
- the number of bales used each day to manufacture tobacco, where the storer is a **manufacturer**, as well as the total weight of the bales in kilograms;
- the date of baling, where the storer **produces raw tobacco**, as well as the number of bales prepared and their total weight in kilograms.

Storers of packages of tobacco must indicate

- the dates on which they receive and ship packages of tobacco;
- the number of the document attesting to the receipt or shipment of the packages of tobacco;
- the quantity of each type of product received and shipped;
- the name and address of the shipper and recipient;
- the name of any jurisdiction in which an identification mark is affixed to the products.

Tobacco carriers must indicate, for every load they transport,

- the dates on which the bales of raw tobacco or packages of tobacco are taken charge of and delivered;
- the name and address of the shipper and recipient;
- the number of bales of raw tobacco and their total weight in kilograms, or the number of packages of tobacco (according to product type);
- the number of the delivery document.



Fines and imprisonment

If you fail to comply with the *Tobacco Tax Act*, you may be fined. A fine of at least \$300 is provided for certain minor offences. For more serious offences, the fine varies from \$3,000 to \$750,000, and a prison term of up to two years may be imposed. A fine of not less than \$10,000 and not more than \$2,500,000 is provided for a repeat offence within five years.

For example, if a retailer purchases tobacco products from a wholesaler who does not have a collection officer's permit, both parties are liable to a fine of at least \$3,000.

Likewise, anyone who is in possession of tobacco intended for consumption and contained in a package that is not identified in accordance with the *Tobacco Tax Act* is liable to a fine of not less than \$300.

If you have reason to believe that someone with whom you do business is not complying with the *Tobacco Tax Act*, do not hesitate to contact Revenu Québec at one of the numbers indicated on the back of this folder.

Online services

The quickest and easiest way to contact Revenu Québec is by using our online services. It's also environmentally friendly!

You can file your consumption tax returns and make payments by Internet. You can also consult your returns and statements of account and view information concerning your payments and refunds directly onscreen.



www.revenu.gouv.qc.ca

If you file your return by Internet, do not mail any documents to Revenu Québec. You must, however, keep your documents for six years following the year to which they relate.

To contact us



By Internet

We invite you to visit our website at www.revenu.gouv.qc.ca.



By telephone

Hours of availability for telephone service

Monday, Tuesday, Thursday and Friday: 8:30 a.m. to 4:30 p.m.

Wednesday: 10:00 a.m. to 4:30 p.m.

Information concerning individuals and individuals in business

Québec City area

418 659-6299

Montréal area

514 864-6299

Elsewhere (toll-free)

1 800 267-6299

Information concerning businesses, employers and consumption taxes

Québec City area

418 659-4692

Montréal area

514 873-4692

Elsewhere (toll-free)

1 800 567-4692

Information service for persons with a hearing impairment

Montréal area

514 873-4455

Elsewhere (toll-free)

1 800 361-3795



By mail

Individuals and individuals in business

Montréal, Laval, Laurentides, Lanaudière
and Montérégie

Direction principale des services

à la clientèle des particuliers

Revenu Québec

Complexe Desjardins

C. P. 3000, succursale Desjardins

Montréal (Québec) H5B 1A4

Québec City and other areas

Direction principale des services

à la clientèle des particuliers

Revenu Québec

3800, rue de Marly

Québec (Québec) G1X 4A5

Businesses, employers and consumption taxes

Montréal, Laval, Laurentides, Lanaudière,
Montérégie, Estrie and Outaouais

Direction principale des services

à la clientèle des entreprises

Revenu Québec

Complexe Desjardins

C. P. 3000, succursale Desjardins

Montréal (Québec) H5B 1A4

Québec City and other areas

Direction principale des services

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3800, rue de Marly

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2007-04

Cette publication est également disponible en français et s'intitule *Les grandes lignes de la Loi concernant l'impôt sur le tabac* (IN-219).

Revenu

Québec



IN-219-V (2008-08)