

Basic Rules for Tobacco Retail Dealers

This publication provides general information for tobacco retail dealers about Ontario's tobacco tax rules and the Tobacco Retailer Inspection Program; it should not be considered as a substitute for the Tobacco Tax Act (Act) and Regulations.

Tobacco retailers must:

- sell legal tobacco products only
- have a valid tobacco retail dealer's permit or a retail sales tax vendor's permit belonging to the owner of the tobacco product
- only buy tobacco products from Ontario-registered tobacco wholesalers. Retailers can see which wholesalers are registered by getting the current **Tobacco Tax Registrant List** and subscribe to receive **e-alerts** about tobacco tax and other topics via the **Ministry of Finance** website
- keep, at their principal place of business, records and books of account for all tobacco product purchases and sales for seven years
- not sell tobacco products to a person less than 19 years old
- require ID from anyone that appears to be less than 25 years old
- post applicable health warning and age restriction signs
- sell legal packages of cigarettes and fine cut tobacco that are marked with the **ON DUTY PAID CANADA DROIT ACQUITTE** tobacco stamp, as seen below. The **ON DUTY PAID CANADA DROIT ACQUITTE** tobacco stamp has the letters 'ON' and a yellow background colour:



Where provincial and federal taxes have not been applied and where the package does not have the **ON DUTY PAID CANADA DROIT ACQUITTE** tobacco stamp as seen above, the cigarettes are illegal.

Cigarette packages with a peach-coloured federal stamp may be bought for personal consumption:

- on a reserve by First Nation individuals
- by diplomats
- from a duty-free store.

Selling illegal tobacco products

- is in contravention of the Act
- supports criminal activity
- creates unfair competition for tax-compliant businesses and results in a loss of revenue to support important programs for Ontarians
- undermines Ontario's Smoke-Free Strategy aimed at reducing smoking rates and protecting kids and youth from the dangers of smoking.

Potential consequences of selling illegal tobacco products

- significant fines and penalties (e.g., up to eight times the tax and up to \$10,000)
- jail time of up to two years
- seizure and loss of tobacco products
- prohibition from selling tobacco products
- prohibition from selling lottery tickets by the Alcohol and Gaming Commission of Ontario.

Tobacco inspections at your retail location

- Ministry of Finance tobacco inspectors help retail dealers and others understand their obligations and ensure compliance with the Act
- inspectors wear uniforms and upon arrival at your business location, will identify themselves by showing ministry-issued identification
- inspections are not announced or scheduled in advance, and no warrant is needed for the inspection
- tobacco inspectors follow the Regulator's Code of Practice and must follow service principles and standards which promote a consistent level of service excellence and fairness to all business owners and citizens of Ontario
- a tobacco inspection may take up to several hours to complete
- inspectors will make every effort not to interrupt the retail business
- retail staff may contact retail owners during the inspection, but it will not stop the inspection in progress
- inspectors have the authority to:
 - inspect the entire retail location
 - determine the full tobacco inventory
 - examine books, records and documents
 - seize any illegal tobacco
 - issue penalties and/or offence notices if warranted

- the retailer will need to provide documents such as receipts, invoices and shipping documents
- if the retailer cannot prove tax was paid on the tobacco products inventory a Preliminary Advice of Assessment stating the proposed penalty will be sent to the retailer
- if illegal tobacco is found, the inspector will seize and remove the tobacco products
- retailers that have any concerns with a tobacco inspection may call the Ministry of Finance at 1 866 ONT-TAXS (1 866 668-8297).

Temporary prohibition program from selling tobacco

Retailers who repeatedly violate the Act or the Smoke-Free Ontario Act (SFOA) may be subject to prohibitions under the Tobacco Tax Act or the Smoke-Free Ontario Act.

Tobacco Tax Act Prohibition:

- two or more violations within a five year period may lead to a temporary ban from selling, offering for sale or storing tobacco products in that particular location. Violations include any assessed penalty or conviction of an offence under the Act.
- the prohibition may range up to 180 days, depending on the number and nature of the violations
- a retailer under a temporary prohibition:
 - cannot sell, offer for sale or store tobacco
 - will not get tobacco products from suppliers
 - may have their name and store locations published on the Ministry of Finance website
 - must post signs in their store to notify the public of the prohibition
- continuing to sell or store tobacco products while your retail location is subject to a temporary prohibition could result in penalties and fines ranging from \$5,000 to \$50,000
- all tobacco products at that location could also be seized.

Smoke-Free Ontario Act Prohibition:

- conviction of at least two tobacco sales offences within a five-year period may lead to a notice of prohibition, commonly known as an 'Automatic Prohibition' (AP)
 - the prohibition may be for six, nine or twelve months, depending on the number of violations entered during that five year period
 - an AP is issued against the person who owns or occupies the business where the tobacco sales offence occurred and it is issued by the Minister of Health and Long-Term Care.

Sales offences include:

- sale of tobacco products to a person who is less than 19 years of age
- sale of improperly packaged cigarettes and tobacco
- non-compliance with signage requirements
- sale of tobacco through vending machines
- sale or storage of tobacco products while under a prohibition order
- violation of the Tobacco Tax Act, related to marking or stamping of packages and possession of unmarked cigarettes.

Payment of a Notice of Assessment

Retailers have 30 business days after a Preliminary Advice of Assessment to produce proof that all taxes have been paid and may object to an assessed penalty by filing a **Notice of Objection**.

When a Notice of Assessment is issued by the Ministry of Finance, payment is due right away. Interest will be charged on any outstanding amount and is applied daily until the assessment is paid in full. You can pay by cheque, payable to the Minister of Finance and mail it to:

Ministry of Finance
33 King Street West
PO Box 620
Oshawa ON L1H 8H5

Objecting to a Notice of Assessment

If you disagree with a Notice of Assessment, you can file a **Notice of Objection** with the Ministry of Finance's Objections and Appeals and Services Branch who will review the assessment. A Notice of Objection must be filed within 180 days from the day the Notice of Assessment was mailed. The ministry aims to review Notices of Objection in a timely manner.

You can find Notice of Objection forms at [ontario.ca/taxappeals](https://www.ontario.ca/taxappeals) or call the Ministry of Finance at 1 866 ONT-TAXS (1 866 668-8297).

Possible tobacco tax inspection findings and consequences

| Inspection Findings | Consequences |
|--|--|
| <p>All cigarette and fine cut tobacco packages have the Ontario-adapted federal stamp.</p> <p>No temporary prohibition order in effect at location.</p> <p>All tobacco purchased from registered wholesaler and all purchases of tobacco products are supported by documents showing tax was paid.</p> | <p>Satisfactory compliance report with no consequences.</p> |
| <p>Cigarette or fine cut tobacco packages do not have the Ontario-adapted federal stamp.</p> | <p>Seizure and forfeiture of the unmarked cigarettes and unmarked fine cut tobacco and penalty of three times the tax and:</p> <ul style="list-style-type: none"> • \$500 if the person has not previously been assessed a penalty • \$2,500 if the person has previously been assessed a penalty • \$5,000 if the person has previously been assessed more than one penalty in total. <p>If the quantity of unmarked cigarettes or fine cut tobacco is 10,000 or more an additional penalty equal to five times the tax may be imposed.</p> |
| <p>No proof that tax was paid on cigars and other tobacco products.</p> | <p>Seizure and forfeiture of cigars and other tobacco products and penalty of three times the tax and:</p> <ul style="list-style-type: none"> • \$500 if the person has not previously been assessed a penalty • \$2,500 if the person has previously been assessed a penalty • \$5,000 if the person has previously been assessed more than one penalty in total. <p>If the number of cigars is 200 or more or the amount of other tobacco is 10 kilograms or more, an additional penalty equal to five times the tax may be imposed.</p> |
| <p>Tobacco product purchased from an unregistered wholesaler.</p> | <p>If the tobacco product is tobacco other than cigars, a penalty of \$500 to \$10,000 and three times the tax.</p> <p>If the tobacco product is cigars, a penalty of \$500 to \$10,000 and 170% of the retailer's purchase price for the cigars.</p> |
| <p>Repeated violations of any or all of the above findings.</p> | <p>Conditions and limitations imposed on the retail dealer.</p> <p>Temporary prohibition for up to 180 days depending on number of violations.</p> |
| <p>Temporary prohibition in effect at location and tobacco found at the location.</p> | <p>Seizure and of entire tobacco inventory and penalty ranging from \$5,000 to \$10,000.</p> |

In addition to the consequences listed above, retailers who violate the Act could:

- face significant fines, and/or
- be imprisoned for up to two years.

Also, a retailer could be prohibited, by the Alcohol and Gaming Commission of Ontario, from selling lottery tickets.

Request for written interpretations

To obtain a written interpretation on a specific situation not addressed in this publication, please send your request in writing to:

Ministry of Finance
Advisory Services, Tobacco Tax
33 King Street West, 3rd Floor
Oshawa ON L1H 8H5

For more information

Visit ontario.ca/tobaccotax or contact the Ministry of Finance at 1 866 ONT-TAXS (1 866 668-8297) or 1 800 263-7776 for teletypewriter (TTY).

Visit **Ontario Ministry of Health and Long-Term Care** for information on the SFOA or contact the ministry at 1 800 268-1153 or 1 800 387-5559 for teletypewriter (TTY).

Visit **Alcohol and Gaming Commission of Ontario** for more information about lottery suspensions or contact the commission at 1 800 522-2876.

Cette publication est disponible en français sous le titre « Règles de base à l'intention des détaillants de tabac - Taxe sur le tabac ». Vous pouvez en obtenir un exemplaire en appelant le 1 866 ONT-TAXS (1 866 668-8297) ou en visitant ontario.ca/finances.

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