



Tobacco Tax Act

TOBACCO TAX ACT REGULATION

B.C. Reg. 66/2002

Deposited and effective March 28, 2002,
except section 8 (4) and (5) effective October 1, 2002
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Consolidated Regulations of British Columbia

This is an unofficial consolidation.

B.C. Reg. 66/2002 (O.C. 244/2002), deposited and effective March 28, 2002, except section 8 (4) and (5) effective October 1, 2002, is made under the *Tobacco Tax Act*, R.S.B.C. 1996, c. 452, s. 44.

This is an unofficial consolidation provided for convenience only. This is not a copy prepared for the purposes of the *Evidence Act*.

This consolidation includes any amendments deposited and in force as of the currency date at the bottom of each page. See the end of this regulation for any amendments deposited but not in force as of the currency date. Any amendments deposited after the currency date are listed in the B.C. Regulations Bulletins. All amendments to this regulation are listed in the *Index of B.C. Regulations*. Regulations Bulletins and the Index are available online at www.bclaws.ca.

See the User Guide for more information about the *Consolidated Regulations of British Columbia*. The User Guide and the *Consolidated Regulations of British Columbia* are available online at www.bclaws.ca.

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Tobacco Tax Act

TOBACCO TAX ACT REGULATION

B.C. Reg. 66/2002

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Definitions

1 In this regulation:

“**Act**” means the *Tobacco Tax Act*;

“**black stock tobacco**” means a package, carton or case of tobacco that is black stock tobacco within the meaning of the *Excise Act, 2001* (Canada);

“**British Columbia stamp**” means an excise stamp, as defined in section 2 of the *Excise Act, 2001* (Canada), that includes the text “BC” and a background colour of Pantone green 333, 100%;

“**carton**” means a container in the form of a wrapper or paperboard box in which 15 or fewer packages of cigarettes are packed;

“**case**” means,

- (a) in relation to cigarettes, a container in which 25 or more cartons are packed,
- (b) in relation to pre-proportioned tobacco sticks, a container in which 10 or more packages are packed, and
- (c) in relation to fine cut tobacco, a container in which 10 or more packages are packed;

“**cigar wholesale dealer**” means a dealer who holds a permit under the Act to sell cigars, but no other tobacco products;

“**exempt consumer**” means a consumer who is, by virtue of an enactment of British Columbia or Canada, not liable to pay the tax imposed by the Act;

“**exempt sale retail dealer**” means a dealer who holds an exempt sale retail dealer permit under the Act;

“**exempted tobacco**” means tobacco exempted from tax under the Act or under an Act of Parliament;

“**fine cut tobacco**” means loose tobacco that has been refined to the point where it is ready to be formed into a cigarette or pre-proportioned tobacco stick;

“**manufacturer**” means a person who manufactures, fabricates, produces or packs packages, cartons and cases intended for distribution, sale or storage in British Columbia;

“**mark-point**” means a location authorized by the director for the purposes of marking packages, cartons or cases;

“**package**” means,

- (a) in relation to cigarettes, a container in which 30 or fewer cigarettes are packed,
- (b) in relation to pre-proportioned tobacco sticks, a container in which 300 or fewer pre-proportioned tobacco sticks are packed, and

- (c) in relation to fine cut tobacco, a container in which no more than 500 grams of fine cut tobacco is packed;

“retail authorization” means

- (a) an authorization issued by the director in accordance with section 6, or
(b) a written authorization provided by the director under section 6.2;
(c) Repealed. [B.C. Reg. 216/2010, Sch. s. 9.]

“special retail dealer” means a dealer who holds a special retail dealer permit under the Act;

“unmarked tobacco” means a package, carton or case that does not bear the stamp or mark specified in section 26, other than black stock tobacco.

[am. B.C. Regs. 398/2003, s. (a); 46/2005; 233/2007, s. 1; 216/2010, Sch. s. 9; 123/2015, Sch. s. 1.]

PART 1 – DEALER’S PERMITS

Classes of dealer’s permits

- 2 The following are established as classes of dealer’s permits:
- (a) the wholesale dealer permit;
 - (b) the cigar wholesale dealer permit;
 - (c) the special retail dealer permit;
 - (d) the exempt sale retail dealer permit.

Application for dealer’s permit

- 3 (1) Subject to section 6, every person who is required under the Act to have a dealer’s permit must make an application to the director, in the form specified for the purpose by the director, for the dealer’s permit.
- (2) A dealer’s permit must be in the form specified for the purpose by the director.

Wholesale dealer permit

- 4 (1) An application for a wholesale dealer permit must
- (a) contain the name and address of the applicant, and
 - (b) be signed by
 - (i) the applicant,
 - (ii) one of the partners if the applicant is a partnership, or
 - (iii) an authorized officer if the applicant is a corporation.
- (2) The applicant under subsection (1) must satisfy the director that the applicant has
- (a) Repealed. [B.C. Reg. 123/2015, Sch. s. 2.]
 - (b) a business plan acceptable to the director for the sale of tobacco at wholesale, and

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- (c) no outstanding tax liabilities under the Act other than a disputed liability that is being appealed under the Act.
- (3) Repealed. [B.C. Reg. 123/2015, Sch. s. 2.]
- (4) Each wholesale dealer must imprint the number of the permit granted to that dealer under section 6 of the Act in a prominent place on each invoice, bill of sale or similar document used by the wholesale dealer for the sale of tobacco.
- (5) A wholesale dealer permit may be suspended or cancelled by the director under section 7 of the Act if the director is satisfied that the dealer has not complied with the Act or these regulations.
- (6) Every dealer to whom a wholesale dealer permit is issued is deemed to have been appointed a collector by the director.
[am. B.C. Reg. 123/2015, Sch. s. 2.]

Cigar wholesale dealer permit

- 5** (1) A person who only intends to sell cigars at wholesale must first obtain a cigar wholesale dealer permit.
- (2) A person who holds a cigar wholesale dealer permit must not sell any tobacco other than cigars unless granted another permit under the Act.
- (3) Section 4 applies to cigar wholesale dealer permits.

Retail authorization

- 6** (1) The director may issue a retail authorization to a person to sell tobacco at retail in British Columbia in the following circumstances:
- (a) the person has submitted an application containing the information required under section 6.1;
- (b) the person has not previously held a retail authorization or dealer's permit that was cancelled under section 7 (3) of the Act;
- (c) the person does not hold a retail authorization or dealer's permit that is suspended under section 7 or 9 of the Act at the time the application is submitted;
- (d) the application is not in respect of a location
- (i) for which a retail authorization or dealer's permit held by another person not at arm's length from the applicant was suspended or cancelled by the director under section 7 (2) or (3) of the Act,
- (ii) to which a prohibition order made in relation to tobacco under the *Tobacco and Vapour Products Control Act* applies, or
- (iii) that is the subject of an administrative proceeding in relation to tobacco under the *Tobacco and Vapour Products Control Act*.

- (2) For the purposes of subsection 1 (a) and (b), “**retail authorization**” includes a retail authorization as that term was used in the regulation before September 1, 2007.

[en. B.C. Reg. 233/2007, s. 2; am. B.C. Regs. 106/2008, s. 1; 17/2017, s. (a).]

Application

6.1 An application for a retail authorization must contain the following information:

- (a) if the person is an individual, the person’s name and address;
- (b) if the person is a corporation,
 - (i) the name of the corporation, and
 - (ii) the address of the corporation’s head office in British Columbia, or, if the corporation does not have a head office in British Columbia, the address of the corporation’s head office;
- (c) if the person is a partnership,
 - (i) the name of the partnership,
 - (ii) the name of each partner, and
 - (iii) the address of its head office in British Columbia, or, if the partnership does not have a head office in British Columbia, the address of the partnership’s head office;
- (d) if the person is an income trust,
 - (i) the name of the income trust,
 - (ii) the name and address of the responsible trustee, and
 - (iii) the address of the trust’s head office in British Columbia, or, if the income trust does not have a head office in British Columbia, the address of the income trust’s head office;
- (e) the name under which the person is conducting business;
- (f) the address of each location at which tobacco will be sold at retail.

[en. B.C. Reg. 233/2007, s. 3.]

Written authorization from the director

6.2 (1) Despite section 6, a person may sell tobacco at retail in either of the following circumstances if the director provides written authorization to do so:

- (a) the person has previously held a retail authorization or dealer’s permit that has been suspended or cancelled under section 7 (2) or (3) of the Act;
- (b) the person’s application is in respect of a location
 - (i) for which a retail authorization or dealer’s permit held by another person not at arm’s length from the applicant was suspended or cancelled by the director under section 7 (2) or (3) of the Act,
 - (ii) to which a prohibition order made in relation to tobacco under the *Tobacco and Vapour Products Control Act* applies, or

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- (iii) that is the subject of an administrative proceeding in relation to tobacco under the *Tobacco and Vapour Products Control Act*.
- (2) Before issuing a written authorization under subsection (1), the director may require an applicant to do one or more of the following:
 - (a) provide written evidence that demonstrates on a balance of probabilities that the applicant is taking measures to address the non-compliance leading to the cancellation;
 - (b) provide written evidence that demonstrates on a balance of probabilities that the applicant is at arm’s length
 - (i) if subsection (1) (b) (i) applies, from the other person whose retail authorization or dealer’s permit at the same location was suspended or cancelled, or
 - (ii) if subsection (1) (b) (ii) applies, from the person who is named in the order;
 - (c) provide a written undertaking to do one or both of the following:
 - (i) comply with the Act and the regulations;
 - (ii) notify the director with respect to the outcome of an administrative proceeding referred to in subsection (1) (b) (iii);
 - (d) deposit a bond with the director in accordance with section 37 of the Act.
- (3) For the purposes of subsections (1) and (2), “**retail authorization**” includes a retail authorization as that term was used in the regulation before September 1, 2007.

[en. B.C. Reg. 233/2007, s. 3; am. B.C. Regs. 106/2008, s. 2; 17/2017, s. (a).]

6.3 Repealed. [B.C. Reg. 216/2010, Sch. s. 10.]

Black stock or unmarked tobacco

6.4 A retail authorization does not permit a dealer to purchase or sell black stock tobacco or unmarked tobacco.

[en. B.C. Reg. 233/2007, s. 3.]

Cancellation or suspension of retail authorization

6.5 A retail authorization ceases to be valid if it is suspended or cancelled by the director under section 7 or 9 of the Act.

[en. B.C. Reg. 233/2007, s. 3.]

Special retail dealer permits

- 7 (1) If the minister has entered into an agreement with a band under section 43.1 of the Act, a person must not sell or offer to sell tobacco to a consumer on a reserve to which the agreement relates unless that person holds a special retail dealer permit.

- (2) A person who holds an exempt sale retail dealer permit in respect of a place of business located on a reserve that is subject to an agreement under section 43.1 of the Act, must, on request of the director, return the exempt sale retail dealer permit to the director, and the director may issue to that person a special retail dealer permit.

Exempt sale retail dealers

- 8** (1) A person must not sell or offer to sell tobacco to a consumer without collecting the tax imposed by section 2 or 43.1 of the Act, unless that person holds an exempt sale retail dealer permit.
- (2) An exempt sale retail dealer may be authorized by the director to sell to exempt consumers
- (a) black stock tobacco,
 - (b) unmarked tobacco,
 - (c) one or more classes of unmarked tobacco specified by the director, or
 - (d) any combination of tobacco referred to in paragraph (a), (b) or (c).
- (3) An exempt sale retail dealer who is authorized to sell black stock tobacco may purchase, possess and store black stock tobacco or sell black stock tobacco to an exempt consumer, and an exempt sale retail dealer who is authorized to sell unmarked tobacco may purchase, possess and store unmarked tobacco or sell unmarked tobacco to an exempt consumer.
- (4) Subject to subsection (5), an exempt sale retail dealer may not sell tobacco that bears the stamp or mark specified in section 26 without collecting the tax imposed by the Act.
- (5) An exempt sale retail dealer may sell tobacco that bears the stamp or mark specified in section 26 to an exempt consumer without collecting the tax, if the exempt sale retail dealer receives the prior approval of the director to do so.
- (6) The director may refuse to issue an exempt sale retail dealer permit to a person if the director is satisfied that there are sufficient dealers holding exempt sale retail dealer permits in the market area proposed to be served by the person applying for the exempt sale retail dealer permit.
- (7) Despite section 11 (3) and (4),
- (a) an exempt sale retail dealer permit may be restricted so as to authorize only one place at which black stock tobacco or unmarked tobacco may be sold, and
 - (b) a person may hold only one exempt sale retail dealer permit at one time.
- (8) It is a condition of holding an exempt sale retail dealer permit that the dealer obtain, from each consumer to whom the dealer sells black stock tobacco, unmarked tobacco or tobacco referred to in subsection (5), information specified by the director that shows the consumer is an eligible exempt consumer.

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- (9) An exempt sale retail dealer permit ceases to be valid if suspended or cancelled by the director under section 7 or 9 of the Act.

[am. B.C. Reg. 123/2015, Sch. s. 3.]

Restrictions related to black stock tobacco and unmarked tobacco

- 9** (1) A dealer must not purchase, possess, store or sell black stock tobacco or unmarked tobacco unless

(a) the dealer

(i) intends to sell or sells the black stock tobacco or unmarked tobacco to an exempt sale retail dealer,

(ii) is an exempt sale retail dealer and intends to sell or sells black stock tobacco or unmarked tobacco to an exempt consumer, or

(iii) intends to ship the black stock tobacco or unmarked tobacco out of British Columbia for resale, and

(b) the dealer has written authorization from the director to purchase, possess, store and sell black stock tobacco or unmarked tobacco, as the case may be.

(1.1) Despite subsection (1), a dealer may purchase, possess and store unmarked tobacco for the purpose of section 23 (3).

(2) A dealer who does not hold an exempt sale retail dealer permit authorizing the dealer to sell black stock tobacco must apply in writing to the director for authorization to purchase, possess, store or sell black stock tobacco.

(3) A dealer who does not hold an exempt sale retail dealer permit authorizing the dealer to sell unmarked tobacco must apply in writing to the director for authorization to purchase, possess, store or sell unmarked tobacco.

(4) An exempt sale retail dealer who is authorized to sell black stock tobacco or unmarked tobacco must not sell black stock tobacco or unmarked tobacco to any person other than an exempt consumer.

(5) The director may authorize a dealer, other than an exempt sale retail dealer, to purchase, possess or store black stock tobacco or unmarked tobacco and to sell black stock tobacco or unmarked tobacco to an exempt sale retail dealer.

[am. B.C. Reg. 123/2015, Sch. s. 4.]

Restrictions on quantity or sales of exempted tobacco

- 10** (1) An exempt sale retail dealer must not do either of the following:

(a) sell more than 400 grams of exempted tobacco in a day to a person;

(b) sell more than 1 600 grams of exempted tobacco in a month to a person.

(2) If an exempt sale retail dealer is advised by the director or is aware that a person has already purchased an amount of exempted tobacco in a day from one or more other exempt sale retail dealers, the exempt sale retail dealer must not sell an

amount of exempted tobacco to that person that would, when added to the prior amounts sold during that day, exceed the amount referred to in subsection (1) (a).

- (3) If an exempt sale retail dealer is advised by the director or is aware that a person has already purchased an amount of exempted tobacco in a month from one or more other exempt sale retail dealers, the exempt sale retail dealer must not sell an amount of exempted tobacco to that person that would, when added to the prior amounts sold during that month, exceed the amount referred to in subsection (1) (b).
- (4) Despite subsections (1) to (3), an exempt sale retail dealer may sell more than the maximum amount permitted by subsection (1), (2) or (3) if, prior to the sale, the exempt sale retail dealer is advised by the director that the director is satisfied that the sale is a retail sale to an exempt consumer.

Conditions for holding permits

- 11** (1) A person must be actively in the business for which the permit or authorization applies in order to hold a dealer's permit or retail authorization under section 6.
- (2) If the director is satisfied that a person has not complied with subsection (1) for a continuous period of 3 months within the immediately preceding 6 month period, the director may cancel or suspend the permit or authorization under section 7 of the Act.
- (3) A dealer's permit or retail authorization must designate the principal place at which the business of the dealer is to be carried on, and must be displayed in a prominent position at that place.
- (4) If a dealer carries on business at more than one place, the dealer must obtain a dealer's permit or retail authorization in respect of each place of business, which must be displayed in a prominent position at each place of business.
- (5) If a dealer has a principal place of business and one or more branches the dealer may be granted a duplicate permit or authorization for each branch.
- (6) If a dealer carries on business in British Columbia but has no fixed place of business in the Province, the dealer must carry the permit or authorization at all times when carrying on business in the Province, and must produce it at the request of a duly appointed representative of the director.
- (7) If a dealer changes the dealer's name or address, the dealer must immediately return the permit or authorization to the director and apply for a new permit or authorization.
- (8) If a dealer's permit or authorization has been lost or destroyed, the dealer must immediately report the loss or destruction to the director and must apply for a copy of the original permit or authorization.

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- (9) If a dealer ceases to carry on business in respect of which a permit or authorization has been issued, the permit or authorization becomes void and the dealer must return it to the director within 15 days of the date of the cessation.
- (10) An exempt sale retail dealer must not sell or offer to sell tobacco to another dealer for the purpose of resale.
- (11) A dealer must not purchase or offer to purchase tobacco for resale from an exempt sale retail dealer.

[am. B.C. Reg. 233/2007, s. 4.]

Cancellation of dealer's permit or retail authorization

- 11.1** (1) Repealed. [B.C. Reg. 106/2008, s. 4.]
- (2) For the purposes of section 7 (4.3) of the Act, the director may cancel a person's dealer's permit or a person's retail authorization if an error was made in issuing the permit or authorization.
 - (3) For the purposes of section 7 (4.1) of the Act, the director must cancel an exempt sale retail dealer permit if
 - (a) the exempt sale retail dealer obtained the exempt sale retail dealer permit to operate at a place of business on land within a reserve, and
 - (b) that land ceases to be land within a reserve and land where consumers can be exempt consumers.

[en. B.C. Reg. 106/2008, s. 3; am. B.C. Regs. 106/2008, s. 4; 91/2017.]

PART 2 – COLLECTION AND REMITTANCE OF TAX**Tax remittance by dealer**

- 12** (1) Every dealer who is not a collector, and who buys tobacco from a collector, must remit to the collector the tax collected under the Act.
- (2) Every dealer who is not a collector and who buys tobacco from a person other than a collector, must remit to the director, as provided by section 16, the tax collected under the Act.

Collections and returns

- 13** (1) Every collector must
 - (a) on or before the 20th day of each month in respect of the previous month, deliver to the director such return as the director requires,
 - (b) remit with the return required by paragraph (a) the amount of the tax and security as computed in the return, and
 - (c) provide with the return those records the director requires with respect to sales to exempt sale retail dealers.

- (2) Despite subsection (1), an exempt sale retail dealer must, on or before the 10th day of each month or such later day in the month as is authorized by the director, in respect of the previous month,
 - (a) deliver to the director such return as the director requires, and
 - (b) provide with the return such record as the director requires of the sales made by the dealer that were exempted tobacco.
- (3) Despite subsection (1), the director may, on application in writing, authorize a collector who maintains records so that the collector closes the books at the end of a period that does not coincide with a calendar month but that is not longer in duration than 5 weeks, to deliver the report and remit the tax required by subsection (1) on or before the 20th day following the end of the period.
- (4) Despite subsection (1) or (2), the director may at any time require a collector or an exempt sale retail dealer to deliver a return, covering any period that the director determines, and the collector must remit to the director the tax collected during that period.
- (5) If the director has authorized a collector to file a return under subsection (3), the collector must, on or before March 1 in each year, provide the director with a statement indicating the dates on which the collector will end each period during the following fiscal year.
- (6) The fiscal year referred to in subsection (5) commences on April 1.

Collector's allowance

- 14**
- (1) Subject to subsection (6), the amount of the allowance that may be retained under section 15 of the Act is
 - (a) 3% of the first \$10 000 of security paid to the director as required under the Act for the reporting period, and
 - (b) 0.375% of the amount of security over \$10 000 paid to the director as required under the Act for the reporting period.
 - (2) The allowance retained under subsection (1) must not exceed \$10 000 for each successive 12 month period commencing,
 - (a) in the case of a collector who had a place of business in operation on July 29, 1983, with the date the return is filed in respect of July in any year, or
 - (b) in the case of a collector who did not have a place of business in operation on July 29, 1983, with the date the return is filed in respect of the first month of operation in any year.
 - (3) Subsections (1) and (2) apply to the total amount of security paid by a collector for a reporting period regardless of
 - (a) the number of dealer's permits held by the collector in the reporting period, or

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- (b) the number of times the collector pays security in respect of one reporting period.
- (4) Despite subsection (1), but subject to subsections (5) and (6), a wholesale dealer who is a collector and paying an amount under section 11 (5) (a) of the Act may deduct from the amount payable, and retain, an allowance equal to 5% of the difference between the amount referred to in section 11 (5) (a) (i) of the Act in respect of the tobacco and the amount of security the wholesale dealer was previously required to pay in respect of that tobacco.
- (5) A wholesale dealer must not deduct, or retain, an allowance under subsection (4) unless the wholesale dealer is providing with the amount required under section 11 (5) (a) of the Act in respect of the tobacco, or has previously provided, to the director the inventory required under section 11 (5) of the Act in respect of that tobacco.
- (6) A collector must not deduct, or retain, an allowance under this section for a reporting period if the collector does not pay security for the reporting period as and in the amount required under the Act, less the amount of any allowances under this section.

[en. B.C. Reg. 94/2015, s. 1.]

Tax rate change and payment of security

- 15** (1) At the time that a change in the rate of tax payable by a consumer of tobacco takes effect, every retail dealer must take an inventory of the amount of tobacco in the retail dealer's possession that is tobacco
- (a) that is affected by the change, and
 - (b) in respect of which the retail dealer was required to pay security under section 12 of the Act.
- (1.1) A retail dealer must provide the inventory taken under subsection (1) to the director, within the time required by the director.
- (1.2) If a retail dealer does not possess any tobacco that is affected by the change in the rate of tax described in subsection (1), the retail dealer must provide to the director, within the time required by the director, an inventory indicating that the retail dealer does not possess any such tobacco.
- (1.3) Subsection (1.2) does not apply to an exempt sale retail dealer who does not also hold a retail authorization.
- (2) If the rate of tax for tobacco increases, a retail dealer must pay as security to the director, within the time required by the director, an amount equal to the difference between the following:
- (a) the amount of tax that would be collectable in respect of the tobacco included in the inventory if the tobacco were sold to a consumer;
 - (b) the amount paid by the retail dealer as security in respect of that tobacco.

- (3) If the rate of tax for tobacco decreases, a retail dealer may apply to the director for a refund in an amount equal to the difference between the amount referred to in subsection (2) (b) and the amount referred to in subsection (2) (a).
- (4) On application under subsection (3) by a retail dealer, the director must pay to the retail dealer a refund in the amount referred to in that subsection.
- (5) Subject to subsection (6), a retail dealer who is paying an amount under subsection (2) may deduct from the amount payable, and retain, an allowance equal to 5% of the difference between the amount referred to in subsection (2) (a) in respect of the tobacco and the amount of security the retail dealer was previously required to pay in respect of that tobacco.
- (6) A retail dealer must not deduct, or retain, an allowance under subsection (5) unless the retail dealer
 - (a) is providing with the amount required under subsection (2), or has previously provided, to the director the inventory required under subsection (1) in respect of the tobacco, and
 - (b) pays security as and in the amount required under subsection (2), less the amount of the allowance under subsection (5).

[en. B.C. Reg. 94/2015, s. 1; am. B.C. Reg. 147/2021.]

Purchase by dealer from non-collector

- 16** Every dealer, who is not a collector, who buys tobacco from a person other than a collector must prepare a report giving particulars of the purchase and forward the report, together with all taxes collected with respect to the tobacco, to the director within 20 days of the retail sale of the tobacco.

Consumer import of tobacco

- 17** Every consumer who brings tobacco into British Columbia must immediately prepare a report giving particulars of the import, and forward the report, together with all taxes due with respect to the tobacco, to the director.

Dealer records

- 18** (1) A dealer must keep, at the dealer's principal place of business, records and books of account in a form and containing information that allows for the accurate determination of the amount of tax to be collected and remitted, or the amount of security to be paid, under the Act.
- (2) A dealer must retain a record and book of account referred to in this section and all accounts or vouchers necessary to verify the information in the record or book of account for a period of 5 years.
- (3) If a dealer makes a written application to the director for permission to destroy a record, book of account, account or voucher, the director may authorize the requested destruction prior to the expiry of the period described in subsection (2).

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- (4) Despite any other provision of this section, if a record, book of account, account or voucher might be necessary for the purposes of an appeal under section 23 or 24 of the Act, a dealer must retain the record, book of account, account or voucher after the expiry of the period described in subsection (2) and until all appeals under section 23 or 24 of the Act have been exhausted.

[am. B.C. Regs. 34/2007; 94/2015, s. 2.]

Sales on credit

- 19** If tobacco is sold on credit, the tax must be imposed and collected when the contract is entered into, or the purchase made, and the first payment made by the purchaser is deemed to include the full amount of the tax, or, in the event that the first payment made is less than the full amount of the tax, is deemed to be made on account of the tax.

Tax collection

- 20** A person who is deemed to be a collector under section 4 (6) is not required to collect tax in respect of tobacco sold to another person who is deemed to be a collector under section 4 (6).

Agreements

- 21** The minister or the director may, subject to the Act and the regulations, enter into agreements with collectors for the purpose of facilitating collection and payment of the tax.

Refund or deduction for bad debts

- 22** (1) For the purposes of the definition of “specified amount” in section 16 (1) of the Act, the specified amount in relation to a sale must be determined in accordance with the following formula:

$$\text{specified amount} = \text{amount remitted or paid} \times \left[\frac{\text{amount unpaid}}{\text{total amount payable}} \right]$$

where

amount remitted or paid = the amount of tax or security referred to in section 16 (2) (b) of the Act remitted or paid by the dealer in respect of the sale;

amount unpaid = the amount written off by the dealer as unrealizable or uncollectable in respect of the sale, but not including interest charges;

total amount payable = the full amount of the consideration in respect of the sale including all applicable taxes or security, but not including interest charges.

- (2) A dealer who makes a deduction under section 16 (3) of the Act must submit to the director any information or document required by the director.
- (3) For the purposes of section 16 (6) of the Act, the amount a dealer must add to the tax to be remitted or security to be paid by the dealer under the Act must be determined in accordance with the following formula:

$$\text{amount to be added} = \text{amount remitted or paid} \times \left[\frac{\text{amount recovered}}{\text{total amount payable}} \right]$$

where

amount remitted or paid = the amount of tax or security referred to in section 16 (2) (b) of the Act remitted or paid by the dealer in respect of the sale;

amount recovered = the amount recovered by the dealer that gives rise to the obligation under section 16 (6) of the Act to add an amount to the tax to be remitted or security to be paid by the dealer under the Act;

total amount payable = the full amount of the consideration in respect of the sale including all applicable taxes or security, but not including interest charges.

- (4) For the purposes of section 16 (7) of the Act, the amount a dealer must pay to the government must be determined in accordance with the following formula:

$$\text{amount to be paid} = \text{amount remitted or paid} \times \left[\frac{\text{amount recovered}}{\text{total amount payable}} \right]$$

where

amount remitted or paid = the amount of tax or security referred to in section 16 (2) (b) of the Act remitted or paid by the dealer in respect of the sale;

amount recovered = the amount recovered by the dealer that gives rise to the obligation under section 16 (7) of the Act to pay an amount to the government;

total amount payable = the full amount of the consideration in respect of the sale including all applicable taxes or security, but not including interest charges.

- (5) A dealer who, under section 16 of the Act, makes a deduction or obtains a refund in respect of a sale must retain all records of the sale.
- (6) Section 18 (2) to (4) applies to records referred to in subsection (5) of this section.

[en. B.C. Reg. 102/2015, App. 5, s. 1.]

TOBACCO TAX ACT REGULATIONPart 3 – Marking of Packages, Cartons and Cases

Exemption for purchases at duty free shop

- 22.1** Tobacco is exempt from tax imposed under section 2 of the Act if the tobacco is purchased at a duty free shop, as defined in the *Customs Act* (Canada), by a person who is about to leave Canada.

[en. B.C. Reg. 217/2014.]

PART 3 – MARKING OF PACKAGES, CARTONS AND CASES**Requirement to mark packages, cartons and cases**

- 23** (1) Every manufacturer who manufactures, fabricates, produces or packs in Canada packages, cartons or cases for sale in British Columbia to a consumer who is liable to pay tax under the Act must mark each package, carton and case with the stamp or mark specified in section 26.
- (2) Every dealer who imports into Canada packages, cartons or cases for sale in British Columbia to a consumer who is liable to pay tax under the Act must ensure that each package, carton and case is marked with the stamp or mark specified in section 26.
- (3) If a dealer acquires unmarked tobacco from a person who has imported the tobacco into Canada and the tobacco is to be sold by the dealer in British Columbia to a consumer who is liable to pay tax under the Act, the dealer must mark each package, carton and case with the stamp or mark specified in section 26.

[en. B.C. Reg. 123/2015, Sch. s. 6.]

Application for authorization to mark packages, cartons and cases

- 23.1** A manufacturer or dealer applying for authorization to mark packages, cartons and cases must apply in writing to the director.

[en. B.C. Reg. 123/2015, Sch. s. 6.]

Providing packages, cartons and cases without charge or consideration

- 24** Every package, carton and case that a dealer provides to a person without charge, or for no consideration, must bear the stamp or mark specified in section 26.

[am. B.C. Reg. 123/2015, Sch. s. 7.]

Powers of the director

- 25** The director may do any one or more of the following:
- (a) authorize a manufacturer or dealer to mark packages, cartons and cases;
 - (b) authorize a dealer to purchase, possess, store or sell packages, cartons or cases that bear a stamp or mark other than the stamp or mark specified in section 26, other than black stock tobacco;
 - (c) impose conditions and limitations that the director considers appropriate with respect to the marking of packages, cartons and cases;

- (d) specify the number and location of mark-points that a manufacturer or dealer who is authorized to mark packages, cartons and cases may establish and operate;
- (e) cancel or suspend an authorization to mark packages, cartons and cases if the director is satisfied that a manufacturer or dealer has not complied with the Act or this regulation.

[en. B.C. Reg. 123/2015, Sch. s. 8.]

Marking requirements – cigarettes, pre-proportioned tobacco sticks and fine cut tobacco

- 26** (1) For the purposes of section 23, every package of cigarettes or fine cut tobacco must be marked with the British Columbia stamp.
- (2) In addition to the requirements under subsection (1), every carton of cigarettes and package of pre-proportioned tobacco sticks must be marked with a mark that conforms to the following specifications:
- (a) the mark must read “BC – CB”;
 - (b) the width of the mark must not be less than 2.9 cm;
 - (c) the height of the mark must not be less than 1.4 cm;
 - (d) the background colour of the mark must be Pantone green 333, 100%;
 - (e) the mark must be surrounded by a border that is a thickness of 1.5 point;
 - (f) the colour of the text and border must be process black, 100%;
 - (g) the text must be in Helvetica bold, not less than 12 point, upper case lettering.
- (3) The mark referred to in subsection (2) must be affixed or imprinted on each end sticker that seals the end flaps of the carton of cigarettes or package of pre-proportioned tobacco sticks or, if the carton or package is a paperboard box, at each end of the box.
- (4) In addition to the requirements under subsections (1) and (2), every case of cigarettes, pre-proportioned tobacco sticks or fine cut tobacco must be marked by printing on the top of any 2 opposite face sides of the case the text “BC – CB” that conforms to the following specifications:
- (a) the text must be 38.1 mm in height, upper case lettering;
 - (b) the colour of the text must be process black, 100%.

[en. B.C. Reg. 123/2015, Sch. s. 8.]

26.1 Repealed. [B.C. Reg. 66/2002, s. 26.1 (2).]

27 and 28 Repealed. [B.C. Reg. 123/2015, Sch. s. 8.]

TOBACCO TAX ACT REGULATIONPart 3 – Marking of Packages, Cartons and Cases

Reporting and accounting requirements

- 29** (1) Every manufacturer who manufactures, fabricates, produces or packs in Canada packages, cartons or cases intended for distribution, sale or storage in British Columbia and every wholesale dealer must establish and maintain an accounting system, satisfactory to the director, that provides an accounting of the number of packages, cartons and cases that
- (a) bear the stamp or mark specified in section 26,
 - (b) are black stock tobacco, or
 - (c) are unmarked tobacco.
- (2) Subsection (1) applies to packages, cartons and cases shipped to, stored in or sold in British Columbia by the manufacturer or the wholesale dealer.
- (3) The accounting required by subsection (1) must be made in the form and manner specified by the director and at the times specified by the director.
- (4) and (5) Repealed. [B.C. Reg. 123/2015, Sch. s. 9 (b).]
[am. B.C. Reg. 123/2015, Sch. s. 9.]

Prohibitions

- 30** (1) A dealer must not purchase, possess, store or sell packages, cartons or cases that bear a stamp or mark other than the stamp or mark specified in section 26, other than black stock tobacco, unless
- (a) the dealer intends to ship the packages, cartons or cases out of British Columbia for resale, and
 - (b) the dealer has written authorization from the director to purchase, possess, store or sell such packages, cartons or cases.
- (2) A dealer must not sell a package, carton or case to a consumer who is liable to pay tax under the Act unless the package, carton or case bears the stamp or mark specified in section 26.
- (3) Repealed. [B.C. Reg. 123/2015, Sch. s. 10 (a).]
- (4) A dealer must not store black stock tobacco or unmarked tobacco, or packages, cartons or cases that bear a stamp or mark other than the stamp or mark specified in section 26, at a location other than a mark-point or another location authorized in writing by the director.
- (5) A manufacturer or dealer must not mark packages, cartons or cases other than at a mark-point.
- (6) A manufacturer must not sell unmarked tobacco or black stock tobacco to a dealer unless the dealer is authorized in writing by the director to sell unmarked tobacco or black stock tobacco, as the case may be.
- (7) A person, other than an exempt sale retail dealer, must not do either of the following:

- (a) purchase more than 400 grams of exempted tobacco per day;
 - (b) purchase more than 1 600 grams of exempted tobacco per month.
- (8) Despite subsection (7), a person who is not an exempt sale retail dealer may purchase more than the maximum amount permitted by that subsection if, prior to the sale, the director is satisfied that the sale is a retail sale.
- (9) A person must not mark a package, carton or case with the stamp or mark specified in section 26 if the package, carton or case is
- (a) manufactured, fabricated, produced or packed in Canada for the purpose of a retail sale in British Columbia that is not a taxable sale under the Act, or
 - (b) imported into Canada for the purpose of a retail sale in British Columbia that is not a taxable sale under the Act.
- [am. B.C. Reg. 123/2015, Sch. s. 10.]

31 Repealed. [B.C. Reg. 123/2015, Sch. s. 11.]

Non-application

- 32** (1) Sections 51 (2) and 54 (8) (a) of the Act do not apply to
- (a) black stock tobacco that is or was found in the possession of a dealer authorized to purchase, possess, store or sell black stock tobacco, or
 - (b) unmarked tobacco that is or was found in the possession of a dealer authorized to purchase, possess, store or sell unmarked tobacco.
- (2) Section 54 (8) (a) of the Act does not apply in circumstances where the quantity of tobacco is less than 1 000 grams.
- [am. B.C. Reg. 123/2015, Sch. s. 12.]

PART 4 – SEIZURE OF TOBACCO

Seizure of tobacco found by director – maximum quantity

- 33** For the purposes of section 51 (2) (a) of the Act, the prescribed quantity is 250 000 grams.
- [en. B.C. Reg. 218/2023.]

PART 5 – GENERAL

Calculation of interest

- 34** Interest payable under the Act must be
- (a) compounded monthly, and
 - (b) calculated on the number of days since the last compounding of interest, or if no compounding has yet occurred, from the date that interest is payable under the Act.

TOBACCO TAX ACT REGULATIONPart 6 – Offence and Penalty

Certificate of lien form

- 34.1** The form set out in the Schedule is prescribed for the purposes of section 32.1 (2) of the Act.

[en. B.C. Reg. 102/2015, App. 5, s. 3.]

- 34.2** Repealed. [B.C. Reg. 210/2022, s. (a).]

PART 6 – OFFENCE AND PENALTY**Offence and penalty**

- 35** (1) A person who contravenes section 7 (1), 8 (1), (4), (7) or (8), 9 (1) or (4), 10 (1) to (3), 11 (4) or (6) to (11), 12, 13 (1) to (5), 15 (1), (2) or (4), 16, 17, 18 (1), (2) or (4), 19, 23, 24 or 30 commits an offence and is liable to the penalty set out in subsection (2).
- (2) A person who commits an offence is liable
- (a) on a first conviction, to a fine of not less than \$500 and not more than \$1 000, or to a term of imprisonment of not less than 30 days and not more than 90 days, or to both fine and imprisonment, and
- (b) on a subsequent conviction for the same or another provision of this regulation, to a fine of not less than \$500 and not more than \$2 000, or to a term of imprisonment of not less than 90 days and not more than 180 days, or to both fine and imprisonment.

[am. B.C. Reg. 79/2015, Sch. 3.]

Schedule

SCHEDULE

[en. B.C. Reg. 102/2015, App. 5, s. 4.]

(section 34.1)

CREST Province of British Columbia Ministry of Finance

IN THE MATTER OF THE *TOBACCO TAX ACT*, R.S.B.C. 1996, CHAPTER 452,
SECTION 32.1, AND IN THE MATTER OF THE INTEREST

OF [name]

IN

..... [P.I.D. number and full legal description of land]

CERTIFICATE OF LIEN

I certify that:

1
[name]

.....
[address]

is

(a) required to pay or remit an amount under the *Tobacco Tax Act* but has not
paid or remitted that amount, or

(b) an associated corporation or related individual, as defined in the *Tobacco
Tax Act*, of a person who is required to pay or remit an amount under the
Tobacco Tax Act and has not paid or remitted that amount.

2 The amount remaining unpaid or unremitted as of the date of this certificate is
\$.....

AND TAKE NOTICE that on registration of this certificate in the land title office, the amount
of the indebtedness to Her Majesty the Queen in right of the Province of British Columbia is a
lien against the land described above.

Dated at, British Columbia, on[date]

.....
Director, *Tobacco Tax Act*