

# Excise Duty Memoranda Series

December 2003  
Revised August 2007\*

## 10.3.1 Refunds

Overview	This memorandum explains the process and legislative requirements for obtaining a refund under the <i>Excise Act, 2001</i> (the “Act”).
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Disclaimer	The information in this memorandum does not replace the law found in the Act and its Regulations. It is provided for your reference. As it may not completely address your situation, you may wish to refer to the Act or its Regulations, or contact any Canada Revenue Agency (CRA) regional excise duty office for additional information. These offices are listed in Excise Duty Memorandum (EDM) 1.1.2, <i>Regional Excise Duty Offices</i> .
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\* Revised paragraphs are indicated with a side bar in the margin.

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## Refunds

Statutory  
recovery rights  
s 174

1. No person has a right to recover any money paid to Her Majesty as or on account of, or that has been taken into account by Her Majesty as, excise duty, interest or other amount payable under the Act except as specifically provided for under the Act, the *Customs Act*, the *Customs Tariff*, or the *Financial Administration Act*.

  
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*Remboursements*.



### 10.3.1 Refunds

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Application ss 175(1)	2. A person applying for a refund under the Act must do so in the form and manner prescribed by the Minister. Generally, a person applying for a refund must complete form B256, <i>General Application for Refund of Excise Duty Under the Excise Act, 2001</i> . There is also a special refund application for foreign importers of tobacco products, form E681, <i>Refund Claim on Exported Tobacco Products Under the Excise Act, 2001</i> . These forms are available on the CRA Web site at the following address: <a href="http://www.cra-arc.gc.ca/tax/technical/act2001-e.html">www.cra-arc.gc.ca/tax/technical/act2001-e.html</a> .
Time limits ss 175(2)	3. Only one application may be made for a particular refund in respect of any matter under the Act.
Time limits ss 176(3)	4. A person must file an application for refund within two years after paying the amount to be refunded.
Assessment of refund ss 189(1)	5. Where a person applies for a refund, the CRA shall, without delay, consider the application and assess the amount of the refund owing.
Payment ss 189(3)	6. Where the CRA determines that a refund is payable to a person, the CRA shall pay the refund.
Restriction ss 189(4)	7. A refund shall not be paid to a person until that person has filed with the CRA or Canada Border Services Agency all returns or other records that are required to be filed under this Act, the <i>Customs Act</i> , the <i>Excise Act</i> , the <i>Excise Tax Act</i> , or the <i>Income Tax Act</i> .
Refunds for beer	8. Since excise duty on beer falls under the <i>Excise Act</i> , rather than the <i>Excise Act, 2001</i> , refunds of excise duty on beer are to be filed using form N10, <i>Refund/Credit Claim</i> .

### Claiming refunds

	9. There are two methods to claim a refund of excise duty: (a) claim the total refund amount on the appropriate “Refunds” line on the appropriate monthly excise duty return and attach form B256 to support the refund amount claimed; or (b) submit form B256 separately from the excise duty return without claiming a refund amount on the return.
Certification	10. An authorized person must print their name and title, sign and date the refund application, and provide a current telephone number.
Exception – duty free shop licensee	11. A duty free shop licensee will not require pre-authorization to claim a refund of special duty on the first 200 cigarettes, 200 tobacco sticks or 200 grams of other manufactured tobacco that are sold by the licensee to an individual, who is a non-resident of Canada and who is about to leave Canada.

- Excise duty memoranda 12. The following Excise Duty Memoranda include instructions on how to claim a refund in conjunction with the excise duty returns of particular licensee types:
- 10.1.2 – Completing an Excise Duty Return – Duty Free Shop
  - 10.1.3 – *Completing an Excise Duty Return – Excise Warehouse Licensee*
  - 10.1.4 – *Completing an Excise Duty Return – Licensed User*
  - 10.1.6 – *Completing an Excise Duty Return – Wine Licensee*
  - 10.1.7 – *Completing an Excise Duty Return – Spirits Licensee*
  - 10.1.8 – *Completing an Excise Duty Return – Tobacco Licensee*
13. A person who has already claimed a refund by filing form B256 separately from their excise duty return, or who intends to do so, must not record any information concerning the refund in their excise duty return.

### Authority to file separate refund applications

- Application ss 164(1) 14. A licensee who engages in one or more activities in more than one branch or division may apply to the CRA for authority to file separate returns and applications for refunds for each branch or division.
- Requirement for authorization ss 164(2) 15. A person wishing to file separate excise duty returns and refund applications must show that:
- (a) the branch or division can be separately identified by reference to its location or the nature of the activities engaged in by it; and
  - (b) separate records, books of account and accounting systems are maintained in respect of that branch or division.
- Permission 16. To obtain permission to file separate returns or refund applications for branches or divisions, or to cancel an authorization to file separate returns or refund applications, a licensee must file form B269, *Application or Revocation of the Authorization to File Separate Excise Duty Returns and Rebate Applications for Branches or Divisions*, with any CRA tax services office or the Summerside Tax Centre.

### Reasons for refund

- Application 17. In addition to the amount requested, a person or licensee applying for a refund of excise duty must indicate on form B256 the reason for making the application in the “Reason for refund” section of the application. Only one reason may be used per application. However, more than one application may be made at the same time.

### 10.3.1 Refunds

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#### Reason 1 – Amount paid in error

- Payment if error ss 176(1) and (3) 18. A person who pays an amount as or on account of, or that was taken into account as excise duty, interest or other amount payable under the Act in circumstances where the amount was not payable, whether it was paid by mistake or otherwise, may apply for a refund of that amount.
- Restriction ss 176(2) 19. An amount cannot be refunded to a person if it has been taken into account as excise duty assessed by the CRA for a fiscal month of the person, or if it was excise duty, interest or other amount assessed by the CRA.
- Time limit ss 176(3) 20. A person must apply for the refund within two years after the amount was paid.

#### Reasons 2 and 3 – Re-worked or destroyed tobacco products

- Re-worked or destroyed tobacco products ss 181 21. A tobacco licensee may request a refund of the duty paid on a tobacco product that is re-worked or destroyed by the tobacco licensee in accordance with the Act.
- Time limit ss 181 22. The tobacco licensee must apply for the refund within two years after the tobacco product is re-worked or destroyed.
23. Additional information on re-working tobacco products will be provided in Excise Duty Memorandum 7.4.1, *Re-working and Destruction of Tobacco*.

#### Reason 4 – Imported manufactured tobacco sold to non-resident by duty free shop

- Refund of special duty to duty free shop licensee ss 183 24. A duty free shop licensee who sells, in accordance with the *Customs Act*, imported manufactured tobacco to a non-resident individual who is about to depart Canada, may request a refund of the special duty paid.
- Limitation 25. The refund of special duty is limited to the duty paid on the first 200 cigarettes, 200 tobacco sticks or 200 grams of other manufactured tobacco that are sold by the licensee to the non-resident.
- Time limit ss 183(2) 26. A duty free shop licensee must apply for the refund within two years after the sale is made.
27. Additional information on imported manufactured tobacco will be provided in Excise Duty Memorandum 7.5.1, *Importing and Exporting Tobacco*.

#### Reason 5 – Bad debt write-off on sale of cigars

- Payment if bad debt ss 184(1) 28. A tobacco licensee who is owed a debt in respect of an arm's length sale of cigars on which the licensee paid *ad valorem* duty (65% prior to July 1, 2006 and 66% after June 30, 2006) may claim bad debt relief in respect of the sale if all or part of the debt is written off in the licensee's books as a bad debt.

29. The amount of the refund is equal to the proportion of the amount of duty paid that the bad debt written off is of the price (including duty imposed under section 42 of the Act) at which the cigars were sold.

## Example

A tobacco licensee sells cigars for \$1,000 plus \$660 *ad valorem* duty for a total sale price of \$1,660. The licensee learns that it will not be able to obtain payment of the final \$665 charged for the cigars from the purchaser and enters that amount into their books and records as a bad debt. The licensee may claim, within two years of writing the amount off as a bad debt, a refund of the *ad valorem* duty relating to the amount so written off. In this case, since 40% (\$665 = 40% of \$1,660) of the total sale was considered to be a bad debt, 40% of the *ad valorem* duty paid (\$264) may be refunded.

Recovery of payment  
ss 184(2)

30. If a tobacco licensee recovers all or part of a bad debt previously written off and has received a refund in relation to the bad debt, the licensee must immediately repay an amount equal to the proportion of the refunded amount that the amount of the debt recovered is of the amount of the debt written off.

Time limit  
ss 184(1)

31. A tobacco licensee must apply for the refund within two years after the fiscal month in which the bad debt was written off.

**Reason 6 – Imported bulk spirits returned to spirits licensee**Imported bulk spirits  
ss 185(1)

32. A spirits licensee may request a refund of the special duty paid in respect of imported bulk spirits supplied to, and subsequently returned by, a licensed user.

Time limit  
ss 185(1)

33. A spirits licensee must apply for the refund within two years from the day the spirits are returned to the spirits licensee.

**Reason 7 – Imported packaged spirits returned to excise warehouse licensee**Imported packaged  
spirits  
ss 185(2)  
*Return of Packaged  
Alcohol to an Excise  
Warehouse Regulations*  
s 6

34. An excise warehouse licensee may request a refund of the special duty paid in respect of imported packaged spirits supplied to a licensed user, that is subsequently returned under prescribed conditions by the licensed user to the warehouse of the excise warehouse licensee.

Time limit  
ss 185(2)

35. An excise warehouse licensee must apply for the refund within two years from the day the spirits are returned.

**Reason 8 – Packaged alcohol returned to excise warehouse licensee**Alcohol returned to  
warehouse  
s 186  
*Return of Packaged  
Alcohol to an Excise  
Warehouse Regulations*  
s 4

36. If packaged alcohol (i.e., spirits and wine) that has been removed by an excise warehouse licensee for entry into the duty-paid market is returned to the licensee's warehouse in accordance with section 152 of the Act, the licensee may request a refund of the excise duty that was paid when the alcohol was removed.

### 10.3.1 Refunds

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Time limit  
s 186

37. An excise warehouse licensee must apply for the refund within two years from the day the alcohol is returned to the warehouse.

#### Reason 9 – Marked special container of alcohol returned to excise warehouse and destroyed

Alcohol in special  
containers  
s 187

38. If a marked special container of alcohol is returned to the excise warehouse licensee who paid excise duty on it, the licensee may request a refund of the excise duty on the alcohol remaining in the container when it is returned, if the licensee destroys the alcohol in an approved manner.

Time limit  
s 187

39. An excise warehouse licensee must apply for the refund within two years from the day the marked special container is returned to the excise warehouse licensee.

40. Additional information on the destruction of alcohol will be provided in Excise Duty Memoranda 3.4.2, *Spirits Taken for Analysis or Destruction*, and 4.4.2, *Destruction of Wine*.

#### Reason 10 – Excess special duty paid by a tobacco licensee on exported tobacco products <1.5%

Refund to importer if  
foreign taxes paid  
ss 182(4)

41. The special duty paid by a tobacco licensee in respect of tobacco products that are manufactured and subsequently exported by the licensee under the provisions of paragraph 50(4)(a) of the Act, may be refunded under certain conditions.

42. The refund is limited to the special duty paid less the amount refunded to a foreign importer under subsection 182(1) of the Act. A refund of special duty is only payable to the manufacturer after the foreign importer's refund claim has been approved.

Time limit  
ss 182(4)

43. The tobacco licensee must apply for the refund within two years from the day the tobacco products were exported.

#### Refund on destroyed imported manufactured tobacco – duty free shop licensees

Refund on  
destroyed imported  
manufactured tobacco  
s 181.1

44. A duty free shop licensee may claim a refund of the special duty imposed under section 53 of the Act that was paid on imported manufactured tobacco that is destroyed by the licensee in accordance with the *Customs Act*.

Time limit  
s 181.1

45. A duty free shop licensee must apply for the refund within two years after the tobacco product is destroyed.

#### Refund on exported tobacco products – foreign importers

Refund of special duty  
paid  
ss 182(1) and (2)

46. A refund of special duty is payable to a person who has imported tobacco products manufactured in Canada into a foreign country. The refund is limited to the lesser of the taxes and duties imposed by the national government of the foreign country to which the tobacco products were exported, and the amount of the special duty imposed under the Act paid by the tobacco licensee who manufactured them.

- Satisfactory evidence para 182(1)(a) 47. The person who imported the tobacco products into a foreign country must provide satisfactory evidence that:
- all taxes and duties imposed on the tobacco under the laws of the foreign country have been paid; and
  - the container containing the product has printed on it or affixed to it tobacco markings.
- Time limit para 182(1)(b) 48. The person who imported the tobacco products into a foreign country must apply for the refund within two years from the day the tobacco products were exported using form E681, *Refund Claim on Exported Tobacco Products Under the Excise Act, 2001*.
49. The importer must include copies of customs forms relating to the refund claim and a copy of form E60, *Tobacco Products Export Form*, supplied by the exporter. If this is a first claim, a copy of a BATF Certificate or a *Tobacco Products Commercial Permit* must also be included.
- Excess refunded to tobacco licensee ss 182(4) 50. If the special duty paid by the tobacco licensee in respect of the exported tobacco products exceeds the amount of the refund paid to the importer, the tobacco licensee may apply for a refund of the amount by which the special duty exceeds the refund paid to the importer using form B256. (Please refer to paragraph 9 of this memorandum.)

### Overpayment of refunds

- s 179 51. If a person receives a refund to which they are not entitled, or an amount to which a person is not entitled is applied against an amount owing, the person is required to pay the amount of the refund or overpayment to the Receiver General.

### Trustee appointment

- Restrictions with respect to trustees s 178 52. If a trustee is appointed to administer the estate of a bankrupt person pursuant to the *Bankruptcy and Insolvency Act*, any refunds or other payments owing under the Act that the bankrupt person was entitled to prior to the appointment will not be paid unless all the returns required to be filed under the Act prior to the appointment are filed and all outstanding amounts are paid.

### Set-off of refunds

- s 162 and 177 53. The Act allows a person to deduct any refund due to the person from amounts payable under this Act or any other Act of Parliament. In this situation, the person is deemed to have paid, and the CRA is deemed to have refunded an amount equal to, the lesser of the amount payable by the person and the amount of the refund. Paragraph 9 of this memorandum sets out how to claim a refund and reduce amounts payable.

### Interest paid on refunds

- ss 189(5) 54. If a refund is paid to a person, interest shall be paid at the prescribed rate on the refund for the period beginning 30 days after the refund application is filed with the CRA and ending on the day the refund is paid.

### Submitting refund applications

55. You may submit your excise duty refund application by mailing it to the following address:

Canada Revenue Agency  
Summerside Tax Centre  
275 Pope Road, Suite 101  
Summerside PE C1N 6E7

56. You may also submit your excise duty refund application by delivering it to any CRA tax services office

### Retention of information

Keeping records  
s 206

57. Persons claiming refunds under the Act are required to maintain all records that are necessary to determine whether they are in compliance with the Act.

58. Additional information on the requirement to maintain books and records is available in Excise Duty Memorandum 9.1.1, *General Requirements for Books and Records*.

### Enquiries

59. Additional refund application forms can be obtained on the CRA Web site. If you have questions about a refund application already submitted, you can write to the Summerside Tax Centre or call toll free at:

1-877-432-5472 within Canada; or

1-902-432-5472 outside Canada.

60. When you contact us, quote your Business Number (BN), RD account number, telephone number, the refund period, the date you sent your application, and the amount of your claim.

### Offences and penalties

Enforcement  
Part 6

61. Additional information on contraventions and penalties will be included in Excise Duty Memorandum 11.2.1, *Contraventions and Penalties*.

All of the memoranda in the Excise Duty Memoranda Series are available on the CRA Web site at [www.cra-arc.gc.ca/tax/technical/act2001-e.html](http://www.cra-arc.gc.ca/tax/technical/act2001-e.html).