

# Excise Duty Memoranda Series

## 2.2.3 Surety Bonds

March 2003

Overview	This memorandum explains the requirements for surety bonds that are provided as security by a spirits licensee or tobacco licensee in accordance with the <i>Excise Act, 2001</i> (the “Act”). A sample of a suggested surety bond is provided in Appendix A.
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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 to contact any Canada Customs and Revenue Agency (CCRA) tax services office for additional information.

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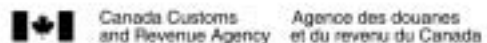
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### Requirement to provide security

Security requirements para 23(3)(b) 1. Persons applying for or renewing a spirits licence or tobacco licence under the Act are required to provide the CCRA with security in a form satisfactory to the CCRA and in an amount determined by the *Regulations Respecting Excise Licences and Registrations*.



La version française de ce document est intitulée *Cautionnements*.



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2. Additional information on the requirement to provide security is contained in Excise Duty Memorandum 2.2.2, *Security Requirements for Licensees*.

### Acceptable surety bonds

Types of bonds

*Regulations Respecting  
Excise Licences and  
Registrations*

ss 5(2)

3. Bonds acceptable to the CCRA as security posted under the Act include:

- (a) a transferable Government of Canada bond that is accompanied by a valid Y76 *Government of Canada Bond Transfer Form*. Transferable Government of Canada bonds are discussed in Excise Duty Memorandum 2.2.2, *Security Requirements for Licensees*;
- (b) a bond issued by a company that holds a certificate of registry to carry on the fidelity or surety class of insurance business in Canada and that is approved by the President of the Treasury Board as a company whose bonds can be accepted by the Government of Canada;
- (c) a bond issued by a member of the Canadian Payments Association as provided for in section 4 of the *Canadian Payments Act*;
- (d) a bond issued by a corporation that accepts deposits insured by the Canada Deposit Insurance Corporation or the *Régie de l'assurance-dépôts du Québec* to the maximum amounts permitted by the statutes under which those institutions were established;
- (e) a bond issued by a credit union as defined in subsection 137(6) of the *Income Tax Act*; or
- (f) a bond issued by a corporation that accepts deposits from the public, if repayment of the deposits is guaranteed by a Canadian provincial government.

### Form and manner of surety bond

Form

4. A sample of the suggested form for a bond in accordance with the Act is provided in the Appendix to this memorandum.

Signatures

5. Bonds must be signed by the principal and,

- (a) in the case of an incorporated company, bear the impression of its corporate seal, or
- (b) in all other cases, the signature of the principal must be duly witnessed.

6. Bonds must also be signed by the surety and bear the impression of its corporate seal. The title of the official signing the bond must be shown.

7. The names of the principals and sureties on the bond must conform in detail to those shown on the respective seals.

Riders or  
endorsements

8. While the form of the bond may not be changed after issuance, the terms and conditions may be changed by issuing a document known as a rider or endorsement. A rider or endorsement to a surety bond is acceptable only for a change in the name of the principal, a change in the amount of the bond, or a change in the name of the surety company.

9. A rider or endorsement to a bond must be signed and sealed by duly authorized officers of the principal and of the surety company. It must also clearly identify the bond to which it refers, including the name of the surety company, the number of the bond, the date of issue, the name of the principal, and the amount for which the bond has been issued.

### Bonds from a guarantee company

Meaning of “guarantee company”

10. The term “guarantee company” means a company licensed in Canada to transact the fidelity or surety class of insurance business.

Acceptable guarantee companies

11. The Treasury Board Secretariat of Canada issues a list of acceptable bonding companies for the purposes of paragraph 3(b) of this memorandum on a regular basis. Information concerning this list is available in Excise Duty Memorandum 2.2.4, *Approved Financial Institutions and Acceptable Bonding Companies*, or on the Treasury Board of Canada Secretariat Web site under Appendix L, *Acceptable Bonding Companies of the Contracting Policy*, at the following address:  
[http://www.tbs-sct.gc.ca/pubs\\_pol/dcgpubs/Contracting/contractingpol\\_1\\_e.html](http://www.tbs-sct.gc.ca/pubs_pol/dcgpubs/Contracting/contractingpol_1_e.html)

### Bonds from a chartered bank or other financial institution

12. Bonds from a chartered bank or other authorized institution are treated in the same manner as bonds from a guarantee company.

13. All bank bonds and amendments thereto must bear the corporate seal of the issuing chartered bank.

### Cancellation of bond

Notice of cancellation

14. To cancel a surety bond that has been posted with the CCRA, the surety company must provide 60 days’ notice in writing of the cancellation. The cancellation notice, which must be sent by registered mail, must be addressed to the Regional Manager or the Assistant Director of Excise Duty.

Continuation of coverage

15. If a surety company cancels a bond, but the licensee has not ceased operations and is required to maintain security, the licensee must provide replacement security on or before the cancellation date.

### Breach of conditions

16. When security is provided in the form of a surety bond and there has been a contravention of the Act, or normal collection activities have failed to resolve an unpaid balance on a licensee’s account, relevant documentation to substantiate the claim and a request for payment of the actual amount to be paid by the surety may be made to the surety concerned, with a copy to the principal.

All of the memoranda in the Excise Duty Memoranda Series will be available on the CCRA Web site at <http://www.ccra-adrc.gc.ca/tax/technical/exciseduty-e.html>

## 2.2.3 Surety Bonds

### Appendix – Suggested form of Excise Duty bond



Canada Customs  
and Revenue Agency

Agence des douanes  
et du revenu du Canada

<b>Bond Number</b>

#### EXCISE BOND (*sample*)

Pursuant to the legislation governing the excise activities identified below, we the "principal" and "co-principal"\* and "surety" jointly and severally bind ourselves, our respective heirs, executors, administrators, successors, and assigns in the amount stated below unto Her Majesty in right of Canada, her heirs and successors as represented by the Minister of National Revenue of Canada. We the principal and co-principal further acknowledge that we are required to furnish and maintain security in the amount noted.

#### 1. Activity to be secured

#### 2. Legislative authority

#### 3. Bond amount (*in words and in numbers*)

The condition of the above written obligation is such that if the obligation imposed by these legislative authorities is well and truly performed, then this obligation shall be void and of no effect but otherwise shall be and remain in full force, virtue and effect. Notwithstanding the foregoing, it is understood and agreed that the liability of the surety under this bond shall be limited to the amount stated herein and shall not be cumulative during the existence of the bond.

#### 4. Specify the period of validity of this bond as determined by the relevant regulations (*check one box only*)

- (a)  continuous bond – effective date: \_\_\_\_\_ (*yyyy-mm-dd*)
- (b)  bond for a specified period – commencing on \_\_\_\_\_ and terminating on \_\_\_\_\_  
(*yyyy-mm-dd*) (*yyyy-mm-dd*)

#### 5. Terms

(a) Provided that the surety gives the Minister sixty days' notice by registered mail of its intention to terminate the obligation undertaken, then this obligation and all liability shall cease insofar as any act of dealing by the principal and co-principal\* subsequent to the termination date is concerned, but otherwise shall remain in full force and effect.

(b) The liability of the principal and co-principal\* and of the surety hereunder shall arise upon receipt by the surety of a written demand from the Canada Customs and Revenue Agency (CCRA) containing documentation to substantiate the claim. However, if the principal and co-principal\* or the surety provides, within sixty days of the date of such demand, evidence to disprove the claim, then such liability, if any, arises on the date of the notice confirming that the demand is valid. All such demands shall be given to the surety within one year following the date of termination of this bond.

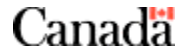
6. In witness whereof the principal and co-principal\* has/have hereunto set their hand and seal and the surety has caused these present to be sealed with its corporate seal, attested to by the signature of its duly authorized officials on the day and year indicated below. We the principal and co-principal\* further testify that we have read and understand the relevant legislation indicated herein, and hereby undertake to be strictly governed by the provisions thereof.

<b>Principal (name and address)</b>	<b>Co-principal* (name and address)</b>
<b>Title</b>	<b>Title</b>
<b>Signature and seal</b>	<b>Signature and seal</b>
<b>Surety (name and address)</b>	
<b>Title</b>	
<b>Signature and seal</b>	

7. Signed, sealed and delivered in the presence of \_\_\_\_\_  
*(witness for the principal and co-principal\*)*

8. Dated this \_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_ .

\* if applicable



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### Completion Instructions for the Excise Bond

**Bond number** – The surety company or bank shall enter the number assigned to the bond.

The surety company or the bank shall enter the first paragraph using the same wording as the sample bond form.

1. **Activity to be secured** – The surety company or bank shall enter the type of licence the applicant/co-applicant is applying for (i.e., spirits licence or tobacco licence).
2. **Legislative authority** – The surety company or bank shall make reference to section 14 of the *Excise Act, 2001* (Chapter 22, RSC). Refer to paragraph 14(1)(a) for a spirits licence, or paragraph 14(1)(d) for a tobacco licence.
3. **Bond amount** – Enter the amount of the security required in Canadian dollars, in words and numbers (e.g., five thousand dollars – \$5,000.00 in Canadian funds).

The surety company or bank shall enter the second paragraph using the same wording as the sample bond form.

4. **Specify the period of validity of this bond as determined by the relevant regulations (*check one box only*)** – Since the majority of spirits and tobacco licensees are continuing operations, notwithstanding the requirement to reapply every two years, choose box (a) or (b):  
**(a) Continuous bond** – it is recommended to select box (a) to facilitate the re-issuance of the licence every two years. Enter the effective date (*yyyy-mm-dd*).  
**(b) Bond for a specified period** – where it is necessary to have a bond for a shorter or limited time period, it is recommended to select box (b). Enter the commencing date (*yyyy-mm-dd*) and terminating date (*yyyy-mm-dd*).
5. **Terms**

The surety company or bank shall enter the same paragraphs as in 5(a) and (b) using the same wording as the sample bond form.

6. The surety company or bank shall enter paragraph 6 using the same wording as the sample bond form.

#### **Identification of principal/co-principal\***

Enter the applicant's full legal name, mailing address and title (this should be the same as the identification of principal/co-principal\* on application form L63, *Licence and Registration Application Excise Act, 2001*).

#### **Signature and seal**

The bond form must bear the signature(s) of duly authorized officers of the principal indicating names and titles and impressed with the corporate seal if available.

#### **Surety (*name and address*)**

The bond must bear the complete legal name of the surety (e.g., insurance company, bank) and must be impressed with the surety's corporate seal.

7. **Signed, sealed and delivered in the presence of (*witness for the principal and co-principal\**)** – Only duly authorized officers of the applicant and/or co-applicant may sign the bond.
8. **Dated this \_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_** – Enter the day, month and year the bond is signed by the principal/co-principal\*.

\*if applicable