

# Excise Duty Memoranda Series

## 3.4.1 Losses of Spirits

April 2004

### Overview

This memorandum explains the application of the *Excise Act, 2001* (the “Act”) to losses of spirits and to spirits that cannot be accounted for. It also provides information on where these losses must be reported on an excise duty return.

### 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) tax services office for additional information.

## Table of Contents

General .....	1
Spirits that cannot be accounted for .....	2
Losses of spirits in prescribed circumstances .....	2
Reporting .....	3
Maintaining records and filing returns .....	4
Offences and penalties.....	4

## General

### Excise duty relieved

1. Relief from excise duty may be available to spirits licensees, licensed users and excise warehouse licensees where spirits are lost in prescribed circumstances. Excise duty is, however, payable on spirits that are lost other than in prescribed circumstances, and on spirits that cannot be accounted for. The prescribed circumstances are described in paragraphs 13 and 15 of this memorandum.

### Exception ss 127(3)

2. Excise duty is not payable in circumstances where the licensee responsible for bulk spirits is convicted of an offence or is liable for a penalty.

*More Ways to Serve You!*  
*Pour vous servir encore mieux !*

La version française de ce document est intitulée *Pertes de spiritueux*.



Canada Revenue  
Agency

Agence du revenu  
du Canada

Canada

### 3.4.1 Losses of Spirits

---

3. Additional information concerning these types of licensees is available in Excise Duty Memoranda 3.1.1, *Producers and Packagers of Spirits*, 3.1.2, *Licensed Users*, and 8.1.1, *Excise Warehouses*.

#### Spirits that cannot be accounted for

Bulk spirits unaccounted for ss 127(1) and (2)

4. Excise duty is payable by the person responsible for bulk spirits on any portion of the spirits that cannot be accounted for by the person as being in the possession of a spirits licensee, a licensed user or an alcohol registrant. The excise duty is payable by the person responsible for the spirits at the time they cannot be accounted for.

Meaning of "responsible" s 2

5. "Responsible", in relation to a person, means the person is responsible for bulk alcohol in accordance with sections 104 to 121 of the Act. The person responsible for bulk spirits is generally the spirits licensee or licensed user who owns the spirits, or who last owned them, or where the spirits were never owned by a spirits licensee or licensed user, the spirits licensee who produced or imported them, or the licensed user who imported them.

Packaged spirits unaccounted for ss 129(1)

6. Excise duty is payable on non-duty-paid packaged spirits if the excise warehouse licensee or licensed user who received them cannot account for them:

- (a) as being in the licensee's excise warehouse or the user's specified premises;
- (b) as having been removed, used or destroyed in accordance with the Act; or
- (c) as having been lost in prescribed circumstances if prescribed conditions are fulfilled (refer to paragraph 15 of this memorandum).

Timing of liability ss 129(2)

7. The excise duty is payable by the excise warehouse licensee or licensed user at the time the packaged spirits cannot be accounted for.

8. Additional information on the imposition and payment of excise duty on spirits will be available in Excise Duty Memorandum 3.2.2, *Imposition and Responsibility for Excise Duty on Spirits*.

#### Losses of spirits in prescribed circumstances

Prescribed circumstances and conditions

9. The Act provides relief from excise duty on bulk and packaged spirits that are lost in prescribed circumstances, where the licensee responsible for, or in possession of, the spirits has fulfilled prescribed conditions. These circumstances and conditions are specified in the *Losses of Bulk Spirits and Packaged Alcohol Regulations* (the "Regulations").

10. Excise duty is not relieved on spirits that are lost in circumstances other than those prescribed by Regulation (e.g., theft).

Contacting the CRA

11. If a person experiences a loss of spirits that is in excess of a usual loss, the person should contact their Regional Excise Duty office immediately to have the loss confirmed by an excise duty officer. Additional information concerning the location of regional offices is available in Excise Duty Memorandum 1.1.2, *Regional Excise Duty Offices*.

## Bulk spirits

Person no longer responsible para 109(f)

12. A person who is responsible for bulk spirits (refer to paragraph 5 of this memorandum) ceases to be responsible for them if they are lost in prescribed circumstances and if the person fulfils any prescribed conditions. As the person ceases to be responsible for the spirits, there is no liability for excise duty.

*Losses of Bulk Spirits and Packaged Alcohol Regulations*  
s 2

13. The circumstances prescribed in the Regulations relating to bulk spirits are losses:

- (a) in a fire;
- (b) in shrinkage by evaporation;
- (c) in processes related to the manufacturing of the bulk spirits, including aging, blending, racking, re-distilling, reducing and vatting;
- (d) in processes related to handling, including stock operations and packaging; and
- (e) in the physical transfer of the spirits between licensees or between a licensee and an alcohol registrant (in this context, “licensee” means a spirits licensee or a licensed user),

on condition that the person who is responsible for the spirits at the time of the loss keeps records in accordance with section 206 of the Act to substantiate the loss.

## Packaged spirits

Excise duty relieved para 129(1)(c)

14. Excise duty is not payable on packaged spirits received by an excise warehouse licensee or a licensed user if the spirits are lost in prescribed circumstances and the person fulfils any prescribed conditions.

*Losses of Bulk Spirits and Packaged Alcohol Regulations*  
s 3

15. The circumstances prescribed by Regulation relating to packaged spirits are losses through breakage where:

- (a) at the time of the breakage the spirits were in their original unopened container in an excise warehouse or in the specified premises of a licensed user and the warehouse licensee or licensed user keeps records that substantiate the breakage; or
- (b) the breakage occurred during the physical transfer of the packaged spirits between excise warehouses or between an excise warehouse and the specified premises of a licensed user.

## Reporting

Losses other than in prescribed circumstances

16. Losses that cannot be accounted for as having been incurred in prescribed circumstances should be reported on a person’s applicable monthly return as follows:

- B262, *Excise Duty Return – Excise Warehouse Licensee*: on page 2 under “Reductions to Inventory: Duty-Paid / Other (Specify)”. Specify the reason for the loss and the quantity lost. Include the excise duty payable on this loss on line 4 or 5 of page 1 of the return.

### 3.4.1 Losses of Spirits

---

- B263, *Excise Duty Return – Licensed User*: on page 2 under “Reductions to Inventory / Other uses (Specify)”. Specify the reason for the loss and the quantity lost. Include the excise duty payable on this loss on line 4 or 5 of page 1 of the return.
- B266, *Excise Duty Return – Spirits Licensee*: on page 2 under “Reductions to Bulk Inventory / Other / Duty-paid (Specify)”. Specify the reason for the loss and the quantity lost. Include the excise duty payable on this loss on line 4 or 5 of page 1 of the return.

Losses in prescribed circumstances

17. Losses accounted for as having been incurred in prescribed circumstances should be reported on a person’s applicable monthly return as follows:

- B262, *Excise Duty Return – Excise Warehouse Licensee*: on page 2 under “Reductions to Inventory: Non-Duty-Paid / Breakage”. Specify the quantity lost.
- B263, *Excise Duty Return – Licensed User*: on page 2 under “Reductions to Inventory / Other uses (Specify)”. Specify the reason for the loss and the quantity lost.
- B266, *Excise Duty Return – Spirits Licensee*: on page 2 under “Reductions to Bulk Inventory / Other / Non-duty-paid (Specify)”. Specify the reason for the loss and the quantity lost.

### Maintaining records and filing returns

Keeping records ss 206(1)

18. Every licensee and/or registrant under the Act is required to maintain all records that are necessary to determine whether they are in compliance with the Act.

19. The failure by a licensee to adequately account for spirits lost while in their possession may result in an assessment of the excise duty liability on the amount of spirits lost or enforcement action.

20. 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*.

### Offences and penalties

Failure to comply

21. If a person fails to comply with the restrictions of their licence or registration, they may be guilty of an offence or subject to a penalty under the Act.

Enforcement Part 6

22. Additional information on offences and penalties will be provided in Excise Duty Memoranda 3.9.1, *Spirits-Related Offences and Penalties*, and 12.9.1, *Administrative Offences and Penalties*.

All of the memoranda in the Excise Duty Memoranda Series will be available on the CRA Web site at <http://www.cra.gc.ca/tax/technical/act2001-e.html>