

# Excise Duty Memoranda Series

## 7.1.4 Duty Free Shop Operators

July 2003

Overview	The <i>Excise Act, 2001</i> (the “Act”) requires a person to obtain a licence for a duty free shop in order to perform certain activities under the Act. This memorandum provides an overview of the obligations and entitlements of persons who may become licensed duty free shop operators.
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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 Customs and Revenue Agency (CCRA) tax services office for additional information.
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### Requirement for a duty free shop licence

Licences 22	1. The Act provides for a separate excise duty licence to be issued to a person who is licensed under the <i>Customs Act</i> to operate a duty free shop. The excise duty licence authorizes the person to possess and sell, in their duty free shop, imported manufactured tobacco that is subject to special duty under the Act.
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Meaning of “duty free shop licensee” s 2	2. A “duty free shop licensee” is a person who is licensed under the <i>Customs Act</i> to operate a duty free shop.
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La version française de ce document est intitulée *Exploitants de boutiques hors taxes*.



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When a licence is not required

3. Duty free shop operators who are licensed under the *Customs Act* are not required to obtain a separate excise duty licence under the *Excise Act, 2001*, unless they intend to possess and sell imported manufactured tobacco in their duty free shop.

### Manufactured tobacco and special duty

Meaning of “manufactured tobacco”  
s 2

4. “Manufactured tobacco” means every article, other than a cigar or packaged raw leaf tobacco, that is manufactured in whole or in part from raw leaf tobacco by any process, and includes cigarettes, tobacco sticks, and other manufactured tobacco.

Imposition of special duty  
ss 53(1) and 53(2)

5. A special duty is imposed on imported manufactured tobacco delivered to a duty free shop. It is payable by the duty free shop licensee at the time of delivery to the duty free shop.

Rates  
Sch. 3, s 1

6. The rates of special duty imposed on imported manufactured tobacco are as follows:

- (a) \$0.075 per cigarette;
- (b) \$0.055 per stick, in the case of tobacco sticks; and
- (c) \$0.05 per gram, in the case of manufactured tobacco other than cigarettes or tobacco sticks.

### Obtaining a duty free shop licence

7. Additional information relating to the requirements and procedures for obtaining a duty free shop licence under the Act is provided in Excise Duty Memorandum 2.2.1, *Obtaining and Renewing a Licence*.

### Refund of special duty

Refund  
ss 183(1)

8. The special duty imposed on certain imported manufactured tobacco may be refunded to a duty free shop licensee who is licensed under the Act. This refund applies to a maximum of 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.

Application and time limit  
ss 183(2)

9. An application for a refund of the special duty must be made within two years after the sale is made. To claim the refund, licensed operators must file form B256, *General Application for Refund of Excise Duty Under the Excise Act, 2001*.

10. Additional information relating to the refund of special duty will be available in Excise Duty Memorandum 10.3.1, *Refunds*.

## Maintaining records and filing returns

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| Keeping records<br>ss 206(1)                                  | <p>11. Every person who possesses a licence under the Act is required to maintain all records that are necessary to determine whether they are in compliance with the Act.</p> <p>12. Additional information on the requirement to maintain books and records is available in Excise Duty Memorandum 9.1.1, <i>General Requirements for Books and Records</i>.</p>   |
| Filing returns<br>ss 160(1)                                   | <p>13. Every duty free shop operator licensed under the Act is required to file form B261, <i>Excise Duty Return – Duty Free Shop</i>, in respect of each fiscal month, and to calculate and remit any special duty payable on that return.</p>  |
| Fiscal month<br>ss 159(1)                                     | <p>14. Where a licensed operator has determined a fiscal month for GST/HST purposes, the same fiscal month applies for purposes of excise duty. Where such a fiscal month has not yet been determined, a person may choose a fiscal month using established GST/HST rules, or use a calendar month.</p>  |
| Branches or divisions<br>filing separate returns<br>ss 164(1) | <p>15. Where a licensed operator has branches or divisions with distinct operations under a duty free shop licence, the operator may apply to the Minister for authority to file separate returns for each branch or division.</p> <p>16. Additional information with respect to the filing of monthly returns, remitting special duty and paying the correct amounts of special duty is available in Excise Duty Memorandum 10.1.1, <i>Returns and Payments</i>. Information relating to the amounts to be included on the excise duty return will be contained in Excise Duty Memorandum 10.1.2, <i>Completing an Excise Duty Return – Duty Free Shop</i>.</p> |

## Offences and penalties

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| Unlicensed duty free<br>shop operator<br>s 216 | <p>17. A duty free shop operator who is not licensed under the Act and who possesses or sells imported manufactured tobacco is guilty of an offence. Such a person may be liable on conviction to a fine or prison term, or both.</p>           |
| Enforcement<br>Part 6                          | <p>18. Additional information relating to tobacco-related offences and penalties will be available in Excise Duty Memoranda 7.9.1, <i>Tobacco-Related Offences and Penalties</i>, and 12.9.1, <i>Administrative Offences and Penalties</i>.</p> |

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