

Excise Duty Memoranda Series

8.1.1 Excise Warehouses

Revised September 2003*

Overview	The <i>Excise Act, 2001</i> (the “Act”) requires a person to obtain an excise warehouse licence in order to store alcohol and tobacco products. This memorandum provides an overview of the obligations and entitlements of persons who may become excise warehouse licensees.
----------	--

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.
------------	--

[Proposed amendments]	This memorandum reflects proposed amendments to the Act announced by the Minister of Finance on June 24, 2003. [Where information reflects proposed amendments, the information is enclosed in square brackets.] Any commentary in this memorandum should not be taken as a statement by the CCRA that such amendments will in fact be enacted in their current form.
-----------------------	---


* Revised paragraphs are indicated by a side bar in the right margin.

Table of Contents

General	2
Excise warehouses.....	2
Excise warehouse licence.....	3
Obtaining an excise warehouse licence.....	3
Obtaining other licence types.....	3
Possession and storage of domestic and imported alcohol products.....	4
Marking requirements	4
Supplying packaged alcohol to retail stores.....	5
Supplying packaged alcohol to remote stores	5
Removal of packaged alcohol	5
Possession and storage of tobacco products.....	7
Removal of tobacco products.....	7
Maintaining records and filing returns.....	8
Debts and the collections process	9
Offences and penalties	9

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

La version française de ce document est intitulée *Entrepôts d'accise*.

 Canada Customs and Revenue Agency Agence des douanes et du revenu du Canada

8.1.1 Excise Warehouses

General

- Meaning of “alcohol”
s 2
1. “Alcohol” means spirits or wine.
- Meaning of “alcohol licensee”
s 2
2. “Alcohol licensee” means a person who is a spirits licensee or a wine licensee.
- Meaning of “non-duty-paid”
s 2
3. “Non-duty-paid”, in respect of packaged alcohol, means that excise duty, other than special duty, has not been paid on the alcohol.
- Meaning of “packaged”
s 2
4. To package alcohol means to place it in a container with a capacity of not more than 100 litres that is ordinarily sold to consumers without it being further repackaged into small containers. Packaging alcohol also includes placing it into a marked special container.
- Meaning of “mark” and “special container”
s 2
5. A marked special container, in respect of spirits, is a container of a capacity greater than 100 litres but not more than 1,500 litres that is marked in a prescribed form and manner to indicate that it is intended for delivery to and use by a registered user or at a bottle-your-own premises. A marked special container, in respect of wine, is a container of a capacity greater than 100 litres that is marked in a prescribed form and manner to indicate that it is intended for delivery to and use at a bottle-your-own premises.
- Meaning of “tobacco product”
s 2
6. “Tobacco product” means manufactured tobacco, packaged raw leaf tobacco or cigars.
- Meaning of “manufactured tobacco”
s 2
7. “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.
- Meaning of “stamped”
s 2
8. “Stamped”, in respect of a tobacco product, means that all prescribed information, in a prescribed manner, is stamped, impressed, printed or marked on, indented into or affixed to the product or its container to indicate that excise duty, other than special duty, has been paid on the product.
9. Definitions of other terms found in the Act and its Regulations that relate to alcohol and tobacco products will be available in Excise Duty Memorandum 1.3.1, *Definitions*.

Excise warehouses

- New concept
10. The excise warehouse is a new concept under the Act. It allows an eligible excise warehouse licensee to possess and store, within one or more specified premises, packaged alcohol and unstamped tobacco products upon which excise duty has not been paid. The licensee may defer payment of excise duty to a later date, as long as the products in question are not removed from the premises to enter the duty-paid market.

Separately identifiable premises 11. The premises of an excise warehouse may be part of a licensee's business establishment or may be a completely separate building. However, a licensee must consider the premises of an excise warehouse as being a separately identifiable area in which dutiable products can be stored and accounted for. There are no size limits in respect of an excise warehouse, and a licensee may possess as many premises as required, as long as they are in accordance with the Act.

Excise warehouse licence

Provision ss 19(1) 12. An excise warehouse licence may be issued to a person (i.e., an "excise warehouse licensee") who is not an alcohol retailer, authorizing that person to possess, in their excise warehouse, non-duty-paid packaged alcohol or manufactured tobacco and cigars that are not stamped.

Other eligible persons ss 19(1) and (2) 13. The following persons may also be eligible to obtain an excise warehouse licence, even if they are alcohol retailers:

- (a) an alcohol licensee (i.e., a spirits or wine licensee);
- (b) a provincial liquor authority; or
- (c) a person who supplies goods as ships' stores in accordance with the *Ships' Stores Regulations*.

Obtaining an excise warehouse licence

Only one licence required 14. An eligible person who wishes to operate more than one premises as an excise warehouse only requires one excise warehouse licence. An excise warehouse licence is issued to the legal entity operating the excise warehouse, and not to the specific premises. There is no limit imposed upon the number of premises that may be specified under a licence application.

15. Instructions and requirements for obtaining an excise warehouse licence are provided in Excise Duty Memorandum 2.2.1, *Obtaining and Renewing a Licence*.

Obtaining other licence types

16. Depending upon the activities a person may be involved in, an excise warehouse licensee may also possess other types of licences that are based on the commercial activity of that licensee. For example, an alcohol or tobacco licensee may also require an excise warehouse licence.

17. Additional information on the types of licences a person may be required to have to perform certain activities regulated under the Act is available in Excise Duty Memorandum 2.1.1, *Licence Types*.

8.1.1 Excise Warehouses

Special excise
warehouse licence
ss 20(1)

18. A special excise warehouse licence is issued to a person who is authorized by a tobacco licensee to be the only person, other than the tobacco licensee, who is entitled to distribute manufactured tobacco or cigars manufactured by the licensee to an accredited representative.

Meaning of “accredited
representative”
s 2

19. An “accredited representative” is a representative of a foreign country who is entitled to certain tax exemptions under the *Foreign Missions and International Organizations Act*, as specified in Article 34 of the Convention set out in Schedule 1 of that Act, or in Article 49 of the Convention set out in Schedule II of that Act. Such persons include, but are not limited to, foreign diplomats and consular officials.

20. Additional information relating to special excise warehouses is available in Excise Duty Memorandum 8.1.2, *Special Excise Warehouses*.

Possession and storage of domestic and imported alcohol products

Possession
ss 88(2)

21. An excise warehouse licensee is authorized to possess and store domestic non-duty-paid packaged alcohol that is packaged by an alcohol licensee, as well as non-duty-paid packaged alcohol that is imported by the excise warehouse licensee. Imported non-duty-paid packaged alcohol may be stored in an excise warehouse only after the alcohol has been released by Customs.

22. The Act may impose further restrictions on the possession of non-duty-paid packaged alcohol by an excise warehouse licensee. Additional information relating to the possession of alcohol will be available in Excise Duty Memoranda 3.2.1, *Possession of Spirits*, and 4.2.1, *Possession of Wine*.

Deferral of excise duty
ss 124(1) and 135(3)

23. An alcohol licensee who has a separate excise warehouse licence may defer the payment of excise duty on non-duty-paid packaged alcohol until such time as the alcohol is removed from the excise warehouse.

Imported packaged
alcohol
Customs Tariff,
ss 21.2(3)

24. The same deferral rules apply to imported packaged alcohol. A Customs duty equivalent to the excise duty will be paid at the time of importation, unless the packaged alcohol is immediately entered into a licensed excise warehouse.

Non-duty-paid
packaged alcohol
s 140 and 141

25. When non-duty-paid packaged alcohol is entered into an excise warehouse, the responsibility for the excise duty liability changes from the alcohol licensee to the excise warehouse licensee. The excise warehouse licensee is liable for the excise duty on most removals from the warehouse, including alcohol taken for use and alcohol that the licensee cannot account for.

Marking requirements

Marking requirements
s 87

26. Prescribed information is required to be displayed on all containers and on any packaging encasing the container of packaged spirits entering an excise warehouse. In the case of wine, prescribed information must be displayed on the container of wine and the packaging before it can be removed from an excise warehouse.

27. Additional information on the labelling required to be displayed on a container of alcohol will be available in Excise Duty Memoranda 3.2.3, *Labelling of Containers of Spirits*, and 4.2.3, *Labelling of Containers of Wine*.

Supplying packaged alcohol to retail stores

Limited supply to single retail stores ss 154(1)

28. The Act limits the supply of packaged alcohol made by an excise warehouse licensee to a single retail store. During a calendar year, any particular premises of an excise warehouse licensee is restricted to supplying, to a single retail store, not more than 30% of the total volume of packaged alcohol supplied from the premises to all retail stores in the year.

Exception ss 154(2)

29. If an excise warehouse licensee is also an alcohol licensee, and the retail store is a store of the licensee, the restriction does not apply, provided that:

- (a) the retail store is located where the licensee produces or packages the alcohol; and
- (b) at least 90% of the volume of packaged alcohol supplied to the store from the particular premises of the excise warehouse licensee during the calendar year was packaged by the licensee or on behalf of the licensee, if the licensee was responsible for the alcohol at the time of packaging.

Supplying packaged alcohol to remote stores

Exception for remote stores ss 155

30. The CCRA may authorize an excise warehouse licensee who is a liquor authority or who is not an alcohol retailer to exceed the 30% limitation for supplying packaged alcohol to single retail stores.

Authorization required

31. To be eligible to exceed the 30% limitation, an excise warehouse licensee must apply for and receive authorization from the CCRA. The CCRA must be satisfied that the delivery of the packaged alcohol to the retail store by railway, truck or water vessel is not possible for five consecutive months in every year.

Revocation ss 155(2)

32. The CCRA may revoke such an authorization if:

- the licensee requests that it be revoked, in writing;
- the licensee fails to comply with any condition of the authorization or any provision of the Act;
- the CCRA is no longer satisfied that the requirements for the authorization are met; or
- the CCRA considers that the authorization is no longer required.

Notice of revocation ss 155(3)

33. If the CCRA revokes an authorization, the CCRA will notify the licensee, indicating the effective date of the revocation.

Removal of packaged alcohol

Excise duty payable ss 125 and 136

34. Excise duty is payable by an excise warehouse licensee on packaged alcohol at the time it is removed from an excise warehouse for entry into the duty-paid market.

8.1.1 Excise Warehouses

- Exception – Removals for consignment sales ss 136(2)
35. [A small wine licensee may remove packaged wine they produced or packaged from their own excise warehouse for delivery and sale on a consignment basis to a retail store. The retail store must not be located on the premises of a wine licensee and must be operated on behalf of two or more small wine licensees. For consignment sales, the wine is deemed to be removed from the excise warehouse for entry into the duty-paid market at the time the wine is sold. Therefore duty would be payable by the licensee at the time the wine is sold.]
- Meaning of "small wine licensee" ss 136(3)
36. [A wine licensee is a small wine licensee during a fiscal year of the licensee if, in the previous fiscal year, the total amount of wine sold by the licensee did not exceed 60,000 litres.]
- Excise duty not payable ss 147(1)
37. Excise duty is not payable on packaged alcohol, other than alcohol contained in a marked special container, that is removed from an excise warehouse:
- (a) for delivery
- (i) to an accredited representative, for their personal or official use,
- (ii) to a duty free shop, for sale in accordance with the *Customs Act*,
- (iii) to a registered user, or
- (iv) as ships' stores, in accordance with the *Ships' Stores Regulations*; or
- (b) for export by the excise warehouse licensee.
- Excise duty not payable – marked special container of spirits ss 147(2)
38. Excise duty is not payable on spirits contained in a marked special container that is removed from an excise warehouse
- for delivery to a registered user in accordance with their registration, if the container is marked for delivery to and use by a registered user; or
 - for export by the excise warehouse licensee in accordance with the Act, if the container was imported.
- Excise duty not payable – marked special container of wine ss 147(3)
39. Excise duty is not payable on wine imported in a marked special container that is removed from an excise warehouse for export by the excise warehouse licensee in accordance with the Act.
- Duty not payable – wine samples ss 147(4)
40. [Excise duty is not payable on non-duty-paid packaged wine, other than wine contained in a marked special container, that is removed from the excise warehouse of the wine licensee who produced or packaged the wine if the wine is to be provided free of charge to individuals as a sample consumed at the premises where the licensee produces or packages wine.]
- Removal of packaged alcohol s 157 and 158
41. Alcohol licensees are authorized under the Act to remove non-duty-paid packaged alcohol from their excise warehouse and return it to their bulk inventory.
- Special duty ss 133(3)
42. Excise warehouse licensees shall, at the time packaged spirits are removed from their excise warehouse, pay a special duty on imported packaged spirits or imported spirits that have been packaged in Canada and that are to be delivered to a licensed user.

Removal of special containers of alcohols 156

43. The Act authorizes alcohol licensees to remove the marking on marked special containers of alcohol in a manner approved by the CCRA and return the special containers from their excise warehouse to their bulk inventory.

Possession and storage of tobacco products

Unstamped tobacco products 37

44. If manufactured tobacco or cigars made in Canada are not stamped with a tobacco stamp by a tobacco licensee at the time of packaging, the licensee must immediately place the tobacco or cigars in the licensee's excise warehouse. A tobacco licensee who wishes to possess unstamped manufactured tobacco or cigars is required to have a separate excise warehouse licence to store the tobacco or cigars.

Possession – excise warehouse licensee with tobacco licence ss 32(2)

45. An excise warehouse licensee who is also a tobacco licensee is authorized to possess and store unstamped manufactured tobacco or cigars of their manufacture and unstamped imported cigars or manufactured tobacco.

Possession – excise warehouse licensee without tobacco licence para 32(2)(b) and 50(7)(e)

46. An excise warehouse licensee who does not have a separate tobacco licence is authorized to possess unstamped imported manufactured tobacco and cigars, and unstamped domestically produced cigars. For this purpose, an excise warehouse licensee must certify in the prescribed form to the tobacco licensee who manufactured the cigars, that the cigars are destined for delivery as ships' stores in accordance with the *Ships' Stores Regulations*.

47. The possession of unstamped tobacco products may be further restricted under the Act. Additional information on the possession of unstamped tobacco products will be available in Excise Duty Memorandum 7.2.1, *Possession of Tobacco*.

Removal of tobacco products

Prohibition ss 50(3)

48. The Act prohibits a tobacco licensee from removing a manufactured tobacco or cigars manufactured in Canada from an excise warehouse and entering it into the duty-paid market.

Removal of domestic tobacco products 50

49. An excise warehouse licensee who also holds a tobacco licence is permitted to remove manufactured tobacco or cigars of its manufacture from its premises only in the following circumstances:

- (a) where Canadian manufactured tobacco is for delivery to an accredited representative, for their personal or official use, or to a duly authorized special excise warehouse, for subsequent sale to an accredited representative for their personal or official use;
- (b) where Canadian manufactured tobacco is for export in a limited quantity (i.e., 1.5% annually of the total quantity of that category of tobacco products manufactured by the tobacco licensee in the preceding year), but not for delivery to foreign duty free shops or as foreign ships' stores;
- (c) where partially manufactured tobacco or foreign brand tobacco is for export, but not for delivery to foreign duty free shops or to foreign ships' stores;
- (d) where cigars are for export, for delivery to an accredited representative for their personal or official use, for delivery to a special excise warehouse, for delivery as

8.1.1 Excise Warehouses

ships' stores, for delivery to another excise warehouse who certifies that the cigars are for delivery as ships' stores, or for delivery to a duty free shop for the purpose of sale; and

- (e) where the manufactured tobacco or cigars are removed for purposes of reworking or destruction by the licensee.

50. Additional information concerning tobacco products that can be reworked or destroyed in accordance with CCRA policies will be available in Excise Duty Memorandum 7.4.1, *Reworking and Destruction of Tobacco*.

Removal of imported tobacco products s 51

51. Subject to the Regulations, an excise warehouse licensee is permitted to remove imported manufactured tobacco or cigars from its premises only in the following circumstances:

- (a) where the tobacco or cigars are for delivery to another excise warehouse;
- (b) where the tobacco or cigars are for delivery to an accredited representative for their personal or official use;
- (c) where the tobacco or cigars are for delivery as ships' stores in accordance with the *Ships' Stores Regulations*;
- (d) where the tobacco or cigars are for delivery to a duty free shop for sale in accordance with the *Customs Act*; or
- (e) where the tobacco or cigars are for export by the excise warehouse licensee in accordance with the Act.

Maintaining records and filing returns

Keeping records ss 206(1)

52. 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.

53. 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*.

Filing returns s 160

54. Every excise warehouse licensee is required to file form B262, *Excise Duty Return – Excise Warehouse Licensee*, in respect of each fiscal month, and to calculate and remit any excise duty payable on that return.

55. An excise warehouse licensee who possesses more than one licence will be required to file a separate return for each licence. For example, an excise warehouse licensee who also possesses a spirits licence will be required to file a separate return for each licence.

Fiscal month ss 159(1)

56. Where a licensee 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.

Branches or divisions
filing separate returns
ss 164(1)

57. Where an excise warehouse licensee has branches or divisions with distinct operations under an excise warehouse licence, the licensee may apply to the Minister for authority to file separate returns for each branch or division.

58. Additional information with respect to the filing of monthly returns, remitting excise duty and paying the correct amounts of excise duty is available in Excise Duty Memorandum 10.1.1, *Returns and Payments*. Additional information relating to the amounts to be included on an excise duty return will be contained in Excise Duty Memorandum 10.1.3, *Completing an Excise Duty Return – Excise Warehouse Licensee*.

Debts and the collections process

Debts
ss 284(1)

59. Excise duty and other amounts payable under the Act are debts due to the Crown and may be recovered through the court process or in any other manner provided under the Act.

Reminder notice

60. An excise warehouse licensee who is late filing returns may receive a notice or a telephone call from a CCRA official as a reminder of their obligation to file outstanding returns.

61. Additional information on the collections process will be available in Excise Duty Memorandum 12.2.1, *Collection Activities*.

Offences and penalties

Enforcement
Part 6

62. Additional information on offences and penalties will be provided in Excise Duty Memoranda 8.9.1, *Warehousing-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 CCRA Web site at <http://www.ccra-adrc.gc.ca/tax/technical/act2001-e.html>