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BC's Tobacco Marking Program

Tobacco Tax Act

Latest Revision: The revision bar (|) identifies changes to the previous version of this bulletin dated July 2010. For a summary of the changes, see Latest Revision at the end of this document.

This bulletin explains BC's tobacco marking program, including the required markings on tobacco products and black stock tobacco. The bulletin also explains the marking requirements for wholesalers and retailers and the penalties for not meeting these requirements.

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Overview

The tobacco marking program is important as it helps consumers, dealers and law enforcement officers identify legitimate tobacco products from smuggled products.

BC has adopted the federal tobacco stamping regime for packages of cigarettes and packages of fine cut tobacco intended for taxable sales in BC. As of January 1, 2016, these products are required to be marked with the new BC stamp.

The new marking requirement does not apply to products that did not previously require the green tear tape (e.g. cigars, pipe tobacco, snuff, chewing tobacco, raw leaf tobacco). The marking requirements for cartons and cases of cigarettes and fine cut tobacco have not changed.

Wholesale and retail dealers must not purchase, possess, store or sell packages of cigarettes or packages of fine cut tobacco for taxable sales in BC unless the package bears the new BC stamp. Consumers must only purchase packages of cigarettes or fine cut tobacco that bears the BC stamp. The BC stamp replaces the green tear tape that was required previously.

Tobacco products that do not require marking include cigars, pipe tobacco, snuff, chewing tobacco and raw leaf tobacco.

Definitions

Black Stock Tobacco

Black stock tobacco is intended for tax-exempt sales in BC and consists of packages, cartons and cases of cigarettes or fine cut tobacco that bear the federal government's black stock mark.

Dealer

A dealer is a person who sells, offers to sell or keeps tobacco products for sale in BC at the wholesale or retail level.

Exempt Sale Retail Dealer (ESRD)

An ESRD is a retail dealer authorized by us to make tax-exempt sales of tobacco products to eligible persons.

Marked Tobacco Products

Marked tobacco products are packages, cartons and shipping cases of cigarettes or fine cut tobacco that have BC's stamp and marks.

Unmarked Tobacco Products

Unmarked tobacco products are packages, cartons and shipping cases of cigarettes or fine cut tobacco that are not marked with BC's stamp or marks. Unmarked tobacco includes tobacco products bearing another jurisdiction's mark but does not include black stock tobacco.

Products for Taxable Sales in BC

Cigarettes and fine cut tobacco intended for taxable sales in BC are marked with BC's stamp and marks as follows.

Packages

Packages of cigarettes or fine cut tobacco that are to be sold at a taxable sale in BC must be marked with the BC stamp. The BC stamp is a modified federal tobacco excise stamp that includes the text "BC" and a green background colour as follows:



BC stamps are available in the following denominations:

Cigarette Packages	Fine Cut Tobacco Packages
<ul style="list-style-type: none">• cigarettes – 20 units• cigarettes – 25 units	<ul style="list-style-type: none">• tobacco – 50 grams• tobacco – 100 grams• tobacco – 150 grams• tobacco – 200 grams• tobacco – 250 grams• tobacco – 400 grams

Tobacco manufacturers and importers must order BC stamps from the Canada Revenue Agency using the established process to obtain federal excise stamps.

Cartons and Cases

Cartons and cases of cigarettes and fine cut tobacco are marked as follows:

- cartons of cigarettes have the English and French abbreviations BC-CB printed in black on a green background within a black rectangle; this mark appears at each end of the carton, and
- shipping cases of cigarettes or fine cut tobacco have the English and French abbreviations BC-CB printed in black on two sides of the case.

Products for Tax-Exempt Sales in BC - Black Stock Tobacco Program

The following tax-exempt sales of packages, cartons and shipping cases of cigarettes and fine cut tobacco in BC must not bear BC's stamp or mark:

- tax-exempt sales to eligible First Nations individuals on First Nations land,
- tax-exempt sales to members of the diplomatic and consular corps,
- tax-exempt sales by ships' chandlers on commercial vessels operating in out-of-province waters, and
- tax-exempt sales in duty-free shops.

All packages, cartons and cases of cigarettes and fine cut tobacco intended for tax-exempt sales in BC must bear the federal government's black stock mark. This mark indicates that no provincial tobacco tax has been applied. Products are marked as follows:

- packages of cigarettes have a peach coloured tear tape with the text CANADA DUTY PAID—DROIT ACQUITTE printed in black on the tear tape,
- fine cut tobacco in pouches or in tubs have a peach coloured stamp with the text DUTY PAID CANADA—DROIT ACQUITTE printed on it,
- cartons of cigarettes have a peach coloured stamp on each end with the text DUTY PAID CANADA—DROIT ACQUITTE printed in black on the stamp, and
- shipping cases of cigarettes have the text DUTY PAID CANADA—DROIT ACQUITTE printed in black on two sides of the case.

The black stock program does not apply to cigars, pipe tobacco, chewing tobacco, snuff and raw leaf tobacco. These products do not require a BC stamp or mark and are available for tax-exempt sales.

Other Federal and Provincial Marks

In BC, only persons authorized in writing by us are permitted to possess tobacco with the following marks.

Tobacco for Retail Sales in Other Provinces

Other provinces with marking programs have their own unique mark for tobacco products intended for retail sales in their province. The package and carton marks are a different colour and bear that province's name. Shipping cases are also printed with the province's name. Tobacco that has another province's mark may not be sold at a retail sale in BC.

Tobacco Sold in Duty-Free Stores

Tobacco products can only be sold in duty-free shops to qualifying purchasers and must be marked as follows:

- Canadian manufactured tobacco products are marked on their packages, cartons and shipping cases with the black stock mark as described in the section above, Products for Tax-Exempt Sales in BC - Black Stock Tobacco Program
- imported tobacco products are marked on their shipping cases with the text DUTY NOT PAID—CANADA—DROIT NON ACQUITTE

Tobacco Products Intended for Sale Outside Canada

Packages, cartons and shipping cases of tobacco products intended for export sales outside of Canada are marked with the text NOT FOR SALE IN CANADA—VENTE INTERDITE AU CANADA. Products marked this way cannot be sold in Canada.

Wholesalers

As a wholesaler (a person who holds a valid *Wholesale Dealer Permit*), you may purchase, possess, store and sell marked tobacco products or tobacco products not required to be marked (e.g. chewing tobacco, pipe tobacco).

You must apply to us in writing for authorization to deal in black stock tobacco or unmarked tobacco. Wholesalers who may be authorized to deal in black stock tobacco include those who supply ESRDs. Wholesalers who may be authorized to deal in unmarked tobacco include those who supply out-of-province retailers. You may only store such tobacco products at locations authorized by us.

If you are a wholesaler that deals in black stock tobacco:

- you can only sell black stock tobacco to ESRDs
- you cannot sell more black stock tobacco to ESRDs than the ESRDs' monthly allocation as designated by us (see [Bulletin TTA 001](#), *Exempt Sales Made by Retail Dealers (ESRDs)*)
- you can only sell marked tobacco products to ESRDs who hold a valid *Tobacco Retail Authorization (TRA)* certificate
- you must keep the black stock tobacco inventory separate from the marked tobacco inventory
- you are not required to pay security on black stock tobacco purchased from manufacturers
- you do not collect security on sales of black stock tobacco to ESRDs

- you must collect security on all sales of marked tobacco products
- you must complete and remit the tobacco tax *Collector's Return* ([FIN 125](#)), including Schedules D and E, to report purchases and sales of black stock tobacco

Tobacco Products Provided by Wholesalers at No Charge

If you supply cigarettes or fine cut tobacco for no charge or for no consideration, you must only supply marked tobacco products. This applies even if the person receiving the tobacco is eligible to purchase and possess unmarked tobacco products or black stock tobacco.

You must pay and remit security on these tobacco products with the *Collector's Return* ([FIN 125](#)).

Records and Reporting

You must keep records of your purchases and sales of all tobacco products, including marked tobacco, black stock and unmarked tobacco, and submit these records with your regular tobacco tax return ([FIN 125](#), *Collector's Return*).

For more information, see [Bulletin TTA 004](#), *Wholesale Dealers, Security Payments, Exemptions and Refunds*.

Retailers

As a retailer (a person who holds a valid *Tobacco Retail Authorization*), you may purchase, possess, store and sell marked tobacco products or tobacco products not required to be marked (e.g. chewing tobacco).

If you purchase tobacco products from a supplier other than a registered wholesale dealer to sell to your customers, you must first obtain written authorization from us. In addition, the tobacco that requires marking must be marked with BC's stamp and marks.

You must apply to us in writing for authorization to purchase, possess, store or sell black stock tobacco and to become an exempt sale retail dealer (ESRD). For information on requirements for ESRDs see [Bulletin TTA 001](#), *Exempt Sales Made by Retail Dealers (ESRDs)*.

If a person is selling tobacco products to you at a price that is substantially lower than the fair market wholesale price, they are likely an unregistered dealer selling black market, counterfeit or stolen tobacco products. If you are found in possession of these types of tobacco products, the tobacco will be seized and you will be subject to the penalties outlined in Tobacco Offences and Penalties below.

Tobacco Products Provided by Retailers at No Charge

If you supply cigarettes or fine cut tobacco for no charge or for no consideration, you must only supply marked tobacco products. This applies even if the person receiving the tobacco is eligible to purchase and possess unmarked tobacco products or black stock tobacco.

For more information, see [Bulletin TTA 003](#), *Tobacco Retailers*.

Tobacco Offences and Penalties

Unlawful Possession

Unlawful possession includes the following:

- possession of tobacco for the purpose of making a sale by a person without a valid dealer's permit,
- possession of over 1,000 grams of unmarked tobacco products by a person who is not a registered tobacco dealer,
- transporting more than 10,000 grams of tobacco (approximately 50 cartons of cigarettes) in BC, unless that person is a dealer or a common carrier under contract to a dealer,
- dealers who possess unmarked tobacco products or black stock tobacco without written authorization to deal in these products,
- dealers who store unmarked tobacco products or black stock tobacco at a location not authorized by us,
- dealers who possess unmarked tobacco products or black stock tobacco to sell to consumers who are required to pay the tax,
- dealers who possess unmarked tobacco products or black stock tobacco to sell to dealers who are not authorized to deal in these products, and
- an ESRD who possesses tobacco for the purpose of selling it to another dealer for resale.

Search and Seizure

Police and other peace officers have the authority to enter and search a place or premise (other than a residence), vehicle, vessel or aircraft without a search warrant when there are reasonable grounds to believe that tobacco is unlawfully possessed or possessed for an unlawful purpose. A search warrant may be issued in order to enter and search a residence.

It is an offence to refuse to stop a vehicle, vessel or aircraft when requested to do so by a peace officer, or to refuse entry or obstruct a peace officer making a search.

A peace officer conducting a search may seize tobacco that is unlawfully possessed, as well as the tobacco packages and other records, documents or articles that provide evidence of an offence. Seized tobacco becomes the property of the province upon conviction for unlawful possession.

Penalties

If you wilfully evade payment of tax or security to the government, you may be assessed for the amount due and an additional penalty equal to 25% of the amount evaded, plus interest. If you wilfully fail to remit tax collected or pay security to the government, you may be assessed for the tax or security due and an additional penalty equal to 100% of the amount not remitted or paid, plus interest. If you fail to pay or remit tax as required, you are also subject to court-imposed penalties upon conviction.

Penalties include the following:

- **for a first conviction**, a fine of \$500 to \$1,000 or imprisonment for one to three months, or both
- **for a subsequent conviction**, a fine of \$500 to \$2,000 or imprisonment for three to six months, or both

Penalties for unlawful possession of tobacco or possession of tobacco for an unlawful purpose are as follows:

- **for a first conviction, if 10,000 grams or less**, forfeiture of the tobacco and a fine equal to three times the tax that would have been due on the retail sale of the tobacco
- **for a first conviction, if more than 10,000 grams**, forfeiture of the tobacco, a fine equal to three times the tax that would have been due on the retail sale of the tobacco, and an additional fine of \$2,500 to \$25,000 or imprisonment for up to two years, or both
- **subsequent conviction for the same offence**, forfeiture of the tobacco, a fine equal to three times the tax that would have been due on the retail sale of the tobacco, and an additional fine of \$10,000 to \$50,000 or imprisonment for up to two years, or both

Penalties for selling without a permit, for failure to remit the tax collected or for evading compliance with the Act are:

- a fine up to \$25,000 or imprisonment for up to two years, or both, and
- an additional fine equal to the amount of any tax or security not collected, remitted or paid, including penalties and interest.

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The information in this bulletin is for your convenience and guidance and is not a replacement for the legislation.

Latest Revision

December 2015

- Updated changes to BC's tobacco marking program effective January 1, 2016.
 - Clarified when penalties apply to unpaid security.
 - Removed section on Requirements for Consumers.
 - Other general revisions and plain language.
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References: *Tobacco Tax Act*, Sections 1, 2, 5, 7, 35, 39, 40(3) and 47-58, and Regulation 1, 2, 3, 4, 6, 8, 9, 12, 16, 23-30, 32 and 35