



Cigar Tax Changes

This bulletin was revised June 2008 to incorporate formatting changes and changes in ministry name and contact information only.

Highlights of Changes to Tobacco Tax on Cigars (Cigar Tax)

- **Effective Date of Upcoming Cigar Tax Changes To Be Proclaimed**
- **Cigar Tax Rate Remains at 45%**
The changes do not affect the existing cigar tax rate of 45%, but the rate will be applied to the “taxable price” of a cigar.
- **“Taxable Price” of a Cigar Defined**
 - i. taxable price = the price for which the cigar was purchased by its retail dealer + a prescribed percentage of that amount; or
 - ii. taxable price = the price paid for the cigar by the consumer where a consumer purchases the cigar directly from the manufacturer or importer of the cigar
- **Manufacturers, Wholesalers of Cigars Must become Designated as Cigar Tax Collectors**
- This bulletin provides general information. It is not exhaustive and should not be considered as a substitute for the *Tobacco Tax Act* and its regulations.

Introduction

This bulletin deals with upcoming changes to cigar tax that will:

- Define the **taxable price** of a cigar to which the 45% cigar tax rate will be applied;
- Establish a category of collector known as cigar tax collector;
- Require wholesalers of cigars and manufacturers of cigars, to be designated as cigar tax collectors; and
- Require wholesalers (by invoice) and retailers (by invoice or other reasonable means) to inform purchasers of the amount of Ontario cigar tax.

Audience

This bulletin will be of interest to:

- Every person involved in the manufacture, distribution and sale of cigars in Ontario, because of the changes in the method of calculating, collecting and remitting cigar tax;
- **Cigar wholesalers**, because they will be required to become designated cigar tax collectors;
- **Cigar manufacturers**, as they will be required to become designated cigar tax collectors if they have any retail sales;

- **Tobacco tax collectors** who deal in cigars, as they will become designated cigar tax collectors, calculate, collect and remit cigar tax on the new basis, and post security with the Minister with respect to cigar tax; (“Purchase” based collectors will have to begin reporting and remitting cigar tax on a “sales” basis)
- **Registered importers** who deal in cigars, will have to become designated cigar tax collectors, calculate, collect and remit cigar tax on the new basis, and post security with the Minister with respect to cigar tax; and
- **Retailer dealers of cigars** because they will have to know how cigar tax will be calculated.

Timing - Cigar Tax Changes to Come Into Force Upon Proclamation

- The Legislative Assembly has passed the statute which contains the changes to cigar tax (Part XIV, Bill 152, now c. 42, S.O. 2000), but the changes will only come into effect by proclamation of the Lieutenant Governor, on a day to be named.
- Regulations are pending that will set out the “prescribed percentages” necessary for the calculation of the **taxable price** of a cigar and the “prescribed information” for invoices (more details on these items follow). The regulations will also set out additional administrative details.

Second Bulletin

- Once the effective date of the upcoming changes has been proclaimed, and the regulations finalized, the Ministry will publish a second bulletin with the new information.
- The second bulletin will also detail transitional issues, including refunds on tax paid inventory.

The Basic Changes to Cigar Tax

Taxable Price of a Cigar

- The cigar tax rate of 45% remains unchanged. When the upcoming changes come into effect, the 45% rate will be applied to the **taxable price** of a cigar, to determine the amount of cigar tax .
- The **taxable price** of a cigar is defined with reference to prices and percentages that will be known to a wholesaler and retailer. [See Schedule A](#) for details.
- Generally, the **taxable price** of a cigar will be the price for which the cigar was purchased by the retail dealer, inclusive of all consideration given by the retailer of the cigar as well as federal excise tax, federal duty (but excluding GST) and all costs and charges relating to mailing, delivery and transportation, **plus** a prescribed percentage of the sum of these amounts.
- The **exception** is where the importer or manufacturer of a cigar is also its retail dealer. Then, the **taxable price** of the cigar is the price for which the cigar was purchased, by the consumer, inclusive of all consideration given by the consumer for the cigar as well as federal excise tax, federal duty (but excluding GST) and all costs and charges relating to mailing, delivery and transportation. No prescribed percentage is added in this instance.

Establishment of Cigar Tax Collectors

- The upcoming changes establish a new category of collector - the cigar tax collector.
- Under the changes, everyone wholesaling cigars must be designated as a cigar tax collector. Cigar manufacturers with sales direct to consumers must also become cigar tax collectors. Tobacco tax collectors and registered importers who deal in cigars must also become cigar tax collectors.

- As a cigar tax collector, you can purchase and sell cigars exempt of tax from/to other cigar tax collectors. However, when selling to a retail dealer or a consumer, you must collect tax on the **taxable price** and file a return and remit the taxes collected to the Minister.
- Failure to become a cigar tax collector and meet these requirements may jeopardize current permits.
- The upcoming changes provide compensation for cigar tax collectors for their services in collecting and remitting cigar tax.

How Will the Upcoming Changes Affect You?

The result of the upcoming changes on the following categories are set out in the attached schedules:

| | |
|-----------------------------------|------------|
| Wholesalers of Cigars | Schedule B |
| Manufacturers of Cigars | Schedule C |
| Tobacco Tax Collectors Registered | Schedule D |
| Importers of Cigars | Schedule E |
| Retail Dealers of Cigars | Schedule F |

Collection of Cigar Tax Until Effective Date of the Changes

- The current cigar tax provisions of the *Tobacco Tax Act* (Act) continue until the effective date of the changes.
- At present, the legislation provides that cigar tax is 45% of the “price at retail” of a cigar. It remains the collector’s/importer’s responsibility to ensure that the correct amount of tax is collected

Minister’s Authority to Make Regulations

The changes authorize the Minister to make regulations:

- Establishing one or more categories of cigars and the percentage of mark-up related to each category, for the purposes of establishing the taxable price of a cigar;
- Prescribing records to be kept, and information to be included on invoices; and
- Prescribing alternative methods of calculating the taxable price per cigar on the sale of cigars to consumers if the wholesale dealer and the retail dealer of the cigars are not dealing at arm’s length.

Schedule A

“Taxable Price” of a Cigar Defined

The upcoming changes define the “**taxable price**” of a cigar, and require that the **45% cigar tax** be charged on the **taxable price**.

Taxable price of a cigar = the price for which the cigar was purchased by its retail dealer + a prescribed percentage of that amount

In this situation the **taxable price** of a cigar is defined as the sum of the following:

1. The price for which the cigar was purchased by its retail dealer, including the value in terms of Canadian money of any other consideration accepted by the wholesaler from whom the cigar passed as or on account of the price of the cigar,**
2. The cost of, or charges for, customs and mailing, delivery or transportation, whether or not they are shown separately in the books of the wholesaler or on any invoice or in the computation of the price, whether or not title has passed to the retail dealer before delivery to the retail dealer,**

3. The amount of federal duty plus the amount of federal excise tax, but excluding GST, imposed in respect of the or the sale or acquisition of the cigar, and
4. The amount determined by multiplying the “prescribed percentage”^{**} by the sum of the amounts described in paragraphs 1, 2 and 3.

OR

Taxable price of a cigar = the price paid for the cigar by the consumer

Where a consumer purchases the cigar directly from the manufacturer or importer of the cigar

In this situation the **taxable price** of a cigar is defined as the sum of the following:

1. The price for which the cigar was purchased by the consumer, including the value in terms of Canadian money of any other consideration accepted as or on account of the price of the cigar by the retail dealer of the cigar,^{**}
2. The cost of, or charges for, customs and mailing, delivery or transportation, whether or not they are shown separately in the books of the wholesaler or on any invoice or in the computation of the price, whether or not title has passed to the consumer before delivery to the consumer,^{**}and
3. The amount of federal duty plus the amount of federal excise tax, but excluding GST, imposed in respect of the or the sale or acquisition of the cigar.

* the “prescribed percentage(s)” will be prescribed by regulation. Once that regulation is made, it will be published in the Ontario Gazette, and the Ministry will issue a Second Bulletin with the “prescribed percentage(s)”

** if the Minister considers this amount is artificially low, or below a reasonable wholesale market price, the Minister may determine the amount for the purposes of taxation under the *Tobacco Tax Act*

Schedule B

Wholesalers of Cigars - How Will The Upcoming Changes Affect You?

“**Wholesaler**” means a person who sells in Ontario tobacco for the purpose of resale.

1. Designation as Cigar Tax Collector under the *Tobacco Tax Act (TTA)*

- You must become designated as a Cigar Tax Collector before the effective date of the upcoming changes. Submit a completed “Application for Registration under the TTA” form as soon as possible to the Ministry.
- Failure of a person wholesaling cigars to become designated as a cigar tax collector may lead to the Minister suspending or cancelling your wholesaler’s permit, which would prohibit you from selling or delivering in Ontario tobacco for resale. As well, others are prohibited from purchasing or taking delivery of tobacco from you if you do not have a subsisting wholesaler’s permit. There are fines and penalties for breaching the prohibitions.

2. Security

- You will have to post security with the Minister, with respect to cigar tax as part of being a cigar tax collector. The amount of security to be posted is based on the average three months’ cigar tax collectable and payable by you, or \$10,000, whichever is greater.

- Security must be in the form of a letter of credit or surety bond.
- Do **not** send security with your application to be a cigar tax collector. As applications are received, each applicant will be contacted by the Ministry and advised of the amount of security required, and the date at which the security must be posted.

3. Cigar Transactions - Taxable and Tax Exempt

- The basic rule for cigar tax collectors is that they must collect and remit cigar tax on all sales and deliveries of cigars. Starting the effective date of the cigar tax changes, you must calculate, collect and remit cigar tax based on 45% of the **taxable price** of each cigar sold or delivered.
- This rule does not apply when a cigar tax collector sells or delivers cigars to another cigar tax collector. As a result, cigar purchases and sales among cigar tax collectors will be on a tax exempt basis. It is the responsibility of each cigar tax collector involved in such cigar tax transactions to ensure the other is a cigar tax collector in good standing.

4. Reporting for Cigars to be on a “Sales” Basis

- Once designated as a cigar tax collector, you will have to file a cigar tax return with the Minister on or before the 10th of each month reporting all sales and deliveries of cigars in the previous month. The cigar tax collectable and payable for the previous month must be remitted with the return.
- The upcoming changes will not alter the way you deal with cigarettes and tobacco, other than cigars.

5. Schedule 3S - Ontario Deliveries of Marked Cigarettes and Other Tobacco Products

- Once designated as a cigar tax collector, you will have to file the form (often referred to as Schedule 3S - Tax Exempt Sales to Other Collectors) with the Minister on or before the 7th of each month. You will report on any taxable cigars sold or delivered in the previous month to a collector without the collection of tax. This form will be provided to you once you are a designated cigar tax collector.

6. Compensation

- A cigar tax collector may deduct compensation, as earned, from the amount otherwise to be remitted to the Minister, with the monthly return.
- The amount of compensation for each period from April 1 to March 31 is the lesser of:
 1. \$2,000, or
 2. the sum of:
 - i. 4% of the cigar tax collected in the period, provided \$75.00 or more was collected;
 - ii. \$3.00 per return in the period if the cigar tax collected is more than \$3.00 and less than \$75.00; or
 - iii. the cigar tax collected, in the period provided the tax is \$3.00 or less.

7. Invoices

- Once the upcoming changes come into effect, you must provide or obtain an invoice for every cigar transaction. The invoice must include the quantity of cigars being sold, the tax collectable and payable on the cigars, as well as additional prescribed information.

- When the cigar sale is to a consumer, you may provide either an invoice or specify the tax payable and other prescribed information by another reasonable means.
- Details about the additional prescribed information will be contained in a future bulletin.

8. Records, Books of Account and Supporting Documentation

- The upcoming changes formalize the requirement for you to keep, for seven years following the fiscal year to which they relate, records, books of account and supporting documentation that will enable the accurate determination of the tax collectable and payable under the Act. This applies to cigarettes and other tobacco, as well as cigars.

Schedule C

Manufacturers of Cigars - How Will The Upcoming Changes Affect You?

“Manufacturer” means a person who manufactures, fabricates or produces tobacco products for distribution, sale or storage in Ontario

1. Designation as a Cigar Tax Collector under the *Tobacco Tax Act*

- At the date of this bulletin, all registered manufacturers of cigars are also tobacco tax collectors. Therefore, please [refer to Schedule D](#) - Tobacco Tax Collectors.

Special Note Regarding “Taxable Price of a Cigar” Where the Manufacturer of the Cigar Is Also its Retail Dealer

- Please remember that if the manufacturer of a cigar is also the retail dealer of the cigar, the **taxable price** of the cigar is equal to the price that the consumer is deemed to have paid for the cigar.
- The price the consumer is deemed to have paid is the price for which the cigar was purchased by the consumer, inclusive of all consideration given by the consumer for the cigar as well as federal excise tax, federal duty (but excluding GST) and all costs and charges relating to mailing, delivery and transportation. [See Schedule A](#).

Schedule D

Tobacco Tax Collectors - How Will The Upcoming Changes Affect You?

“Tobacco Tax Collector” means a person designated in writing by the Minister to collect the tax imposed by the Act.

1. Designation as a Cigar Tax Collector under the *Tobacco Tax Act*

- A tobacco tax collector dealing in cigars is required to be designated as a Cigar Tax Collector before the effective date of the upcoming changes. This will facilitate the tax exempt purchase and sale of cigars among all collectors. Submit a completed “Application for Registration under the *TTA*” form as soon as possible to the Ministry.

2. Security

- Every tobacco tax collector dealing in cigars will have to post security with the Minister, with respect to cigars. This is a requirement even if you are at present reporting on the “purchase” basis and even if you have entered into a “remittance agreement” with the Minister.

- The amount of cigar tax security to be posted is based on the average three months' cigar tax collectable and payable by you, or \$10,000, whichever is greater.
- Security must be in the form of a letter of credit or surety bond.
- Do **not** send security with your application to be a cigar tax collector. As applications are received, each applicant will be contacted by the Ministry and advised of the amount of security required, and the date at which the security must be posted.

3. Cigar Transactions - Taxable and Tax Exempt

- The basic rule for tobacco tax collectors is that they must collect and remit cigar tax on all sales and deliveries of cigars. Starting the effective date of the cigar tax changes, you must calculate, collect and remit cigar tax based on 45% of the **taxable price** of each cigar sold or delivered.
- This rule does not apply when a tobacco tax collector designated as a cigar tax collector sells or delivers cigars to another cigar tax collector. As a result, cigar purchases and sales among cigar tax collectors will be on a tax exempt basis. It is the responsibility of each cigar tax collector involved in such cigar transactions to ensure the other is a cigar tax collector in good standing.

4. Reporting for Cigars to be on a "Sales" Basis

- If you report and remit tobacco tax now on a "sales" basis, you will continue to do so once the upcoming cigar tax changes come into effect, using the existing return.
- If you report and remit now on a "purchase" basis you will have to start reporting cigars on the "sales" basis when the cigar tax changes come into effect. On the "sales" basis, the monthly return for cigars must be filed with the Minister on or before the 10th. The cigar tax collectable and payable for the preceding month must be remitted with the return.
- The upcoming changes will not alter the way you deal with cigarettes and tobacco other than cigars.

5. Schedule 3S - Ontario Deliveries of Marked Cigarettes and Other Tobacco Products

- You must file this form (often referred to a Schedule 3S - Tax Exempt Sales to Other Collectors) with the Minister on or before the 7th of each month. The form will include all taxable cigars sold or delivered in the previous month to a collector without the collection of tax.

6. Compensation

- There is no change in the usual compensation for tobacco tax collectors. No further compensation is payable in your capacity as a cigar tax collector.

7. Invoices

- Once the upcoming changes come into effect, you must provide or obtain an invoice for every cigar transaction. The invoice must include the quantity of cigars being sold, the tax collectable and payable on the cigars, as well as additional prescribed information.

- When the cigar sale is to a consumer, you may either provide an invoice or specify the tax payable and other prescribed information by another reasonable means.
- Details about the additional prescribed information will be contained in a future bulletin.

8. Records, Books of Account and Supporting Documentation

- The upcoming changes formalize the requirement for you to keep, for seven years following the fiscal year to which they relate, records, books of account and supporting documentation that will enable the accurate determination of the tax collectable and payable under the Act. This applies to cigarettes and other tobacco, as well as cigars.

Schedule E

Registered Importers - How Will The Upcoming Changes Affect You

“Importer” means, with reference to a particular date, a person who brings tobacco in bulk (10,000 or more cigarettes, 200 or more cigars or 10 kilograms or more of any tobacco other than cigarettes or cigars) into Ontario during the 12 consecutive months before that date or causes it to be brought into Ontario during that period

“Registered Importer” means an importer to whom a registration certificate has been issued under this Act

1. Designation as a Cigar Tax Collector under the Tobacco Tax Act

- A registered importer dealing in cigars is required to be designated as a cigar tax collector before the effective date of the upcoming changes. This will facilitate the tax exempt purchase and sale of cigars among all collectors. Submit a completed “Application for Registration under the TTA” form as soon as possible to the Ministry.

2. Security

- You will have to post security with the Minister with respect to cigar tax as part of being a cigar tax collector. The amount of security to be posted is based on the average three months’ cigar tax collectable and payable by you, or \$10,000, whichever is greater.
- Security must be in the form of a letter of credit or surety bond.
- Do not send security with your application to be a cigar tax collector. As applications are received, each applicant will be contacted by the Ministry and advised of the amount of security required, and the date at which the security must be posted.

3. Cigar Transactions - Taxable and Tax Exempt

- The basic rule for registered importers is that they must collect and remit cigar tax on all sales and deliveries of cigars. Starting the effective date of the cigar tax changes, you must calculate, collect and remit cigar tax based on 45% of the taxable price of each cigar sold or delivered.
- This rule does not apply when a registered importer designated as a cigar tax collector sells or delivers cigars to another cigar tax collector. As a result, cigar purchases and sales among cigar tax collectors will be on a tax exempt basis. It is the responsibility of each cigar tax collector involved in such cigar transactions to ensure the other is a cigar tax collector in good standing.

Special Note Regarding “Taxable Price of a Cigar” Where the Importer of the Cigar Is Also its Retail Dealer

- Please remember that if the importer of a cigar is also the retail dealer of the cigar, the taxable price of the cigar is equal to the price that the consumer is deemed to have paid for the cigar.
- The price the consumer is deemed to have paid is the price for which the cigar was purchased by the consumer, inclusive of all consideration given by the consumer for the cigar as well as federal excise tax, federal duty (but excluding GST) and all costs and charges relating to mailing, delivery and transportation. [See Schedule A.](#)

4. Reporting for Cigars to be on a “Sales” Basis

- You will continue to report and remit cigar tax on a “sales” basis, filing a return with the Minister on or before the 10th of each month, reporting all sales and deliveries of cigars in the previous month. The cigar tax collectable and payable for the previous month must be remitted with the return.
- The upcoming changes will not alter the way you deal with cigarettes and tobacco other than cigars.

5. Schedule 3S - Ontario Deliveries of Marked Cigarettes and Other Tobacco Products

- You must file this form (often referred to a Schedule 3S - Tax Exempt Sales to Other Collectors) with the Minister on or before the 7th of each month. The form will include all taxable cigars sold or delivered in the previous month to a collector without the collection of tax.

6. Compensation

- There is no change in the usual compensation for registered importers. No further compensation is payable in your capacity as a cigar tax collector.

7. Invoices

- Once the upcoming changes come into effect, you must provide or obtain an invoice for every cigar transaction. The invoice must include the quantity of cigars being sold, the tax collectable and payable on the cigars, as well as additional prescribed information.
- When the cigar sale is to a consumer, you may either provide an invoice or specify the tax payable and other prescribed information by another reasonable means.
- Details about the additional prescribed information will be contained in a future bulletin.

8. Records, Books of Account and Supporting Documentation

- The upcoming changes formalize the requirement for you to keep, for seven years following the fiscal year to which they relate, records, books of account and supporting documentation that will enable the accurate determination of the tax collectable and payable under the Act. This applies to cigarettes and other tobacco, as well as cigars.

Schedule F

Retail Dealers of Cigars Who are Not Tobacco Tax Collectors, Cigar Tax Collectors or Registered Importers - How Will The Upcoming Changes Affect You?

“**Retail Dealer**” means any person who sells tobacco to a consumer.

1. Designation as Cigar Tax Collector under the *Tobacco Tax Act*

you are **not** required to become designated as a cigar tax collector

2. Cigar Transactions

- starting the effective date of the cigar tax changes, the amount of cigar tax on each cigar will be based on 45% of the **taxable price** of a cigar.
- your supplier will charge, and you will collect from consumers, cigar tax based on the **taxable price** of each cigar.
- [see Schedule A](#) for details on the definition of the taxable price of a cigar.
- once the upcoming changes come into effect, you must obtain an invoice when you purchase or receive delivery of cigars.
- the upcoming changes require you, by invoice or some other reasonable means, to specify for every consumer, the cigar tax payable.

Additional Information

If this bulletin does not completely address your particular situation, refer to the Act and related regulations, or contact the:

Ministry of Revenue
Client Accounts and Services Branch
33 King Street West
Oshawa, ON L1H 8H9

Tel.: 1 866 ONT-TAXS (1 866 668-8297)
Fax: 905 436-4511
Teletypewriter (TTY): 1 800 263-7776

This bulletin and various other English and French tax materials published by the Ministry of Revenue may be obtained online at ontario.ca/revenue.

The *Tobacco Tax Act* and Ontario's other public statutes and regulations may be obtained online at www.e-laws.gov.on.ca.

Ce bulletin est disponible en français.

© Queen's Printer for Ontario, 2001