



Unmarked Cigarette Allocation System for First Nations *Tobacco Tax Act*

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

- This bulletin outlines the Unmarked Cigarette Allocation System for First Nations in Ontario as provided for in Ontario Regulation 649/93 (O. Reg. 649/93) made under the *Tobacco Tax Act*.
- 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.

General

Background	Under section 87 of the Indian Act (Canada), the personal property of a registered Indian situated on a reserve is exempt from taxation. In recognition of this exemption, the Tobacco Tax Act and regulations provide for a tobacco allocation system under which registered Indians are permitted to acquire unmarked cigarettes on a reserve for their exclusive use, exempt from Ontario tobacco tax.
Marked and Unmarked Cigarettes	<p>Marked cigarettes are packages of cigarettes, cartons and cases that are marked or stamped with an indicium as required under the regulations made pursuant to the Tobacco Tax Act. In Ontario this includes the yellow tear tape around the package of cigarettes, which indicates that Ontario's tobacco tax has been accounted for on the cigarettes in the package.</p> <p>Unmarked cigarettes are packages of cigarettes, cartons and cases that are not marked with Ontario's yellow indicium. Instead there is a peach coloured tear tape around the package. Ontario's tobacco tax has not been paid on the cigarettes in packages that do not bear Ontario's yellow tear tape.</p> <p>Marked cigarettes are not part of the allocation system and if purchased, the tobacco tax must be paid and will not be refunded.</p>

How the Allocation System Works

Allocation System	<p>The allocation system is a consistent and fair approach to allotting unmarked, untaxed cigarettes for the benefit of First Nations individuals. The allocation system takes into account:</p> <ul style="list-style-type: none">• both on-reserve and off-reserve populations of adult First Nations individuals,• the smoking patterns of First Nations individuals, and• special events on the reserve. <p>The allocation system is based on smoking patterns and the consumption rate of First Nations individuals in Ontario as reported by Statistics Canada.</p>
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**Allocation
Options**

The council of a First Nations band may:

- allocate the authorized annual (April 1st to March 31st) quantity of unmarked cigarettes among each reserve retailer, and advise the Minister of Revenue (minister) of the allocations it has made,
- vary the allocation previously made to on-reserve retailers,
- cancel an on-reserve retailer's allocation and transfer the unpurchased portion to another on-reserve retailer,
- obtain an increase in the annual base allocation of 10 per cent for special events and sales to Indian consumers who are not members of the reserve, and
- obtain an increase in the annual base allocation of 20 per cent by entering into a retail agreement with the ministry in which the council agrees to allocate unmarked untaxed cigarettes to reserve retailers and monitor the sales of these cigarettes to ensure that sales are made only to registered Indians.

Where a council elects not to allocate unmarked cigarettes among reserve retailers, the ministry will distribute the allocation among the on-reserve retailers taking into account the number of on-reserve retailers and their volume of business. If the ministry is unable to ascertain volumes and sales on the reserve, the allocation will be distributed equally.

**Authorized
Dealers**

If the council of the band complies with the requirements of O. Reg. 649/93, the minister authorizes each retailer to purchase the allocated amount of unmarked cigarettes from the supplier chosen by that retailer. The minister notifies that supplier of the quantity of unmarked cigarettes it may sell to that on-reserve retailer. The supplier must deliver the unmarked cigarettes to the on-reserve retailer at a site on that reserve.

Authorized Retailers

**Selling
Cigarettes**

On-reserve retailers who have been authorized by the minister to purchase unmarked cigarettes must sell unmarked cigarettes (which includes cigarettes which have a peach coloured tear tape) to Indians only. It is illegal to sell unmarked cigarettes to non-Indians.

**Possession of
Unmarked
Cigarettes**

On-reserve retailers who have been authorized by the minister to purchase unmarked cigarettes may not possess more than the allocated number of cigarettes that they are authorized to purchase. Retailers who have not been authorized by the minister to purchase unmarked cigarettes must not possess any unmarked cigarettes.

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.

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