



Tax Refunds

Bad Debts and Lost, Destroyed, Stolen or Contaminated Tobacco

- This bulletin outlines the requirements for Collectors, Non Collectors, Wholesalers, Importers and Retailers for claiming refunds of tax with respect to bad debts and lost, destroyed, stolen or contaminated product under the *Tobacco Tax Act* (TT).
- This bulletin replaces the previous version which was issued October 2000.
- 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.

Highlights

Special Provisions for Collectors

Collectors applying for a bad debt refund or a tax refund related to lost, destroyed, stolen or contaminated tobacco, are not required to attach the supporting information and documentation, although that documentation must be retained for subsequent verification.

4 Years to Apply

The period within which a person may apply for a tax refund relating to a bad debt or a tax refund related to lost, destroyed, stolen or contaminated tobacco is four years. See [chart](#) on page 4.

Special Note for Non-Collectors Claims

If your annual claim total is not more than \$500.00, you are not required to send the supporting documentation to the ministry with your refund application, however, you must retain the supporting documentation for a period of seven years and provide the information to the ministry upon request.

Eligibility - Collectors, Importers, Retail Dealers, Wholesalers

Applicants are eligible to apply for a refund of tax that has been remitted or paid on tobacco that has been:

- sold and all or part of the sale price has not been paid and has become an uncollectible debt, or
- lost, destroyed, stolen or contaminated and cannot be sold or used.
- and, is within the four year limitation period. See [chart](#) on page 4.

No refund is allowed if:

- any portion of the sale price of the tobacco (to which the bad debt relates) has been assigned by private contract, with or without recourse, to a person other than the Minister. There is an exception, where a portion of the sale price of the tobacco has been assigned for security purposes (i.e. a deposit or pledge as a guarantee of the fulfillment of an undertaking or the payment of a loan, to be forfeited in case of default).

- a refund of an amount on account of the tax has previously been made, or the applicant is otherwise entitled under the Act or the regulations to receive or to apply to receive a refund of, or an allowance in compensation for, the amount on account of tax.
- in the case of a refund claim resulting from a bad debt, the applicant and the debtor were not dealing at arm's length within the meaning of section 251 of the *Income Tax Act (Canada)* at the time of the sale of the tobacco to which the debt relates.
- the Minister is not satisfied that:
 - i) the debt is uncollectible (in the case of a bad debt), or
 - ii) the lost, destroyed, stolen or contaminated tobacco cannot be used or sold by the applicant and compensation referable to the amount of refund has not been received by the applicant
- the refund application was not made within the designated four-year time limitation period. See [chart](#) on page 4.

Determination of Refund Amount

Bad debt: (excluding receivership or bankruptcy debt): the refund amount will be equal to the tax portion of the uncollectible debt. Where a portion of the total sale price of the product has been paid, the tax refund is in proportion of the uncollectible debt to total sale price of the tobacco.

Receivership or bankruptcy debt: the refund amount will be equal to the portion of tax paid that the receivership or bankruptcy debt bears to the total sale price for the product.

Product lost, destroyed, stolen or contaminated: the refund amount will be equal to the tax paid on product identified in the claim.

Requirements for Applicants who are Non-Collectors

Bad Debt Refunds: If the refund applicant is not a collector under the Act, a refund application must be submitted, together with all other information and documents that the Minister requires, including:

1. Copies of all invoices for the sale of tobacco in respect of which the refund is claimed.
2. Proof satisfactory to the Minister that the amount claimed was remitted to the Minister, or paid over by the applicant in accordance with the Act, for remittance to the Minister.
3. A signed statement by the applicant certifying the amount of the debt and certifying that the applicant does not have any right to receive total or partial payment in satisfaction of the debt from any person other than the debtor or the debtor's representative.
4. Proof satisfactory to the Minister that all reasonable collection action has been taken to obtain payment of the debt, that the debt is unsecured, that the debt is uncollectible, and that the applicant has written off the debt as uncollectible in accordance with generally accepted accounting principles.
5. If the debt is a receivership debt, a signed statement by the applicant certifying that the applicant has filed a claim for the debt to which the refund relates with the debtor's receiver.
6. If the debt is a bankruptcy debt, a copy of the applicant's proof of claim in the bankruptcy, proof satisfactory to the Minister that the claim was not disallowed and that the applicant will not receive payment of the debt from the trustee in bankruptcy or other person.

7. If the debt is a bankruptcy debt or a receivership debt, an assignment to the Minister of the portion of the debt equal to the amount of the refund claimed.

Lost, Destroyed, Stolen or Contaminated Tobacco: If the refund applicant is not a collector under the Act, a refund for lost, destroyed, stolen or contaminated tobacco may be applied for by the applicant delivering a refund application, together with all other information and documents that the Minister requires, including:

1. A copy of any settlement by or written confirmation from an insurance company confirming settlement of any claim.
2. A copy of any police report for loss due to theft.
3. A copy of any fire marshal's report for a loss due to fire.
4. Proof that the amount claimed was remitted to the Minister or paid over by the applicant in accordance with the Act for subsequent remittance to the Minister.

Requirements for Applicants who are Collectors

Refunds for Bad Debt and Lost, Destroyed, Stolen or Contaminated Tobacco:

If the refund applicant is a collector, the following rules apply:

- An application for the refund may be delivered with the collector's monthly tax return. The collector may deduct the amount of the refund claimed from the amount that the collector would otherwise remit to the Minister with the return. The deduction for the amount of the refund claimed should be shown on the return under Bad Debt and/or Verifiable Losses (line 6 and 7 on Tobacco Tax Return TT-101S).
- The collector is no longer required to attach the supporting information and documentation to the refund application. Nevertheless, this documentation must be retained by the collector or subsequent verification by the Minister.
- If all or part of the refund is disallowed, the Minister will issue and serve a statement of disallowance. The collector is then required to remit, with the next tax return or at any earlier time, the amount of the refund disallowed, together with applicable interest, even if an objection or an appeal has been made.

Repayment of Refund to the Ministry of Revenue

Refunds must be returned if debts become collectible, even if the money is received after the four-year time limitation period.

If an applicant receives payment from the debtor or any other person for all or part of an uncollectible debt after a refund has been made, the claimant must reimburse the Minister for the portion of the payment relating to the tax applicable at the date of product sales.

Application Forms

Eligible **collectors and non-collectors** must complete:

- An [Application for Refund Bad Debt](#) (BDT) for tax refund relating to bad debt under the *Tobacco Tax Act*.
- An [Application for Refund Loss of Product \(PRL\) / Overpayment of Tax](#) for tax refund relating to product loss/contamination under the *Tobacco Tax Act*.

To access either application, visit ontario.ca/revenue or contact the Ministry using the information [below](#).

Time Limitation Period

All tax refunds listed below have a **four-year time limitation period**:

Type of Claim	Starting Date for four years
Non-bankruptcy bad debt	The last day of the applicant's fiscal year in which the debt was written off as an uncollectible account.
Bankruptcy or receivership	Date on which the claim was filed with trustee in bankruptcy or receiver
Loss, destruction, theft, or contamination	Date the incident took place

Additional Information

If this bulletin does not completely address your particular situation, refer to the Act and related regulations, visit our website at ontario.ca/revenue or contact us:

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

Tel.: 1 866 ONT-TAXS (1 866 668-8297)
Fax: 905 433-5680
Teletypewriter (TTY): 1 800 263-7776

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

Cette publication est disponible en français sous le titre «Remboursements de la taxe de vente - Créances irrécouvrables et tabac perdu, détruit, volé ou contaminé ». Vous pouvez en obtenir un exemplaire en appelant le 1 866 ONT-TAXS (1 866 668-8297) ou en visitant ontario.ca/revenu.

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