



## Requirements for Interjurisdictional Transporters under the *Tobacco Tax Act*

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

- This bulletin contains important information for interjurisdictional transporters under the *Tobacco Tax Act* (Act).

### Highlights

- The Act and Regulation 1033, R.R.O. 1990 have been amended to provide that Interjurisdictional Transporters of tobacco in bulk must file monthly returns.
- The amendments also included increased penalties for breaches of the legislation.
- Every person transporting tobacco in bulk into or out of Ontario, as well as those transporting tobacco in bulk through Ontario (transiting), must be registered as an interjurisdictional transporter and file returns. The only exception is a transporter who is the legal holder of an Ontario permit to mark cigarettes.
- Interjurisdictional transporters must file a return on the 28th day of each month with respect to all tobacco products transported into and out of Ontario in the previous calendar month.
- The first return must be filed by the 28th day of May, 2004 with respect to April, 2004.
- Interjurisdictional transporters must maintain required documentation, including a completed uniform manifest form, their registration certificate (or a notarial copy if the transporter has more than one motor vehicle), and a notarial copy of the registration certificate of the importer or exporter for whom they are transporting the tobacco.
- Increased fines and penalties for failure by interjurisdictional transporters to comply with the registration and filing requirements came into effect July 1, 2003.
- 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.

## Definitions

### Interjurisdictional Transporter

An “**interjurisdictional transporter**” is an operator of a motor vehicle, the operator or shipping agent of record of a vessel, the operator of railway equipment on rails or the operator of an aircraft who engages in the transportation of tobacco in bulk and who operates for such purposes,

- a) one or more motor vehicles inside and outside Ontario to which number plates are attached as required by the *Highway Traffic Act*,
- b) one or more vessels under the *Canada Shipping Act*,
- c) railway equipment on rails in connection with and as part of a public transportation system inside and outside Ontario, or

d) aircraft, the operator of which is approved as a carrier of goods or passengers under the *Aeronautics Act* (Canada) or regulations made there under, or the *National Transportation Act, 1987* (Canada), or regulations made there under, whether or not the operator owns the tobacco in bulk.

#### Tobacco in Bulk

“**Tobacco in bulk**” means 10,000 or more cigarettes, 200 or more cigars, or ten kilograms or more of any other tobacco product per shipment. The amount of tobacco in each shipment determines whether the product is tobacco in bulk.

## Registration and Filing Requirements

#### Registration Certificate

Every interjurisdictional transporter must apply for and obtain a registration certificate from the Minister of Revenue in order to legally transport tobacco in bulk into, through or out of Ontario. The Minister may impose such reasonable conditions and restrictions as the Minister considers appropriate.

#### Filing Requirements

Every interjurisdictional transporter must deliver to the Minister, on or before the 28<sup>th</sup> day of each month, a **Tobacco Tax Return** along with **Schedule 11** (Interjurisdictional Transporter of Tobacco products) with respect to all tobacco products transported into, through and out of Ontario in the immediately preceding month.

## Document Requirements

#### Possession of Documents

Every interjurisdictional transporter must keep in the possession of the driver of the motor vehicle in which the tobacco in bulk is being transported the following documents:

- the interjurisdictional transporter’s registration certificate (or a notarial copy of it).
- the uniform manifest form for that shipment. Every interjurisdictional transporter must complete a uniform manifest form in respect of every shipment of tobacco in bulk transported by it into or out of Ontario.
- a notarial copy of the transporter’s registration as an importer or exporter, if the interjurisdictional transporter is also a registered importer or exporter.
- a notarial copy of the registration certificate issued to the registered importer or exporter for whom the interjurisdictional transporter is transporting the tobacco in bulk, if the tobacco in bulk is being transported for a registered importer or exporter. The copy must be obtained before transporting tobacco in bulk into or out of Ontario.
- a notarial copy of the transit permit issued to the owner of the tobacco in bulk which is being transported, if the tobacco in bulk is not being transported for an importer or an exporter, but is being transported from a location outside Ontario, through Ontario and continuing to another location outside Ontario.

#### Seizures and penalties

A driver of a motor vehicle in which tobacco in bulk is being transported who does not possess the required documents is liable to have the vehicle being driven detained, and the tobacco in the vehicle seized, without a warrant. If tobacco is seized, it may be disposed of, unless within 30 days following the seizure a penalty is paid which is equal to the tax that would have been payable if the tobacco were sold to a consumer in Ontario.

#### Offences and Fines

Every interjurisdictional transporter who fails to produce any of the documents required to be kept in the possession of the driver is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$1,000 for each document not produced.

## Record Keeping Requirements

<b>Records and Books</b>	Every interjurisdictional transporter must keep at its principal place of business in Ontario records and books of account. This information is to be kept for a period of seven years following the end of the person's fiscal year to which the records relate.
<b>Demand to Keep Records and Books</b>	The Minister may demand a person keep records and books of account for such additional length of time as the Minister requires.
<b>Offence of Failure to Keep Records and Books</b>	<p>If an interjurisdictional transporter fails to keep adequate records and books of account for seven years following the end of its fiscal year to which the records relate, then it is guilty of an offence and on conviction is liable to a fine of not less than \$1,000 and not more than \$25,000.</p> <p>If an interjurisdictional transporter fails to keep adequate records and books of account for the length of time which the Minister has required, then the interjurisdictional transporter is guilty of an offence, and on conviction is liable to a fine of not less than \$1,000 and not more than \$25,000.</p>

## Increased Penalties and Fines Effective July 1, 2003

<b>Penalty for Failure to Register</b>	Every interjurisdictional transporter transporting tobacco in bulk into or out of Ontario who fails to register with the Minister shall pay a penalty, when so assessed, equal to \$500 plus 5% of the tax that would be payable on all the tobacco transported by the transporter into or out of Ontario during the period the transporter was not a registered interjurisdictional transporter, as if the tobacco was sold to a consumer in Ontario.
<b>Offence of Failure to Register</b>	Every interjurisdictional transporter transporting tobacco in bulk into or out of Ontario who fails to register with the Minister is guilty of an offence and on conviction is liable to pay a fine of not less than \$1,000 and not more than \$10,000.
<b>Penalty for Failure to Deliver a Return</b>	Every interjurisdictional transporter who fails to deliver a return shall pay a penalty, when assessed, of \$1,000 per return which is not delivered.
<b>Offence of Failure to Deliver or Complete a Return</b>	Every interjurisdictional transporter who fails to deliver a return or fails to complete the information required in a return is guilty of an offence and on conviction is liable to a fine of not less than \$200 and not more than \$5,000.

## Additional Information

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

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Oshawa, ON L1H 8H9

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This bulletin and various other English and French tax materials published by the Ministry of Revenue may be obtained online at [ontario.ca/revenue](http://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](http://www.e-laws.gov.on.ca).

*Ce bulletin est disponible en français.*