



2004 Ontario Budget Enhanced Regulatory and Enforcement Provisions under the *Tobacco Tax Act*

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

Highlights of Changes

- The minimum fine for a number of offences has increased to \$500 or \$1,000 depending on the offence. The maximum fines for certain offences have also increased.
- Persons who are involved in certain regulated tobacco activities without the authority of the Minister of Finance are liable to fines, penalties and increased sanctions for repeat offences.
- The tables on pages 2, 3 and 4 summarize the enhancements to the regulatory and enforcement provisions of the Tobacco Tax Act (the Act).

Tax Rate Increase

- Tobacco tax rates increased to 11.10 cents per cigarette, tobacco stick, and each gram or part thereof of tobacco, as of 12:01 a.m. Wednesday, May 19, 2004. See Tax Bulletin TT 5-2004 - Important Notice Concerning Changes to Tobacco Tax Rates for further details.
- 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

Enhancement of Regulatory and Enforcement Provisions	The Ontario tobacco marketplace is affected by unregulated contraband tobacco and unauthorized distribution activities. In order to minimize the availability of such tobacco, especially to youth, and to protect tobacco tax revenue, a number of enhancements to the regulatory and enforcement provisions of the Act were announced in the 2004 Ontario Budget.
Effective Date of Legislation	The tax rate increase to 11.10 cents was effective as of 12:01 a.m. Wednesday, May 19, 2004. The regulatory and enforcement measures are effective June 17, 2004.

Increased (↑) or New (★) Fines and Penalties

The following charts provide summaries of the enhancements enacted to the regulatory and enforcement provisions of the Act.

Offence	Fine upon Conviction
Knowingly fail to pay tax	minimum - \$500 ↑ maximum - three times the tax ↑
Retail dealer fails to collect and remit tax	minimum - \$1,000 ↑ maximum - \$50,000
Operate as a wholesaler without a permit	minimum - \$1,000 ↑ plus not less than three times the tax maximum - \$10,000 plus not less than three times the tax
Wholesaler contravenes condition or restriction of permit, or any related requirement	minimum - \$1,000 ↑ maximum - \$10,000
Collector, importer, wholesaler, retail dealer refuse or neglect to collect tax as required by the Act	an amount equal to the tax not collected plus not less than \$1,000 ↑ or more than \$10,000
Import or export ★ without a registration certificate	minimum - \$1,000 ↑ plus not less than three times the tax maximum - \$10,000 plus not less than three times the tax
Importer or exporter contravenes condition or restriction of permit, or any related requirement	minimum - \$1,000 ↑ maximum - \$10,000
Purchase or receive tobacco from an unregistered importer	minimum - \$500 plus three times the tax ★ maximum - \$10,000 plus three times the tax ★
Manufacture tobacco products without a registration certificate	minimum - \$1,000 ↑ plus not less than three times the tax maximum - \$10,000 plus not less than three times the tax
Registered manufacturer contravenes permit or related provisions	minimum - \$1,000 ↑ maximum - \$10,000
Mark or stamp cigarettes without a permit	minimum - \$1,000 ↑ plus not less than three times the tax maximum - \$10,000, plus not less than three times the tax
Marker or stamper of cigarettes contravenes permit or any related requirement	minimum - \$1,000 ↑ maximum - \$10,000
Fail to deliver a return	minimum - \$500 ↑ maximum - \$5000
Fail to complete the information required in a return	minimum - \$500 ↑ maximum - \$5000
Fail to pay over or remit tax as required	minimum - 25 % of the tax maximum - three times the tax ↑

Increased (↑) or New (★) Fines and Penalties cont'd

An asterisk (*) denotes that the tobacco is subject to forfeiture.

Offence	Fine upon Conviction
* Except as authorized, purchase, receive, or possess unmarked cigarettes for the purpose of sale	minimum - \$500 ↑ plus not less than three times the tax maximum - \$10,000, plus not less than three times the tax ↑
* Except as authorized, possess more than 200 unmarked cigarettes ★	minimum - \$500 plus not less than three times the tax ★ maximum - \$10,000, plus not less than three times the tax ★
* Wholesale unmarked cigarettes - no permit	minimum - tax payable maximum - three times the tax ↑ or up to two years imprisonment
* Wholesale marked cigarettes - no permit	\$4 for each 200 cigarettes ↑
* Repeat offence - marked cigarettes - no permit ★	\$4 for each 200 cigarettes, up to six months imprisonment, or both ★
* Repeat offence - Wholesale tobacco other than cigarettes - no permit ★	minimum - \$1,000, ★ maximum - \$50,000, up to six months imprisonment, or both ★
* Purchase or receive for resale from other than a registered wholesaler	unmarked cigarettes: minimum - the tax payable, maximum - three times the tax ↑, or up to two years imprisonment; marked cigarettes: \$4 for each 200 cigarettes ↑ other tobacco: minimum - \$1,000, maximum - \$50,000
* Repeat offence - purchase or receive marked cigarettes for resale from other than a registered wholesaler ★	\$4 for each 200 cigarettes, up to six months imprisonment, or both ★
* Repeat offence - purchase or receive tobacco other than cigarettes for resale from other than a registered wholesaler ★	minimum - \$1,000, ★ maximum - \$50,000, up to six months imprisonment, or both ★
* Deliver, store, transport or possess tobacco in bulk acquired from or owned by a person not authorized ★	unmarked cigarettes: minimum - the tax payable, ★ maximum - three times the tax, or up to two years imprisonment; ★ marked cigarettes: \$4 for each 200 cigarettes; ★ other tobacco: minimum - \$1,000, maximum - \$50,000 ★
* Repeat Offence - deliver, store, transport or possess tobacco in bulk acquired from or owned by a person not authorized ★	marked cigarettes: \$4 for each 200 cigarettes and up to six months imprisonment ★
* Repeat offence - deliver, store, transport or possess tobacco in bulk acquired from or owned by a person not authorized ★	other tobacco (not cigarettes): minimum - \$1,000, ★ maximum - \$50,000 and up to six months imprisonment ★

Increased (↑) or New (★) Fines and Penalties cont'd

Contravention	Civil Penalty Assessed
Knowingly fail to pay tax ★	three times the tax ★
Import or export ★ tobacco without a registration certificate	an amount equal to the tax
Sell or keep for sale unmarked cigarettes	three times the tax ↑
Except as authorized, possess more than 200 ★ unmarked cigarettes	three times the tax
Sell, offer for sale, keep for sale, purchase or receive for sale, 10,000 or more unmarked cigarettes	an additional five times the tax ↑
Possess 10,000 or more unmarked cigarettes	an additional five times the tax ↑
Sell tobacco at wholesale - no permit	minimum \$1,000 ↑ - maximum \$10,000 plus three times the tax on every cigarette and every gram of other tobacco sold ↑, plus 170% of the price at which each cigar sold ↑
Cigarette marker, stamper, or dealer possess cigarettes in a package, carton or case fraudulently marked or previously used for marked cigarettes	first assessment - three times the tax ↑ subsequent assessment - five times the tax ↑
Purchase for resale from other than registered wholesaler, or store, deliver, transport or possess tobacco acquired from or owned by a person who is not registered as a wholesaler ★	minimum \$500 - maximum \$10,000 plus for: ★ cigarettes - three times the tax; other tobacco - three times the tax; cigars - 170% of the purchase price

Other Changes

Security	The Minister is required to demand security from collectors, importers, exporters and permit holders under the Act.
Possession of Unmarked Cigarettes	<p>Unless authorized under the Act or Regulations, no person is permitted to possess more than 200 unmarked cigarettes¹. Contravention may result in the fines, penalties and possibility of increased sanctions as described previously in the charts.</p> <p>¹“Unmarked cigarettes” do not have the yellow Ontario tear strip with the words “ONTARIO – CANADA DUTY PAID — DROIT ACQUITTE”. For example, a package of cigarettes with the peach coloured federal tear strip is unmarked under the Ontario Act and generally should only be possessed by diplomats and First Nation individuals for their personal use.</p>

Suspension and Cancellation of Authority

The Minister has expanded power to suspend or cancel a person's authorization to be involved in tobacco activities if:

- the person has failed to pay, collect or remit all tax as required,
- the person or any officer, director, shareholder or partner fails to pay a fine levied under the Act, or has been convicted of fraud or tax evasion within the previous five years, or
- the person fails to provide security as demanded by the Minister.

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.

ISBN: 0-7794-6457-5

© Queen's Printer for Ontario, 2004