



Budget Measures Act (Fall), 2004: **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 Amendments

- Expanded provisions for the seizure and disposal of unmarked cigarettes possessed in contravention of the Tobacco Tax Act (the Act).
- New offence and assessed civil penalty provisions for delivering or causing delivery of unmarked cigarettes to unauthorized persons or where intended for sale to persons liable to pay tobacco tax in Ontario.
- New offence and assessed civil penalty provisions for possession of more than 50 cigars or more than one kilogram of other tobacco* unless the person has proof that tobacco tax has been paid. In addition, up to two years in jail is proposed for possession of more than 200 cigars or 10 kilograms of other tobacco unless the person has proof that tobacco tax has been paid.
- An assessed civil penalty for selling, keeping, or offering for sale, cigars or other tobacco without proof that tobacco tax has been accounted for.
- The tables on pages 2 and 3 summarize the enhancements made to the regulatory and enforcement provisions of the Tobacco Tax Act (the Act).
- The amendments were passed by the Legislature and received Royal Assent to become law on December 16, 2004 (c. 31, S.O. 2004).
- 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

Definitions In this bulletin

“other tobacco” means tobacco other than cigarettes and cigars.

Seizure of Unmarked Cigarettes - amendments

Inspection of Wholesale and Retail Premises Unmarked cigarettes possessed for the purpose of sale by unauthorized persons may be seized and forfeited, subject to a right to establish lawful possession by application to the Superior Court of Justice.

Detention and Search of a Vehicle or Trailer, etc.	Tobacco found during detention of a vehicle, trailer, railway equipment or aircraft suspected of containing evidence of a contravention of the Act is subject to seizure and forfeiture if more than 200 unmarked cigarettes are found in control of a person not authorized to deal in, possess, or transport unmarked cigarettes.
Sale of Unmarked Cigarettes	Unmarked cigarettes sold or kept for sale in contravention of the Act are subject to seizure and forfeiture.

Delivery of Unmarked Cigarettes

Prohibited Except Between Authorized Persons	A new offence and assessed civil penalty is provided where unmarked cigarettes are delivered or caused to be delivered to persons not authorized to deal in unmarked cigarettes, or when intended for sale to consumers liable to pay tobacco tax.
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New Offences and Fines

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

Offence	Fine upon Conviction
Deliver, or cause to be delivered, unmarked cigarettes to a person liable to collect or pay tax	minimum - \$1000 plus not less than three times the tax maximum - \$10,000, plus not less than three times the tax
Possess more than 50 cigars or 1 kg of other tobacco - no proof that tax was paid	minimum - \$500 plus not less than three times the tax maximum - \$10,000, plus not less than three times the tax
Possess 200 or more cigars or 10 kg or more of other tobacco - no proof that tax was paid	minimum - \$500 plus not less than three times the tax maximum - \$10,000, plus not less than three times the tax, plus up to two years in jail

New Administrative (Civil) Penalties

Contravention	Civil Penalty Assessed
Deliver, or cause to be delivered, unmarked cigarettes to a person liable to collect or pay tax	an amount equal to the tax
Wholesaler or retailer unlawfully possess unmarked cigarettes for the purpose of sale	forfeiture of the unmarked cigarettes and a penalty ranging from three to eight times the tax
During detention of a vehicle, etc., more than 200 unmarked cigarettes found in control of a person not authorized	forfeiture of all tobacco found and a penalty of three times the tax
Person possess unmarked cigarettes for the purpose of sale	forfeiture of the unmarked cigarettes and a penalty ranging from three to eight times the tax.
Sell or offer or keep for sale cigars or other tobacco - no proof that tax was paid	three times the tax
Possess, receive or purchase for purpose of sale, cigars or other tobacco - no proof that tax was paid	three times the tax
Possess more than 50 cigars or 1 kg of other tobacco - no proof that tax was paid	three times the tax
Possess 200 or more cigars or 10 kg or more of other tobacco - no proof that tax was paid	eight times the tax

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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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.