



Province of Alberta

TOBACCO TAX ACT

Revised Statutes of Alberta 2000
Chapter T-4

Current as of June 7, 2017

Office Consolidation

© Published by Alberta Queen's Printer

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Note

All persons making use of this consolidation are reminded that it has no legislative sanction, that amendments have been embodied for convenience of reference only. The official Statutes and Regulations should be consulted for all purposes of interpreting and applying the law.

Regulations

The following is a list of the regulations made under the *Tobacco Tax Act* that are filed as Alberta Regulations under the Regulations Act

	Alta. Reg.	<i>Amendments</i>
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Tobacco Tax.....	273/83	438/83, 28/85, 398/86, 263/87, 226/88, 115/89, 15/91, 324/91, 27/92, 194/94, 48/98, 157/99, 251/2001, 233/2003, 223/2004, 29/2006, 74/2008, 201/2010, 225/2011
Tobacco Tax (Ministerial).....	90/2008	

TOBACCO TAX ACT

Chapter T-4

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HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Definitions

1 In this Act,

- (a) “arm’s length” means arm’s length as defined in section 251 of the *Income Tax Act* (Canada);
- (b) “assess” includes reassess;
- (c) “black stock” means tobacco products stamped in accordance with any statute or regulation of Canada to indicate that duty has been paid but not stamped or marked in accordance with any statute or regulation of a province to indicate that they are intended for retail sale in a particular province or in particular provinces;
- (d) “consumer” means a person who purchases or acquires tobacco in Alberta
 - (i) for consumption or use by that person,
 - (ii) for consumption or use by another person at the first person’s expense, or
 - (iii) on behalf of, or as the agent for, a principal for consumption or use by the principal or by another person at the principal’s expense;
- (e) “Court” means the Court of Queen’s Bench;
- (e.01) “Crown” means the Crown in right of Alberta;
- (e.1) “customs officer” means an officer as defined in section 2 of the *Customs Act* (Canada) who is employed at a customs office in Alberta;
- (f) “importer” means a person who imports or brings tobacco into Alberta for sale to a consumer or for resale;
- (f.1) “importing consumer” means a person who
 - (i) ordinarily resides or carries on business in Alberta, and
 - (ii) imports or sends tobacco into Alberta, or acquires or receives delivery of tobacco in Alberta,
 - (A) for consumption or use by that person,

- (B) for consumption or use by another person at the first person's expense, or
 - (C) on behalf of, or as the agent for, a principal for consumption or use by the principal or by another person at the principal's expense;
- (f.2) "licensed" means holding a valid and subsisting licence issued under this Act;
- (g) "manufacturer" means a person who manufactures tobacco;
- (h) "marked for tax-paid sale in Alberta", with respect to the packaging of tobacco products on which tax is payable, means that the package is marked in accordance with, and by a person authorized pursuant to, the regulations;
- (i) "Minister" means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (j) "not marked for tax-paid sale in Alberta", with respect to tobacco products, includes
- (i) black stock,
 - (ii) stamped or marked in accordance with any statute of a province or territory, other than Alberta, to indicate that the tobacco products are intended for retail sale in a particular province or territory or in particular provinces or territories,
 - (iii) stamped or marked in accordance with the law of a country other than Canada, to indicate that the tobacco products are intended for retail sale in that country, or
 - (iv) not marked or stamped;
- (k) "officer" means, except in clause (k.1) and sections 8(1)(d), 21(1)(b) and (2)(b) and 43,
- (i) a member of the Royal Canadian Mounted Police;
 - (ii) a police officer;
 - (iii) a peace officer appointed under the *Peace Officer Act* for the purposes of this Act;
 - (iv) any person appointed by the Minister as an officer for the purposes of this Act;

- (k.01) “person” includes a partnership, a trust and an Indian band;
- (k.1) “postal agent” means the Canada Post Corporation established under the *Canada Post Corporation Act* (Canada) and its officers, employees and agents if the Minister of National Revenue has entered into a written agreement with the Canada Post Corporation under which agreement the Canada Post Corporation is authorized by the Minister of National Revenue and agrees to collect, as agent of the Minister of National Revenue, duties as defined in the *Customs Act* (Canada) respecting mail delivered into Alberta;
- (l) “purchase” means, with reference to tobacco, to purchase or otherwise obtain tobacco;
- (m) “registration” means a registration of an exempt sale retailer under regulations made under section 48(i);
- (m.1) “responsible representative” means a trustee in bankruptcy, assignee, liquidator, administrator, receiver, receiver-manager or any other similar person administering, winding up, controlling or otherwise dealing with a property or business of a tax collector;
- (n) “retailer” means a person who purchases tobacco from a licensed wholesaler or licensed importer for resale, but only in relation to tobacco purchased from the licensed wholesaler or licensed importer;
- (o) “sell” means to sell or otherwise supply tobacco;
- (p) “tax collector” means a tax collector appointed pursuant to section 5;
- (q) “tobacco” means tobacco in any form in which it is used or consumed, and includes snuff;
- (r) “tobacco products” means cigarettes, tobacco sticks and fine cut tobacco;
- (s) “vehicle” means a device in or by which a person or thing may be transported, and includes a watercraft and an aircraft;
- (t) “wholesaler” means a person, including a manufacturer, who sells, or offers for sale, tobacco for resale.

RSA 2000 cT-4 s1;2003 c33 s2;2003 c47 s2;
2006 cP-3.5 s42;2007 c43 s2;2009 c33 s2

Crown bound

2 This Act binds the Crown.

1983 cT-5.1 s2

Computation of tax payable

3(1) Every consumer who purchases tobacco in Alberta shall at the time of purchase of the tobacco pay to the Crown a tax computed at the following rates:

- (a) on every cigarette or tobacco stick purchased by that consumer, \$0.25;
- (b) on every cigar purchased by that consumer, 129% of the taxable price of the cigar, with the tax payable on each cigar being not less than \$0.25 per cigar nor more than \$7.83 per cigar;
- (c) on every gram or part of a gram of any tobacco, other than cigarettes, tobacco sticks or cigars, purchased by that consumer, \$0.375.

(1.01) An importing consumer shall, on importing or sending tobacco into Alberta or acquiring or receiving delivery of tobacco in Alberta through a port of entry from a place outside of Canada,

- (a) report immediately to a customs officer,
- (b) provide the customs officer with all the information that is required by the customs officer regarding the tobacco, and
- (c) pay to the customs officer as agent of the Crown the same amount of tax as would have been payable under subsection (1) if the tobacco had been purchased in Alberta.

(1.02) An importing consumer shall, at the time of receiving delivery of tobacco in Alberta by mail from a place outside of Canada,

- (a) provide the postal agent where the tobacco is received with all the information that is required by the postal agent regarding the tobacco, and
- (b) pay to the postal agent as agent of the Crown the same amount of tax as would have been payable under subsection (1) if the tobacco had been purchased in Alberta.

(1.03) If neither subsection (1.01) nor (1.02) applies, an importing consumer shall, at the time of importing or sending tobacco into Alberta or acquiring or receiving delivery of tobacco in Alberta, pay to the Crown the same amount of tax as would have been

payable under subsection (1) if the tobacco had been purchased in Alberta.

(1.04) Subsections (1.01) and (1.02) do not apply to tobacco in respect of which no tax is payable under Division III of Part IX of the *Excise Tax Act* (Canada).

(1.05) Subsection (1.03) does not apply if no tax would be payable under Division III of Part IX of the *Excise Tax Act* (Canada) if the tobacco were imported, sent, acquired or received from a location outside of Canada.

(1.06) If an importing consumer fails or refuses to comply with subsection (1.01) or (1.02), the customs officer or postal agent, as the case may be, shall detain the tobacco.

(1.07) Tobacco detained under subsection (1.06) must be dealt with as follows:

- (a) if, before the end of 60 days after the start of the detention, the tax payable on the tobacco at the time of its detention, related interest and penalties and any expenses related to the detention are paid and subsection (1.01)(b) or (1.02)(a) has been complied with, the tobacco must be returned to the importing consumer;
- (b) if the tax, related interest and penalties and expenses referred to in clause (a) are not paid within the time limit referred to in that clause or subsection (1.01)(b) or (1.02)(a) has not been complied with, the tobacco is forfeited to the Crown and may be disposed of as directed by the Minister.

(1.1) For the purposes of subsection (1), the taxable price of a cigar is the following amount multiplied by 1.3:

- (a) if the cigar was manufactured in Canada, the manufacturer's selling price before any volume discount, including any charges for delivery or transportation and any duty and excise tax imposed under the laws of Canada, except for the tax imposed by Part IX of the *Excise Tax Act* (Canada);
- (b) if the cigar was manufactured outside Canada, the importer's selling price before any volume discount.

(1.11) For the purpose of subsection (1.1)(b), the importer's selling price of a cigar is

- (a) the price charged by the importer, or

- (b) if the importer sells the cigar to a party not dealing at arm's length with the importer, who in turn sells the cigar, the price charged by that party,

whichever is greater, and includes any charges for delivery or transportation and any duty and excise tax imposed under the laws of Canada, except for the tax imposed by Part IX of the *Excise Tax Act* (Canada).

(1.2) Notwithstanding subsection (1.1), if the manufacturer or importer of a cigar is also the retailer of the cigar, the taxable price of the cigar is the price the consumer paid for it, including any charges for delivery or transportation but not including the tax payable under this Act or the tax imposed by Part IX of the *Excise Tax Act* (Canada).

(2) Where the amount of tax payable computed at the rate under subsection (1)(b) is a fraction of a cent, the amount shall be rounded to the next higher cent.

(2.1) The amount of tax payable computed under subsection (1)(a) or (c) shall be computed by multiplying the applicable tax rate by the total number of cigarettes, tobacco sticks or grams of tobacco, as the case may be, purchased by the consumer at that time, and where the resulting amount of tax payable includes a fraction of a cent, the amount shall be rounded to the next higher cent.

(3) Every person who sells tobacco to a consumer in Alberta shall collect the tax in respect of that tobacco from that consumer at the time of sale as agent of the Minister.

(4) For the purposes of this Act, if a person does not collect the tax pursuant to subsection (3), the person is nevertheless deemed to have collected the tax at the time of sale.

RSA 2000 cT-4 s3;2002 c25 s2;2003 c33 s3;2003 c47 s3;
2007 c43 s3;2009 c33 ss3,24;2015 c21 Sched. 2 s5

Tobacco not marked for tax-paid sale

4(1) Subject to subsections (3) and (4), no person shall, in Alberta, purchase, possess, store, sell or offer for sale tobacco products that are not marked for tax-paid sale in Alberta unless the person

- (a) is a licensed wholesaler or licensed importer and has written permission from the Minister to do so, and
- (i) in the case of tobacco products that are black stock, the wholesaler or importer will be selling the tobacco products to an exempt sale retailer, or

- (ii) the tobacco products will be transported out of Alberta for resale;
- (b) is a retailer and
 - (i) has written permission from the Minister to do so, or
 - (ii) in the case of tobacco products that are black stock, is
 - (A) an exempt sale retailer, or
 - (B) a duty free shop as defined in the *Excise Tax Act* (Canada).
- (2)** Repealed 2009 c33 s4.
- (3)** No person shall, in Alberta, purchase or possess tobacco products that are black stock unless the person
 - (a) is permitted to do so under subsection (1),
 - (b) is exempted under the regulations made under section 48(e), or
 - (c) purchases tobacco products at a duty free shop as defined in the *Excise Tax Act* (Canada) on leaving Alberta and, on importing or sending those tobacco products into Alberta or acquiring or receiving delivery of those tobacco products in Alberta, provides evidence that the tax payable to the Crown has been paid on the tobacco products in accordance with section 3(1.01), (1.02) or (1.03).
- (4)** Subject to subsection (3), no person shall possess more than 200 cigarettes, 200 tobacco sticks or 200 grams of manufactured tobacco that are not marked for tax-paid sale in Alberta except
 - (a) a licensed wholesaler or licensed importer who possesses the tobacco products in accordance with subsection (1), or
 - (b) a person who provides evidence that the tax payable to the Crown has been paid on the tobacco products under section 3(1.01), (1.02) or (1.03).
- (5)** No exempt sale retailer shall, in Alberta, sell black stock, or offer black stock for sale, to a person unless the person is exempted under regulations made under section 48(e).

RSA 2000 cT-4 s4;2002 c25 s3;2003 c33 s4;2003 c47 s4;
2009 c33 ss4, 24

Limits on possession of tobacco**4.1** No person shall possess

- (a) more than 1000 cigarettes,
- (b) more than 1000 tobacco sticks,
- (c) more than 1000 grams of fine cut tobacco,
- (d) cigars that in total contain more than 1000 grams of tobacco,
or
- (e) any combination of tobacco containing more than 1000
grams of tobacco

unless the person establishes that the person

- (f) has been issued a permit to do so under the regulations, or
- (g) is a licensed wholesaler, licensed importer, retailer or
marking permit holder, or possesses tobacco on behalf of
any of them.

2002 c25 s4;2003 c47 s5;2009 c33 s5

Tax collectors

5(1) The Minister may appoint any tax collectors required for the purposes of this Act.

(2) A person other than a tax collector who collects or is deemed to have collected tax under this Act shall remit the tax,

- (a) if the person has purchased the tobacco from a tax collector,
 - (i) to the tax collector at the time of purchase, or
 - (ii) to the Minister, if the Minister has so directed,or
- (b) in a case other than that provided for in clause (a), to the Minister in the manner and at the times specified by the Minister.

(3) A tax collector shall remit the tax collected or deemed to have been collected in accordance with the regulations.

RSA 2000 cT-4 s5;2009 c33 s6

Tax collection agreement

5.1(1) The Minister may, on behalf of the Government of Alberta, enter into a tax collection agreement with the Government of

Canada respecting the administration and enforcement of this Act in relation to tobacco referred to in section 3(1.01) and (1.02).

(2) No action or other proceeding for damages shall be instituted against a customs officer acting pursuant to an agreement mentioned in subsection (1) for any loss or damage suffered by any person by reason of anything done, attempted, caused or permitted to be done or omitted to be done in good faith by the customs officer

- (a) pursuant to or in the performance or supposed performance of any duty pursuant to this Act, the regulations or the agreement, or
- (b) pursuant to or in the exercise or supposed exercise of any power given by this Act, the regulations or the agreement.

2003 c33 s5

Special account

6 The Minister may require a person who collects taxes under this Act to deposit the amount collected into an account in the name of the Minister or an account in trust for the Minister at a financial institution specified by the Minister.

RSA 2000 cT-4 s6;2003 c47 s6

Late filing penalty

6.1 If a person fails to submit a return as and when required by this Act or the regulations, the Minister may assess against the person a penalty in the amount that is the greater of \$25 for each day of default and 5% of any unremitted tax, to a maximum of \$1000.

2009 c33 s7

Prohibitions

7(1) No person shall

- (a) sell or agree to sell tobacco in Alberta for resale unless the person is a licensed wholesaler or licensed importer,
- (b) import or bring tobacco into Alberta for resale unless the person is a licensed importer, or
- (c) purchase tobacco in Alberta from a person who is not a retailer, licensed wholesaler or licensed importer.

(2) Except as authorized by subsection (1), no wholesaler shall sell or agree to sell tobacco in Alberta unless the wholesaler is exempted by the Minister from the operation of this subsection pursuant to section 47(e).

(3) No person shall sell, offer for sale or purchase tobacco in Alberta for an amount less than the aggregate of the tax payable under this Act and any applicable federal taxes and duties.

RSA 2000 cT-4 s7;2009 c33 s8

Refusal, cancellation or suspension of licence

8(1) The Minister may refuse to issue a licence to a person or may suspend or cancel the licence of a person who, in the opinion of the Minister,

- (a) refuses or neglects to account for and pay as required under the regulations money received by the person as proceeds of the tax,
- (b) refuses or neglects to furnish a surety bond or bank guarantee or make other financial arrangements when so required,
- (c) contravenes this Act or the regulations or a statute or regulation of another jurisdiction that governs the sale of tobacco in that other jurisdiction,
- (d) has any director, officer or employee who has contravened this Act or the regulations or a statute or regulation of another jurisdiction that governs the sale of tobacco in that other jurisdiction, or
- (e) breaches the terms of a tax collection agreement to which that person is a party.

(2) The Minister may refuse to issue a licence to a person who is not dealing at arm's length with a person whose application for a licence has been refused or whose licence has been suspended or cancelled.

1983 cT-5.1 s6;1987 c37 s6;1990 c16 s4;1994 c17 s12;
1997 c27 s5

Licence subject to conditions

9(1) Where the Minister issues a licence under this Act, the Minister may make that licence subject to any conditions that the Minister considers appropriate in the circumstances.

(2) The Minister may

- (a) refuse to renew a licence to a person, or
- (b) suspend or cancel a licence issued to a person,

where the person has not, in the opinion of the Minister, complied with the conditions to which that person's licence is subject.

1990 c16 s4

Notification by Minister

10 Where the Minister

- (a) refuses to issue a licence or to renew a licence to a person,
- (b) suspends or cancels a licence of a person,
- (c) refuses to register a person,
- (d) suspends or cancels the registration of a person,
- (e) makes an assessment of tax, interest or penalty payable by a person, or
- (f) refuses to issue a refund to a person,

the Minister shall notify that person in writing of the action or decision taken by the Minister.

1990 c16 s4;1994 c17 s13;1997 c27 s6

Notice of objection

11(0.1) For the purposes of this section, "electronic filing" means using electronic media in a manner specified in writing by the Minister.

(1) A person who objects

- (a) to not being issued a licence,
- (b) to the person's licence not being renewed,
- (c) to the person's licence being suspended or cancelled,
- (d) to not being registered,
- (e) to the person's registration being suspended or cancelled,
- (f) to an assessment of tax, interest or penalty, or
- (g) to not being issued a refund,

may, within 90 days after the day of sending of the notice, serve on the Minister a notice of objection in the form provided by the Minister setting out the reasons for the objection and the relevant facts.

(2) A notice of objection under this section must be served by being sent

- (a) by registered letter addressed to the Minister, or
- (b) by way of electronic filing.

(2.1) A notice of objection under this section that is sent by way of electronic filing is deemed to have been served on the day that the Minister acknowledges that the notice of objection has been received.

(3) The Minister may accept a notice of objection under this section notwithstanding that it was not served in the manner required by subsection (2).

(4) On receipt of a notice of objection, the Minister shall with all due dispatch reconsider the action or decision taken by the Minister and shall vacate, confirm or vary that action or decision and notify the objector of the Minister's decision by registered letter or personal service.

(5) Notwithstanding subsection (4), if the person indicates in the notice of objection that the person wishes to appeal immediately to the Court and waives reconsideration of the action or decision by the Minister, the Minister may on receipt of the notice of objection consent to an immediate appeal by serving a notice of consent on the person by registered letter or personal service.

(6) If the Minister consents to an immediate appeal under subsection (5), the person may within 90 days after service of the notice of consent appeal to the Court pursuant to section 12(2).

RSA 2000 cT-4 s11;2007 c43 s4;2015 c21 Sched. 2 s5;
2017 c15 s4

Extension of time by Minister

11.1(1) Where no notice of objection has been served under section 11 within the time limited by that section for doing so, a person described in section 11(1) may apply to the Minister for an extension of the time for serving the notice of objection.

(2) An application made under subsection (1) must set out the reasons why the notice of objection was not served within the time otherwise limited by section 11 for doing so.

(3) An application made under subsection (1) shall be served by being sent by registered letter addressed to the Minister and accompanied with a copy of the notice of objection.

(4) The Minister may accept an application made under subsection (1) notwithstanding that it was not served in the manner required by subsection (3).

(5) On receipt of an application made under subsection (1), the Minister shall with all due dispatch consider the application and grant or refuse it and notify the person who made the application of the decision in writing.

(6) Where an application made under subsection (1) is granted, the notice of objection is deemed to have been served on the day on which notification of the decision was sent to the person who made the application.

(7) No application may be granted under this section unless

- (a) the application is made within one year after the expiration of the time otherwise limited by section 11 for serving a notice of objection, and
- (b) the person who made the application demonstrates that
 - (i) within the time otherwise limited by section 11 for serving the notice, the person
 - (A) was unable to act or to instruct another to act in the person's name, or
 - (B) intended in good faith to object to the action or decision,
 - (ii) given the reasons set out in the application and the circumstances of the case, it would be just and equitable to grant the application, and
 - (iii) the application was made as soon as circumstances permitted.

2007 c43 s5; 2015 c21 Sched. 2 s5

Extension of time by Court

11.2(1) A person who has made an application under section 11.1 may apply to the Court to have the application granted after

- (a) the Minister has refused the application, or
- (b) 90 days has elapsed after service of the application under section 11.1 and the Minister has not notified the person of the Minister's decision,

but no application under this section may be made after the expiration of 90 days after the day a notification under section 11.1(5) was sent to the person.

(2) An application under subsection (1) must

- (a) be accompanied with the documents referred to in section 11.1(3) and the notification referred to in section 11.1(5), if any, and
- (b) be served on the Minister by registered letter.

(3) The Court may grant or dismiss an application made under subsection (1) and, in granting an application, may impose any terms it considers just or order that the notice of objection is deemed to have been served on the date of its order.

(4) No application may be granted under this section unless

- (a) the application under section 11.1 was made within one year after the expiration of the time otherwise limited by section 11 for serving a notice of objection, and
- (b) the person who made the application demonstrates that
 - (i) within the time otherwise limited by section 11 for serving the notice, the person
 - (A) was unable to act or to instruct another to act in the person's name, or
 - (B) intended in good faith to object to the action or decision,
 - (ii) given the reasons set out in the application and the circumstances of the case, it would be just and equitable to grant the application, and
 - (iii) the application under section 11.1 was made as soon as circumstances permitted.

2007 c43 s5;2009 c53 s177; 2015 c21 Sched. 2 s5

Notice of appeal

12(1) A person who has served a notice of objection under section 11(1) may appeal to the Court to have the action or decision taken by the Minister vacated or varied

- (a) where the Minister has, under section 11(4), confirmed or varied the action or decision taken by the Minister, or

- (b) after 90 days has elapsed after service of the notice of objection and the Minister has not acted under section 11(4),

but no appeal under this section may be instituted after the expiration of 90 days from the day a notification under section 11(4) was mailed to or personally served on the objector.

(2) An appeal to the Court shall be instituted by serving on the Minister a notice of appeal and by filing a copy of the notice of appeal with the clerk of the Court.

(3) A notice of appeal shall be served on the Minister by being sent by registered letter addressed to the Minister.

(4) The notice of appeal shall be attached to the notice of objection and, for the purposes of section 15, is deemed to be a statement of claim.

RSA 2000 cT-4 s12;2007 c43 s6

Reply to notice of appeal

13(1) The Minister shall, within 60 days from the day that the notice of appeal is received or within any further time that the Court may either before or after the expiration of that time allow, serve on the appellant and file in the Court a reply to the notice of appeal

- (a) admitting or denying the facts alleged, and
- (b) containing a statement
 - (i) of any further allegations of fact, and
 - (ii) of any applicable statutory provisions and any reasons the Minister intends to rely on.

(2) The Court may strike out a notice of appeal or any part of the notice for failure to comply with section 12 and may permit an amendment to be made to a notice of appeal or a new notice of appeal to be substituted for the one struck out.

(3) The Court may

- (a) strike out any part of a reply for failure to comply with this section, or permit the amendment of a reply, or
- (b) strike out a reply for failure to comply with this section and order a new reply to be filed within a time that it considers appropriate.

(4) If a notice of appeal is struck out for failure to comply with section 12 and a new notice of appeal is not filed as and when permitted by the Court, the Court may dismiss the appeal.

(5) If a reply is not filed as required by this section or is struck out under this section and a new reply is not filed as ordered by the Court within the time ordered, the Court may dispose of the appeal ex parte or after a hearing on the basis that the allegations of fact contained in the notice of appeal are true.

1990 c16 s4

Powers of Court

14(1) On the filing of the material referred to in sections 12 and 13(1), (2) and (3), the matter is deemed to be an action in the Court.

(2) A fact or statutory provision not set out in the notice of appeal or reply may be pleaded or referred to in any manner and on any terms that the Court may direct.

(3) The Court may, in hearing an appeal,

(a) dismiss the appeal, or

(b) allow the appeal and

(i) in the case of the refusal, suspension or cancellation affecting a licence, direct, as the case may be, that

(A) the licence be issued,

(B) the licence be renewed,

(C) the suspension be removed, or

(D) the licence be reinstated,

subject to any terms or conditions as the Court considers appropriate,

(ii) in the case of the refusal, suspension or cancellation affecting a registration, direct, as the case may be, that, subject to any terms or conditions as the Court considers appropriate,

(A) the registration be issued,

(B) the suspension be removed, or

(C) the registration be reinstated,

- (iii) in the case of an assessment, quash or vary the assessment, or
- (iv) in the case of a refusal to issue a refund, direct that a refund be issued in an amount as the Court may direct.

1990 c16 s4;1997 c27 s8

Practice and procedure

15 Except as provided in the regulations, the practice and procedure of the Court, including the right of appeal and the practice and procedure relating to appeals to the Court of Appeal or the Supreme Court of Canada, apply to every matter deemed to be an action under section 14, and every judgment and order given or made in each such action may be enforced in the same manner and by like process as a judgment or order given or made in an action commenced in the Court.

1990 c16 s4

Irregularities

16 A refusal, suspension or cancellation under section 8 or 9 must not be vacated or varied on appeal by reason only of an irregularity, informality, omission or error on the part of a person in the observance of a directory provision of this Act.

1990 c16 s4

Documents deemed signed

16.1 A document purporting to have been executed under or in the course of the administration or enforcement of this Act over the name in writing of the Minister or an official authorized by the Minister to exercise powers or perform duties of the Minister under this Act is deemed to have been signed, made and issued by the Minister or the official unless called into question by the Minister or by a person acting for the Minister or for the Crown.

2007 c43 s7

Financial arrangements to ensure payment of taxes

17 In the event of a notice of appeal being filed from a decision to suspend or cancel a licence, the Minister may require accelerated payments of tax collected, a surety bond in an amount to be fixed by the Minister, bank guarantees and other financial arrangements to ensure full payment of taxes owing by the wholesaler or importer.

1983 cT-5.1 s8;1987 c37 s8

Amounts recoverable as debts

17.1 Taxes, penalties, interest and other amounts owing under this Act are debts recoverable by the Crown in an action in debt.

2009 c33 s9

Set-off

17.2(1) If a person to whom an amount is owing under this Act owes money to the Crown, the Minister may, instead of making a payment to that person, apply the whole or any part of the payment owing to the person to reduce or eliminate the debt the person owes to the Crown.

(2) Where the Minister applies a payment under subsection (1), the Minister shall notify the person referred to in subsection (1) of the reduction or elimination of the debt.

2009 c33 s9

Certificate of amount not paid

18(1) Where

- (a) an amount that is payable under this Act has not been paid, or
- (b) part of an amount that is payable under this Act has not been paid,

the Minister may issue a certificate stating the amount or the part of the amount that has not been paid.

(2) A certificate issued under subsection (1) may be filed in the Court as if it were a judgment of the Court.

(3) When a certificate issued under subsection (1) is filed in the Court,

- (a) the certificate has the same force and effect as if it were a judgment of the Court in the amount stated in the certificate together with interest to the day of payment, and
- (b) proceedings may be taken to enforce payment of the amount owing in respect of the certificate in the same manner as if the certificate were a judgment of the Court.

(4) All reasonable costs and charges payable in respect of the filing of a certificate in the Court are recoverable as if they had been certified and the certificate had been filed under this section.

1990 c16 s4

Payment by third party

19(1) If the Minister has knowledge or suspects that a person is or will be, within one year, liable to make any payment to a person who owes an amount under this Act referred to in this section as the “debtor”, the Minister may, by written notice, require the person to pay the money otherwise payable to the debtor in whole

or in part to the Minister on account of the amount owing by the debtor under this Act.

(2) Without limiting the generality of subsection (1), if the Minister has knowledge or suspects that within 90 days

- (a) a bank, credit union, trust corporation, loan corporation or other similar person referred to in this section as the “institution”, will lend or advance money to, or make a payment on behalf of, or make a payment in respect of a negotiable instrument issued by, a debtor who is indebted to the institution and who has granted security in respect of the indebtedness, or
- (b) a person other than an institution will lend or advance money to, or make a payment on behalf of, a debtor who the Minister knows or suspects
 - (i) is employed by, or is engaged in providing services or property to, that person or was or will be, within 90 days, so employed or engaged, or
 - (ii) if that person is a corporation, is not dealing at arm’s length with that person,

the Minister may by written notice require the institution or person, as the case may be, to pay in whole or in part to the Minister on account of the amount owing by the debtor under this Act the money that would otherwise be so lent, advanced or paid, and any money so paid to the Minister is deemed to have been lent, advanced or paid, as the case may be, to the debtor.

(2.1) If a person who receives a notice under subsection (1) or (2) is liable to make a payment jointly to the debtor and one or more other persons, for the purposes of this section it is deemed that the money payable is divided into as many equal portions as there are persons who are owed the money jointly and that the debtor is the unconditional and sole owner of one portion of the money.

(2.2) The Minister, the debtor and any person who is owed the money jointly with the debtor may, within 30 days of the written notice being given under subsection (1) or (2), apply to the Court

- (a) for an order that the debtor is entitled to a smaller or greater portion of the money, and
- (b) for appropriate relief.

(2.3) Notice of an application under subsection (2.2) must be served

- (a) if the applicant is the debtor or a person who is owed the money jointly with the debtor, on all the other persons who are owed the money jointly and the Minister, or
- (b) if the applicant is the Minister, on all the persons who are owed the money jointly.

(3) The receipt of the Minister for money paid under this section is a good and sufficient discharge of the amount owing by the debtor to the extent of that payment.

(4) A person who, after receiving a notice under subsection (1), discharges any liability to the debtor without complying with a requirement under this section is liable to pay to the Crown the lesser of

- (a) an amount equal to the liability discharged, and
- (b) the amount that the person was required under this section to pay to the Minister.

(5) An institution or other person that, after receiving a notice under subsection (2), fails to comply with a requirement under this section with respect to money to be lent, advanced or paid is liable to pay to the Crown an amount equal to the lesser of

- (a) the total of money so lent, advanced or paid, and
- (b) the amount that the institution or person was required under that subsection to pay to the Minister.

(6) If the person who is or is about to become liable carries on business under a name or style other than the person's own name, the notice under subsection (1) or (2) may be addressed to the name or style under which the person carries on business and, in the case of personal service, is deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee.

(7) If the persons who are or are about to become liable carry on business in partnership, the notice under subsection (1) or (2) may be addressed to the partnership name and, in the case of personal service, is deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership.

RSA 2000 cT-4 s19;2009 c33 ss10, 24

Responsible representatives

19.1(1) For the purposes of this Act, where a person is a responsible representative of a tax collector at any time,

- (a) the responsible representative is jointly and severally liable with the tax collector
 - (i) to pay each amount that is payable under this Act by the tax collector at or before that time and that remains unpaid, to the extent that the responsible representative is at that time in possession or control, in the capacity of responsible representative, of property that belongs or belonged to, or that is or was held for the benefit of, the tax collector, and
 - (ii) to perform any obligation or duty imposed under this Act on the tax collector at or before that time and that remains outstanding, to the extent that the obligation or duty can reasonably be considered to relate to the responsibilities of the responsible representative acting in that capacity,

and

- (b) any action or proceeding in respect of the tax collector taken under this Act at or after that time by the Minister may be taken in the name of the responsible representative acting in that capacity and, when taken, has the same effect as if it had been taken directly against the tax collector and, if the tax collector is no longer a tax collector, as if the tax collector continued to be a tax collector.

(2) A responsible representative shall, before distributing any property over which the responsible representative has control in that capacity as the responsible representative, obtain a certificate from the Minister certifying that all amounts

- (a) for which the tax collector is liable under this Act up to the date of the certificate, and
- (b) for the payment of which the responsible representative is or can reasonably be expected to become liable in that capacity as the responsible representative

have been paid or that security for the payment of the amounts has been accepted by the Minister.

(3) If a responsible representative distributes property over which the responsible representative has control in that capacity as the responsible representative without obtaining a certificate under subsection (2) in respect of the amounts referred to in that subsection, the responsible representative is personally liable for the payment of those amounts to the extent of the value of the

property distributed, and the Minister may assess the responsible representative for the amounts in the same manner and with the same effect as if it were an assessment under this Act of the tax collector for whose property or business the responsible representative is responsible.

(4) For the purposes of subsections (2) and (3), an appropriation by a responsible representative of a tax collector of property in the possession or control of the responsible representative acting in that capacity is deemed to be a distribution of the property to a person.

2003 c47 s7

Liability in respect of transfers by insolvent tax collectors

19.2(1) If property is transferred at any time by a tax collector to a person with whom the tax collector does not deal at arm's length at that time and the tax collector is insolvent or becomes insolvent because of the transfer or because of the transfer and one or more other transactions, the person is jointly and severally liable with the tax collector to pay the liability under this Act of the tax collector equal to the amount, if any, by which the fair market value of the property at that time exceeds the fair market value at that time of the consideration given for the property, but nothing in this subsection limits the liability of the tax collector under any other provisions of this Act.

(2) If

- (a) property is transferred at any time from a person (in this subsection referred to as the "transferor") to another person (in this subsection referred to as the "transferee") with whom the transferor does not deal at arm's length,
- (b) the transferor is liable because of subsection (1) or this subsection to pay an amount of the liability of another person (in this subsection referred to as the "debtor") under this Act, and
- (c) it can reasonably be considered that one of the reasons of the transfer would, but for this subsection, be to prevent the enforcement of this section,

the transferee is jointly and severally liable with the transferor and the debtor to pay an amount of the debtor's liability under this Act equal to the lesser of the amount of the liability that the transferor was liable to pay at that time and the amount, if any, by which the fair market value of the property at that time exceeds the fair market value at the time of the consideration given for the property, but nothing in this subsection limits the liability of the debtor or the transferor under any provision of this Act.

- (3) The Minister may at any time assess a person in respect of any amount payable because of this section.
- (4) Where a person has become jointly and severally liable with a tax collector under this section in respect of part or all of a liability under this Act of the tax collector,
- (a) a payment by the person on account of that person's liability discharges the joint liability to the extent of the payment, but
 - (b) a payment by the tax collector on account of that tax collector's liability discharges the person's liability only to the extent that the payment operates to reduce the tax collector's liability to an amount less than the amount in respect of which the person is, by this section, made jointly and severally liable.

2003 c47 s7

Amounts in jeopardy

- 19.3(1)** In this section, "judge" means a judge of the Court.
- (2) Where, on ex parte application by the Minister, a judge is satisfied that there are reasonable grounds to believe that the collection of all or any part of an amount assessed against a person would be jeopardized by a delay in the collection of it, the judge shall, on the terms the judge considers reasonable in the circumstances, authorize the Minister to file a certificate under section 18 notwithstanding that the 30 days referred to in section 37(2) has not yet elapsed.
- (3) Where a judge is satisfied that the receipt of a notice of assessment by a person in respect of an amount assessed against the person would likely jeopardize the collection of that amount, an authorization under subsection (2) may be granted by the judge notwithstanding that the notice of assessment in respect of that amount has not been served on the person at or before the time the application is made.
- (4) Statements contained in an affidavit filed in support of an application under this section may be based on belief with the grounds for it.
- (5) An authorization granted under this section in respect of a person must be served by the Minister on the person within 72 hours after it is granted except where the judge orders the authorization to be served at some other time specified in the authorization, and where a notice of assessment has not been served on the person at or before the time of the application, the

notice of assessment must be served together with the authorization.

(6) For the purpose of subsection (5), service on a person must be effected by

- (a) personal service on the person, or
- (b) service in accordance with directions, if any, of a judge.

(7) Where service on a person cannot reasonably be effected as and when required under this section, the Minister may, as soon as practicable, apply to a judge for further direction.

(8) Where a judge has granted an authorization under this section in respect of a person, the person may, on 6 clear days' notice to the Deputy Minister of Justice, apply to a judge to review the authorization.

(9) An application under subsection (8) must be made

- (a) within 30 days from the day on which the authorization was served on the person in accordance with this section, or
- (b) within any further time a judge may allow, on being satisfied that the application was made as soon as practicable.

(10) An application under subsection (8) may, on the application of the person, be heard in private if the person establishes to the satisfaction of the judge that the circumstances of the case justify private proceedings.

(11) On an application under subsection (8), the judge may confirm, set aside or vary the authorization and make any other order the judge considers appropriate.

(12) Where any question arises as to the course to be followed in connection with anything done or being done under this section and there is no direction in this section with respect to it, a judge may give any direction with respect to it that, in the judge's opinion, is appropriate.

(13) No appeal lies from an order of a judge made pursuant to subsection (11).

2007 c43 s8;2009 c53 s177;2013 c10 s35;2015 c21 Sched. 2 s5

Liability of directors for failure to remit

20(1) Where a corporation has failed to remit tax collected by that corporation, the directors of the corporation at the time the

corporation was required to remit the tax collected are jointly and severally liable, together with the corporation, to pay that tax collected and any interest or penalties relating to it.

(2) A director is not liable under subsection (1) unless

- (a) a certificate for the amount of the corporation's liability referred to in subsection (1) has been filed in the Court under section 18(2) and execution for that amount has been returned unsatisfied in whole or in part,
- (b) the corporation has commenced liquidation or dissolution proceedings or has been dissolved and a claim for the amount of the corporation's liability referred to in subsection (1) has been proved within 6 months after the earlier of the date of commencement of the proceedings and the date of dissolution,
- (c) the corporation has made an assignment or a receiving order has been made against it under the *Bankruptcy and Insolvency Act* (Canada) and a claim for the amount of the corporation's liability referred to in subsection (1) has been proved within 6 months after the date of the assignment or receiving order, or
- (d) a compromise or arrangement has been proposed under the *Companies' Creditors Arrangement Act* (Canada) in respect of the corporation.

(2.1) Notwithstanding subsection (2), a director is not liable under subsection (1) if the director exercised due diligence in attempting to ensure the corporation remitted the tax.

(2.2) The Minister shall not take action to collect an amount owed by a director under this section until

- (a) all reasonable efforts to collect an amount from the corporation have been made by the Minister, and
- (b) the director has been notified in writing of the director's liability under this section.

(3) A notice under subsection (2.2)(b) may not be sent more than 2 years after the director last ceased to be a director of the corporation.

(4) Where execution referred to in subsection (2)(a) has issued, the amount recoverable from a director is the amount remaining unsatisfied after execution.

(5) Where a director pays an amount in respect of a corporation's liability referred to in subsection (1) that is proved in liquidation, dissolution or bankruptcy proceedings, the director is entitled to any preference that the Crown would have been entitled to had that amount not been so paid, and where a certificate that relates to that amount has been filed, the director is entitled to an assignment of the certificate to the extent of the director's payment, which assignment the Minister is hereby empowered to make.

(6) A director who has satisfied a claim under this section is entitled to contribution from the other directors who were liable for the claim.

RSA 2000 cT-4 s20;2003 c47 s8;2007 c43 s9;
2009 c33 s24

Demand for information

21(1) The Minister may, for any purpose related to the administration or enforcement of this Act or the regulations, by a demand served personally or by registered letter

- (a) require from a wholesaler, importer or retailer or a person related to or associated with, within the meaning of subsection 251(2) or 256(1) of the *Income Tax Act* (Canada), a wholesaler, importer or retailer, or
- (b) when a wholesaler, importer or retailer is a partnership or corporation, require from a partner or the president, manager, secretary or any director, officer, agent or representative of the partnership or corporation,

any information or additional information or production of any books, letters, accounts, invoices or statements, financial or otherwise, or other documents within a reasonable time that is stipulated in the demand.

(2) The Minister may, for any purpose related to the administration or enforcement of this Act or the regulations, by a demand served personally or by registered letter, require

- (a) from any person holding an amount for or paying or liable to pay any amount to a wholesaler, importer or retailer, or
- (b) from any partner, director, officer or agent of any person holding an amount for or paying or liable to pay any amount to a wholesaler, importer or retailer

the production of any books, letters, accounts, invoices or statements, financial or otherwise, or other documents within a reasonable time that is stipulated in the demand.

(3) The Minister may, by a demand served personally or by registered letter, require the production by any person, or by the person's agent, of any books, letters, accounts, invoices or statements, financial or otherwise, or other documents in the possession or in the control of that person or that person's agent, for the purpose of determining what tax, if any, is collectible or payable under this Act by any person, or whether a licence or report is required under this Act, and production of any required document shall be made within a reasonable time that is stipulated in the demand.

(4) If a person is served with a demand under this section and the person does not comply with the demand, an officer may apply to the Court for an order directing the person to comply with the demand.

(5) Repealed 2009 c53 s177.

(6) On the filing of an application with the clerk of the Court, the Court may, if it considers it necessary in the circumstances, hear an interim application on 2 days' notice and make an interim order granting any relief that the Court considers appropriate pending the determination of the application.

(7) An interim order under subsection (6) may be made ex parte if the Court considers it appropriate in the circumstances.

(8) On hearing an application, the Court may do one or more of the following:

- (a) direct the person to provide or produce the information, additional information or document where the Court is satisfied that
 - (i) the information or document demanded is in the possession of or under the control of the person, and
 - (ii) the information or document demanded is relevant to the administration or enforcement of this Act or the regulations;
- (b) make its order subject to any terms or conditions that the Court considers appropriate in the circumstances;
- (c) award costs in respect of the matter.

RSA 2000 cT-4 s21;2007 c43 s10;2009 c33 s11;
2009 c53 s177

Powers of Minister

22 The Minister may

- (a) require a wholesaler, importer, retailer or importing consumer, in a particular case,
 - (i) to keep any record,
 - (ii) to make any return,
 - (iii) to comply with a specified method of accounting, or
 - (iv) to make an inventory of tobacco as of a specified time, for a purpose related to this Act or the regulations;
- (b) extend the time for making a return or statement under this Act;
- (c) prescribe the form of any agreement or other document used in the administration of this Act.

RSA 2000 cT-4 s22;2003 c33 s6

Waiver or cancellation of penalties or interest

22.1 Notwithstanding the *Financial Administration Act*, the Minister may, on application made by a person within 4 years from the end of the calendar year in which a penalty or interest is assessed against the person,

- (a) waive or cancel all or any portion of any penalty or interest payable under this Act by the person, or
- (b) refund all or any portion of any penalty or interest paid under this Act by the person.

2002 c25 s5;2007 c43 s11;2017 c15 s4

Inspection and audit

23(1) In this section and section 24,

- (a) “documents” includes money, securities and any of the following, whether computerized or not: books, records, letters, telegrams, vouchers, invoices, accounts and statements, financial or otherwise;
- (b) “dwelling house” means the whole or any part of a building or structure that is kept or occupied as a permanent or temporary residence and includes
 - (i) a building within the curtilage of a dwelling house that is connected to it by a doorway or by a covered and enclosed passageway, and

- (ii) a unit that is designed to be mobile and to be used as a permanent or temporary residence that is being used as a permanent or temporary residence.

(2) For the purposes of ensuring that this Act and the regulations are being complied with, an officer may, at any reasonable time,

- (a) inspect, audit or examine
 - (i) the records of a person who is required to keep records under this Act or the regulations, and
 - (ii) any document of that person or of any other person that relates or may relate
 - (A) to the information that is or should be in the records of the person who is required to keep records under this Act or the regulations, or
 - (B) to any amount payable under this Act by or to the person referred to in subclause (i),
- (b) inspect and examine any property that in the opinion of the officer may assist the officer in determining or ascertaining
 - (i) the accuracy of an inventory,
 - (ii) any information that is or should be in the books and records,
 - (iii) the amount of any tax imposed by this Act, or
 - (iv) whether a licence or report is required under this Act,and
- (c) require the production for inspection, audit or examination of all records or documents that are or may be relevant to the inspection, audit or examination.

(3) Where an officer on reasonable grounds believes that the records, property or documents referred to in subsection (2) are located in any premises or place, the officer may, at any reasonable time,

- (a) subject to subsection (4), enter the premises or place, and
- (b) require the owner or manager of the premises or place and any other person on the premises or at the place to give the officer all reasonable assistance and to make reasonable

efforts to answer all proper questions relating to the administration of this Act and, for that purpose, require the owner or manager to attend at the premises or place with the officer.

(4) When the premises or place referred to in subsection (3) is a dwelling house, the officer shall not enter the dwelling house without the consent of the occupant of the dwelling house.

(5) If an officer

- (a) is refused entry into premises or a place referred to in subsection (3),
- (b) is not given consent to enter a dwelling house,
- (c) has reasonable grounds to believe that
 - (i) the officer will be refused entry into premises or a place referred to in subsection (2), or
 - (ii) the officer will not be given consent to enter a dwelling house,

or

- (d) is impeded or has reasonable grounds to believe that the officer will be impeded in the carrying out of an inspection, audit or examination of any record, document, item or thing,

the officer may apply to a judge of the Provincial Court for an order authorizing the officer to enter the premises, place or dwelling house and carry out the officer's inspection, audit or examination.

(6) On hearing an application, the judge may do one or more of the following:

- (a) authorize the officer to enter the premises, place or dwelling house and carry out the officer's duties;
- (b) direct any occupant to assist the officer in any manner as the judge prescribes;
- (c) restrain any person from impeding the officer from entering the premises, place or dwelling house or from carrying out the officer's duties;
- (d) make the order subject to any terms or conditions that the judge considers appropriate in the circumstances;

- (e) award costs in respect of the matter.

RSA 2000 cT-4 s23;2008 c32 s30

Search and seizure without warrant

24(1) An officer who on reasonable grounds believes

- (a) that a contravention of this Act or the regulations is being or has been committed, and
- (b) that obtaining a warrant would cause a delay that could result in the loss or destruction of
 - (i) evidence, or
 - (ii) anything used in the contravention of this Act or the regulations,

may without a warrant and, if necessary, by reasonable force stop a vehicle or enter any premises or place, other than a dwelling house, and search for anything that the officer believes on reasonable grounds

- (c) affords evidence of the contravention, or
- (d) is being used or was used, in the last 60 days, in contravention of this Act or the regulations.

(2) If an officer stops a vehicle or enters any premises or place, other than a dwelling house, the person in charge of the vehicle or the owner or occupant of the premises or place must

- (a) give the officer all reasonable assistance in connection with the entry and search, and
- (b) make reasonable efforts to provide all information that the officer may reasonably require for purposes of the administration and enforcement of this Act and the regulations.

(3) An officer who, in making a search under subsection (1), finds anything that the officer believes on reasonable grounds

- (a) affords evidence of a contravention of this Act or the regulations, or
- (b) is being used or was used, in the last 60 days, in the contravention of this Act or the regulations

may seize that thing.

- (4) Following a seizure under subsection (3)(a), the officer shall, within a reasonable time,
- (a) furnish a judge of the Provincial Court with an affidavit stating that the officer has reasonable grounds to believe that the person named in the affidavit has contravened this Act or the regulations, or
 - (b) return anything seized to the person from whom it was seized.
- (5) The judge on receipt of an affidavit under subsection (4) may order that the affidavit be served on the person referred to in the affidavit and may set down a date to hear the matter and order that anything seized be
- (a) retained by the Crown until final disposition of the charge, or
 - (b) returned to the person from whom it was seized.
- (6) If anything seized is returned under subsection (5)(b), the judge may order the person to whom it is returned
- (a) to hold it as bailee for the Crown until final disposition of the charge, and
 - (b) to produce it if it is required with respect to proceedings related to the charge.
- (7) Following a seizure under subsection (3)(b), the officer shall, within 90 days from the seizure,
- (a) subject to the regulations, return anything seized to the person from whom it was seized, or
 - (b) on notice to the person from whom the thing was seized, make an application to the Provincial Court or, in the circumstances described in the regulations, to the Court of Queen's Bench, for an order under subsection (8).
- (8) Where an application is made under subsection (7)(b), the judge may order that anything seized be
- (a) retained by the Crown until final disposition of any related charge,
 - (b) forfeited to the Crown, or

(c) subject to the regulations, returned to the person from whom it was seized, or to a person establishing to the satisfaction of the judge that the person has an interest in the property.

(9) The owner of, or a person with an interest in, anything seized under this section may, on 2 clear days' notice to the Minister within 90 days from the seizure, make an application to the Court of Queen's Bench for return of that thing.

(10) If a vehicle is seized and the person charged with an offence in respect of which the vehicle was used is not the registered owner of the vehicle, the officer shall notify the registered owner as soon as possible.

RSA 2000 cT-4 s24;2009 c33 s12

Search and seizure with warrant

24.1(1) Where a justice of the peace or a judge of the Provincial Court is satisfied by information on oath of an officer that there are reasonable grounds to believe that a contravention of this Act or the regulations has occurred, the justice of the peace or the judge may issue a warrant to authorize the officer to do all or any of the following:

- (a) enter and search any premises or place named in the warrant;
- (b) stop and search any vehicle described in the warrant;
- (c) seize and remove anything that may have been used in the last 60 days in the contravention of this Act or the regulations.

(2) Under the authority of a warrant issued pursuant to subsection (1), the officer may do all or any of the following:

- (a) at any time, enter and search any premises or place named in the warrant;
- (b) at any time, stop and search any vehicle described in the warrant;
- (c) open and examine any trunk, box, bag, parcel, closet, cupboard or other receptacle that the officer finds in the premises, place or vehicle;
- (d) require the production of and examine any records or property that the officer, on reasonable grounds, believes may contain information related to a contravention of this Act or the regulations;

- (e) seize and remove from any premises, place or vehicle searched anything that may have been used in the last 60 days in the contravention of this Act or the regulations.
- (3) Following a seizure pursuant to subsection (2)(e), the officer shall, within 90 days from the seizure,
- (a) subject to the regulations, return anything seized to the person from whom it was seized, or
 - (b) on notice to the person from whom the thing was seized, make an application to the Provincial Court or, in the circumstances described in the regulations, to the Court of Queen's Bench, for an order under subsection (4).
- (4) Where an application is made under subsection (3)(b), the judge may order that anything seized be
- (a) retained by the Crown until final disposition of any related charge,
 - (b) forfeited to the Crown, or
 - (c) subject to the regulations, returned to the person from whom it was seized, or to a person establishing to the satisfaction of the judge that the person has an interest in the property.
- (5) The owner of, or a person with an interest in, anything seized under this section may, on 2 clear days' notice to the Minister within 90 days from the seizure, make an application to the Court of Queen's Bench for return of that thing.
- (6) If a vehicle is seized and the person charged with an offence in respect of which the vehicle was used is not the registered owner of the vehicle, the officer shall notify the registered owner as soon as possible.
- (7) This section does not apply to searches and seizures relating to anything that may afford evidence of a contravention of this Act or the regulations.

2009 c33 s13

Disposition on conviction

25(1) On the conviction of any person for an offence under this Act or the regulations, any thing seized in respect of which the offence was committed shall, as part of the penalty for the conviction, be forfeited to the Crown.

(2) Notwithstanding subsection (1) and subject to subsection (3), the judge making the conviction may declare that the things seized or any part of them be returned to the convicted person.

(3) If the judge makes a declaration under subsection (2) and the time for appeal has expired, the things seized must be returned to the convicted person on the person's application to the clerk of the court where the conviction was made.

(4) If the person described in subsection (3) does not make an application within 30 days after the expiration of the time for appeal or, if an appeal is entered, within 30 days after the final disposition of the appeal, the things seized are forfeited to the Crown.

(5) On the conviction of the occupant or person in charge of a vehicle for an offence under this Act or the regulations, the judge making the conviction may declare, as part of the penalty for the conviction, that the things seized are forfeited to the Crown and that the occupant or person must pay all costs incurred by the Crown for storage of the things seized while they are retained by the Crown.

RSA 2000 cT-4 s25;2009 c33 s25

Application by claimant for return of seized property

26(1) If a thing is forfeited to the Crown, any person, other than a person charged with or convicted of the offence that resulted in the forfeiture, who claims an interest in it as owner, mortgagee, lienholder or holder of any similar interest in the forfeited property may, within 30 days after the forfeiture or any longer time that the judge may allow, apply to a judge of the Court of Queen's Bench for an order under subsection (4).

(2) The judge to whom an application is made under subsection (1) shall fix a day for the hearing that is not less than 30 days after the date of filing of the application.

(3) The applicant shall serve a notice of the application and of the hearing on the Minister of Justice and Solicitor General at least 15 days before the day fixed for the hearing.

(4) If, on the hearing of an application, it is made to appear to the satisfaction of the judge

- (a) that the applicant is innocent of any complicity in the offence or alleged offence that resulted in the forfeiture and of any collusion in relation to that offence or alleged offence with any person who may have committed the offence or alleged offence, and

- (b) that the applicant exercised all reasonable care in respect of the person permitted to obtain the property to satisfy the applicant that it was not likely to be used in contravention of this Act or the regulations or, in the case of a mortgagee or lienholder, that the applicant exercised such care with respect to the mortgagor or the person giving the lien,

the applicant is entitled to an order declaring that the applicant's interest is not affected by the forfeiture and declaring the nature and extent of the applicant's interest.

RSA 2000 cT-4 s26;2009 c53 s177;2013 c10 s34

Return of seized things

27(1) If a person charged with an offence under this Act or the regulations is found not guilty and the judge has not made an order with respect to the things seized relating to that charge, that person is entitled to the things seized

- (a) after the time for the filing of an appeal has expired, or
- (b) if an appeal has been filed, after the final disposition of the appeal.

(2) If a person is charged with an offence under this Act or the regulations and the charge is withdrawn, the person is entitled to the things seized relating to that charge after the expiry of the time for re-laying a charge for which the things seized are required as evidence.

(3) If within 30 days after the date described in subsection (1) or (2), as the case may be, a person described in subsection (1) or (2), as the case may be, does not collect them, the things seized are forfeited to the Crown.

RSA 2000 cT-4 s27;2009 c33 s25

Disposition of things forfeited

28 When anything is forfeited to the Crown under this Act, the Minister may

- (a) sell or otherwise dispose of it, or
- (b) retain it for use by the Crown.

RSA 2000 cT-4 s28;2009 c33 s14

Copies of documents

29(1) If any book, record, paper or other document has been seized, examined or produced under section 21 or 23 or pursuant to a search warrant, the person by whom it is seized or examined or to whom it is produced or any officer of the Department administered

by the Minister may make, or cause to be made, one or more copies.

(2) A document purporting to be certified by the Minister or a person authorized by the Minister to be a copy made pursuant to this section shall be admitted in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.

1987 c37 s9;1990 c16 s4

Hindering an offence

30 No person shall hinder, molest or interfere with any person doing anything that the person is authorized by or pursuant to sections 21 to 29 to do or prevent or attempt to prevent any person doing that thing and, notwithstanding any other law to the contrary, a person shall, unless the person is unable to do so, do everything the person is required by or pursuant to sections 21 to 29 to do.

1987 c37 s9

Records and books of account

31(1) Every wholesaler, importer and retailer shall keep records and books of account, including an annual inventory, in the manner prescribed by the Minister.

(2) Records and books of accounts required to be kept under subsection (1) shall be kept

- (a) at the wholesaler's, importer's or retailer's place of business or residence in Alberta, or
- (b) if the wholesaler, importer or retailer has no place of business or residence in Alberta, at a place in Alberta or elsewhere approved in writing by the Minister under any terms and conditions the Minister may impose.

(3) Notwithstanding subsection (2)(a) a wholesaler, importer or retailer may keep the records or books of account at a place in Alberta or elsewhere approved in writing by the Minister under any terms and conditions that the Minister may impose.

(4) If a wholesaler, importer or retailer has failed to keep adequate records and books of account for the purposes of this Act, the Minister may require the wholesaler, importer or retailer to keep those records and books of account that the Minister may specify and the wholesaler, importer or retailer shall keep the records and books of account so specified.

(5) Any person required by this section to keep records and books of account shall retain

- (a) the records and books of account in respect of which a period is prescribed pursuant to section 48(m), together with every account and voucher necessary to verify the information contained in any record or book of account, for the prescribed period, and
- (b) all records and books of account other than those referred to in clause (a), together with every account and voucher necessary to verify the information contained in any record or book of account, until the expiration of 4 years from the end of the last fiscal year to which the records and books of account relate.

(6) Where a person required by this section to keep records and books of account is a party to an appeal under section 12, that person shall retain every record, book of account, account and voucher necessary for dealing with the appeal until the appeal is disposed of and until any further appeal is disposed of or the time for filing any further appeal has expired.

(7) Where the Minister is of the opinion that it is necessary for the administration of this Act, the Minister may, by a demand served personally or by registered letter, require any person required by this section to keep records and books of account to retain those records and books of account, together with every account and voucher necessary to verify the information contained in the records and books of account, for any period specified in the demand.

(8) A person required by this section to keep records and books of account may dispose of the records and books of account referred to in this section, together with every account and voucher necessary to verify the information contained in the records and books of account, before the expiration of the period for which those records and books of account are required to be kept if written permission for their disposal is given by the Minister.

RSA 2000 cT-4 s31;2007 c43 s12

Communication of information

32(1) Information collected under this Act by the Minister may be disclosed to the Government of Canada or the government of a province or territory as necessary for the purpose of administering or enforcing a taxation statute of Canada or of that province or territory if the Government of Canada or government of that province or territory supplies the Government of Alberta with similar information under an information-sharing agreement.

(2) A person who receives information under subsection (1) holds that information subject to the same prohibitions and restrictions

respecting communication of the information that apply to the Minister.

(3) Notwithstanding subsection (2), a person may communicate information to any person engaged or employed in the investigation or prosecution of offences under the *Criminal Code* (Canada) solely for the purpose of the investigation and prosecution of an offence.

(4) The Minister may, in accordance with the regulations, disclose information, including personal information, about a tax collector, importer, manufacturer, wholesaler, retailer, duty free shop, marking permit holder, tear tape producer, consumer or other person where the information is required by the person to whom it is disclosed

- (a) for the purpose of complying with this Act or the regulations, or
- (b) to determine if the person whom the information is about is complying with this Act or the regulations.

(5) The Minister may, in accordance with the regulations, publish the following information about a tax collector, importer, manufacturer, wholesaler, retailer, duty free shop, marking permit holder or tear tape producer:

- (a) the name of the person;
- (b) the address of the person;
- (c) any other information prescribed by regulation.

(6) The Minister may collect and use information, including personal information, as necessary for the purposes of formulating or analyzing tax, fiscal or enforcement policy.

(7) The Minister may publish or disclose to any person for any purpose information collected under this Act that

- (a) is readily available,
- (b) is in a summarized or statistical form, and
- (c) cannot, directly or indirectly, be associated with or identify a particular person.

RSA 2000 cT-4 s32;2007 c43 s13

Black stock

33(1) If a person purchases or otherwise possesses tobacco products that are black stock in contravention of section 4, the Minister may assess the person a penalty in the amount equal to 3 times the tax that would have been payable if the tobacco products were not black stock and were sold to a consumer in Alberta.

(2) A person exempted under regulations made under section 48(e) who purchases, exempt from tax, in a calendar week

- (a) more than 400 cigarettes or tobacco sticks, or
- (b) any combination of tobacco that would give rise to an amount of tax that is the same or greater than the amount of tax payable on 400 cigarettes or tobacco sticks if the tobacco were not exempt

must

- (c) at the time of purchase,
 - (i) advise the seller that the person's weekly purchases of tobacco have exceeded the limits set out in clause (a) or (b), as the case may be, and
 - (ii) advise the seller of the intended disposition or use of the tobacco,

and

- (d) maintain records of the disposition or use of the tobacco,

and the seller must record the intended disposition or use on a voucher completed in accordance with the regulations.

(3) If a person purchases tobacco in contravention of subsection (2), the Minister may assess a penalty equal to the tax on the amount of tobacco in excess of the limits set out in subsection (2) that would have been payable if the tobacco were not exempt from tax.

(4) The Minister may, at the Minister's discretion, require a seller to obtain approval from the Minister in advance of a sale of tobacco products that is in excess of the amount specified in subsection (2).

RSA 2000 cT-4 s33;2003 c33 s7;2007 c43 s14;
2009 c33 s15

Assessment of tax

34(1) The Minister may, at any time the Minister considers reasonable, assess

- (a) any tax that any person, as agent of the Minister, has collected or is deemed to have collected and has failed to remit, and
- (b) interest on that tax calculated in the manner prescribed in the regulations.

(1.1) The Minister may, within 4 years from the end of the calendar year in which the tax becomes payable, assess

- (a) any tax payable under this Act, and
- (b) interest on that tax calculated in the manner prescribed in the regulations.

(2) Liability for tax imposed by this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

(3) The Minister is not bound by a return or information delivered by or on behalf of any person under this Act and may, notwithstanding a return or information so delivered, or if no return or information has been delivered, assess the tax payable under this Act.

RSA 2000 cT-4 s34;2009 c33 s16

Assessment of penalty

35(1) Subject to subsection (2), the Minister may, within 4 years from the end of the calendar year in which tax was to have been collected and remitted, assess against a person who failed to collect tax in accordance with this Act, a penalty equal 3 times to the tax that the person failed to collect.

(2) If the Minister establishes that the failure of a person to collect tax in accordance with this Act is attributable to neglect, carelessness or wilful default, or to any fraud that the person committed in making a return or in supplying any information under this Act or in omitting to disclose any information that is to be disclosed under this Act, the Minister may at any time assess a penalty equal to the tax that the person failed to collect.

(3) For the purposes of section 34(1) and subsection (1) of this section, if the tax remitted by a person is less than the tax that should have been collected by that person, in the absence of evidence to the contrary, the person is deemed to have collected but not remitted the deficiency.

RSA 2000 cT-4 s35;2009 c33 s17

Assessment of refund overpayment

36(1) The Minister may, within 4 years from the end of the calendar year in which a refund has been made, assess

- (a) any overpayment of a refund made to a retailer exempted under a regulation made under section 48(h), and
- (b) interest on that amount calculated in the manner prescribed in the regulations.

(2) Liability for the amount of an overpayment is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

(3) The Minister is not bound by a return or information delivered by or on behalf of any person under this Act and may, notwithstanding a return or information so delivered, or if no return or information has been delivered, assess the amount of the overpayment.

(4) If the Minister establishes that the overpayment is attributable to neglect, carelessness or wilful default, or to any fraud that the person committed in making a return or in supplying any information under this Act or in omitting to disclose any information that is to be disclosed under this Act, the Minister may at any time assess a penalty equal to the amount of the overpayment including any interest.

1997 c27 s14

Effect of assessment

37(1) Unless it is varied or vacated on an objection or appeal,

- (a) an assessment made under this Act is deemed to be valid and binding notwithstanding any error, defect or omission in it or in any proceeding under this Act relating to it, and
- (b) the amount assessed in an assessment made under this Act is, for the purposes of collection and recovery, deemed to be a tax owing under this Act and to be conclusively established as a debt due to the Crown.

(2) Every person assessed under this Act shall, within 30 days after the service of the notice of assessment, pay the amount assessed against the person, whether or not an objection to or appeal from the assessment is outstanding.

RSA 2000 cT-4 s37;2009 c33 s24

Small amount owing

37.1(1) Notwithstanding the *Financial Administration Act*, if a notice of assessment indicates an amount owing or a refund of less than the amount prescribed by regulation under subsection (3), the Minister may

- (a) in the case of an amount owing, not collect it, or
- (b) in the case of a refund, not pay it unless specifically requested by the person to whom the amount is payable.

(2) A request under subsection (1)(b) must be made no later than the day on which all rights of objection and appeal with respect to the assessment expire.

(3) The Minister may by regulation prescribe the amount for the purposes of subsection (1).

2007 c43 s15

Additional penalty

38(1) Where

- (a) a person owes an amount to the Crown under this Act, and
- (b) the Minister is of the opinion that the reason that the amount is owing to the Crown by that person is attributable to
 - (i) neglect, carelessness or wilful default by or on behalf of that person, or
 - (ii) fraud or evasion committed by or on behalf of that person,

the Minister may determine the amount owing by that person and assess against the person a penalty in the amount of 50% of the amount owing.

(2) On assessing a penalty under subsection (1), the Minister may demand payment of the amount owing and the amount of the penalty assessed under this section from the person to whom the demand is directed.

(3) Evidence that a demand has been made under subsection (2) is proof, in the absence of evidence to the contrary, that the unpaid amount and the penalty assessed under this section are owing to the Crown from the person to whom the demand is directed in the amounts stated in the demand.

(4) When a demand is made under this section, the amount owing and the amount of the penalty that remain unpaid bear interest at

the rate prescribed by regulation from the date that the demand is made.

(5) Any amount owing, penalty and interest that remain unpaid are recoverable by the Crown by an action in debt.

RSA 2000 cT-4 s38;2009 c33 s18

Service, etc.

39(1) Except where this Act provides otherwise, where a notice or other document is to be served on or is to be sent or given to a person by the Minister or an officer under this Act, the notice or document may be served on or sent or given to

- (a) a person other than a corporation or cooperative,
 - (i) by being mailed to the person by ordinary or registered mail addressed to the person to whom the notice or document is directed at that person's last address known to the Minister,
 - (ii) by personal service,
 - (iii) if the person has provided the Minister with a fax number, by fax to that number, or
 - (iv) if the person has provided the Minister with an electronic address, by a form of electronic transmission to that electronic address,
 - (b) a corporation,
 - (i) in accordance with section 256 of the *Business Corporations Act*,
 - (ii) by registered mail addressed to the corporation at the corporation's last address known to the Minister,
 - (iii) if the corporation has provided the Minister with a fax number, by fax to that number, or
 - (iv) if the corporation has provided the Minister with an electronic address, by a form of electronic transmission to that electronic address,
- and
- (c) a cooperative,
 - (i) in accordance with section 347 of the *Cooperatives Act*,

- (ii) by registered mail addressed to the cooperative at the cooperative's last address known to the Minister,
- (iii) if the cooperative has provided the Minister with a fax number, by fax to that number, or
- (iv) if the cooperative has provided the Minister with an electronic address, by a form of electronic transmission to that electronic address.

(2) If the person on or to whom a notice or other document is to be served, sent or given under this Act carries on business under a name or style other than the person's own name, the notice or document,

- (a) for the purposes of being mailed or sent by fax or other form of electronic transmission, may be addressed to the name or style under which the person carries on business, and
- (b) for the purposes of personal service, is deemed to have been served if it has been left with an adult person employed at the place of business of the person to whom the notice or document is directed.

(3) If the persons on or to whom a notice or other document is to be served, sent or given under this Act carry on business in partnership, the notice or document,

- (a) for the purposes of being mailed or sent by fax or other form of electronic transmission, may be addressed to the partnership name, and
- (b) for the purposes of personal service, is deemed to have been served if it
 - (i) has been served on one of the partners, or
 - (ii) has been left with an adult person employed at the place of business of the partnership.

RSA 2000 cT-4 s39;2001 cC-28.1 s471;2007 c43 s16;
2015 c21 Sched. 2 s5

Date notice or document mailed or sent

39.1 For the purposes of this Act, where a notice or other document is mailed or sent by fax or other form of electronic transmission, it is presumed to be mailed or sent, as the case may be, on the date of that notice or other document.

2015 c21 Sched. 2 s5

Electronic notice sent

39.2(1) For the purposes of this Act, if a notice or other communication in respect of a person is made available in electronic format such that it can be read or perceived by a person or a computer system or other similar device, the notice or other communication is presumed to be sent to the person and received by the person on the date that an electronic message is sent, to the electronic address most recently provided before that date by the person to the Minister for the purposes of this subsection, informing the person that a notice or other communication requiring the person's immediate attention is available in the person's secure electronic account.

(2) For the purposes of subsection (1), a notice or other communication is considered to be made available if it is posted by the Minister in the person's secure electronic account and the person has authorized that notices or other communications may be made available in that manner and has not, before the date that the electronic message is sent, revoked that authorization in a manner specified by the Minister.

2015 c21 Sched. 2 s5

Offence and penalty

40 Any person who

- (a) makes, participates in, assents to or acquiesces in the making of false or deceptive statements in a return, certificate, statement or other document delivered or made under this Act or the regulations,
- (b) destroys, alters, mutilates or disposes of the books or records of a wholesaler, importer, retailer or consumer,
- (c) makes, participates in, assents to or acquiesces in the making of false or deceptive entries in the books or records of a wholesaler, importer, retailer or consumer or omits or assents to or acquiesces in the omission of material particular to those books or records,
- (d) wilfully evades or attempts to evade compliance with this Act or the regulations, or
- (e) fails to comply with an order or direction of the Minister under this Act,

is guilty of an offence and, in addition to any penalty otherwise provided by this Act, is liable to a fine of not more than \$20 000 or to imprisonment for not more than 2 years or to both fine and imprisonment.

RSA 2000 cT-4 s40;2009 c33 s19

Offences

41(1) A person who contravenes section 3(1) or (1.01) or 4(3) or (4) is guilty of an offence and liable

- (a) for a first offence, to a fine of not more than \$10 000 or to a term of imprisonment of not more than 30 days or to both fine and imprisonment, and
- (b) for a subsequent offence, to a fine of not more than \$30 000 or to a term of imprisonment of not more than 6 months or to both fine and imprisonment.

(2) A person who contravenes section 3(3), 4(1) or (2), 4.1, 5(2) or 7 is guilty of an offence and liable

- (a) for a first offence, to a fine of not more than \$20 000 or to a term of imprisonment of not more than 6 months or to both fine and imprisonment,
- (b) for a 2nd offence, to a fine of not more than \$50 000 or to a term of imprisonment of not more than one year or to both fine and imprisonment, and
- (c) in addition to the penalties in clauses (a) and (b), to a penalty of not more than 3 times the amount of tax that,
 - (i) in the case of an offence under section 3(3) or 5(2), should have been collected and remitted by the person,
 - (ii) in the case of an offence under section 4(1) or (2), would have been payable under section 3 if the tobacco products were marked for tax-paid sale in Alberta and sold to a consumer in Alberta, and
 - (iii) in the case of an offence under section 7, would have been payable under section 3 were the tobacco sold to a consumer.

(3) Every person who

- (a) marks tobacco without holding a permit issued under the regulations, or

- (b) being the holder of a permit to mark tobacco, refuses or neglects to mark packages of tobacco in accordance with the regulations

is guilty of an offence and liable to a fine of not more than \$1 000 000 or to imprisonment for a term not exceeding 3 years, or to both fine and imprisonment.

(4) Every person who, being the holder of a permit to mark tobacco, contravenes any condition or restriction contained in the permit or any other requirement specified in the regulations is guilty of an offence and liable to a fine of not more than \$20 000.

(5) Every person who has received permission from the Minister to purchase and sell tobacco that is not marked for sale in Alberta and who contravenes this Act or the regulations or any condition or restriction contained in the authorization is guilty of an offence and liable to a fine of not more than \$20 000.

RSA 2000 cT-4 s41;2002 c25 s6;2009 c33 s20

Failure to maintain records

42(1) Any person who fails to maintain records and books of account when required to do so under section 31(7) is guilty of an offence and liable to a fine of \$50 for each day from the day the demand under section 31(7) was received by the person until the person complies with the demand.

(2) Any person who fails to file a return or to provide or produce information as required by this Act or the regulations is guilty of an offence and liable to a fine of \$50 for each day of default.

1994 c17 s23

Offences and penalties re corporate officers, etc.

43 If a corporation is guilty of an offence under this Act or the regulations, an officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is guilty of the offence and liable to the punishment provided for the offence, whether or not the corporation has been prosecuted or convicted.

1990 c16 s4

General penalty

44 Any person who contravenes a provision of this Act or the regulations for which no other penalty is provided is guilty of an offence and liable

- (a) for a first offence, to a fine of not more than \$10 000 or to a term of imprisonment of not more than 30 days, or to both fine and imprisonment, and

- (b) for a subsequent offence, to a fine of not more than \$30 000 or to a term of imprisonment of not more than 6 months or to both fine and imprisonment.

RSA 2000 cT-4 s44;2002 c25 s7;2009 c33 s21

Offence exemption

44.1 Without limiting any rule of law relating to the immunity of the Crown, sections 40 to 44 do not apply to the carrying out of powers and duties involving investigations or undercover operations related to the enforcement of this Act by a person who, at the time of the contravention, is

- (a) an employee of the Crown under the Minister's administration, or
- (b) an officer.

2007 c43 s17

Application of fines

45(1) Subject to subsection (2), any fine imposed in respect of a conviction for an offence under section 41(1) and (2) belongs to the Crown.

(2) Subject to any administration fee determined by the Minister, any fine imposed in respect of a conviction for an offence under section 41(1) or (2), where the offence occurred in

- (a) a city, town or village, other than on a provincial highway under the *Highways Development and Protection Act*, enures to the benefit of the city, town or village,
- (b) a municipal district, improvement district or special area, other than on a provincial highway under the *Highways Development and Protection Act*, enures to the benefit of the municipal district, improvement district or special area,
- (c) a Metis settlement, other than on a provincial highway under the *Highways Development and Protection Act*, enures to the benefit of the Metis settlement, and
- (d) an Indian reserve, other than on a provincial highway under the *Highways Development and Protection Act*, enures to the benefit of the band.

RSA 2000 cT-4 s45;2004 cH-8.5 s75;2009 c33 s25

Time for laying information or complaint

46 An information or complaint in respect of a contravention of this Act or the regulations may only be laid or made within 6 years from the day the matter of the information or complaint arose.

1983 cT-5.1 s18;1994 c17 s26

Limitations Act

46.1 The *Limitations Act* does not apply to the Crown with respect to any matter arising under this Act.

2001 c13 s6

Certificates as evidence

46.2 In a prosecution for an offence under this Act or the regulations,

- (a) a certificate of the Minister stating that a person is or is not a tax collector, licensed importer, manufacturer, licensed wholesaler, retailer, duty free shop, marking permit holder or tear tape producer at a time or during a period of time specified in it,
- (b) a certificate of a person designated or appointed by the Minister stating the results of the examination of any substance referred to in the certificate and stating
 - (i) that the substance is or is not tobacco or a tobacco product, or
 - (ii) if the substance is tobacco or a tobacco product, the type of tobacco or tobacco product,

or

- (c) a certificate of the Minister stating that a person named in the certificate is an officer for the purposes of this Act

shall be admitted in evidence as proof, in the absence of evidence to the contrary, of the matters stated in it without any proof that the certificate was signed by the person purporting to sign it or of the appointment of the person signing it.

2007 c43 s18;2009 c33 s22

Powers of Minister

47 The Minister may

- (a) appoint persons as officers for the purposes of this Act,
- (b) assess tax and penalties owing under this Act and any interest on them,
- (c) prescribe forms and provide for their use,
- (d) require accelerated payments of tax collected by a tax collector or any other person who collects tax,

- (e) exempt any wholesaler from the operation of section 7(2) subject to any terms and conditions that the Minister may impose, and
- (f) authorize those persons to whom information may be communicated or who may inspect or have access to statements furnished under this Act for the purposes of section 32(2).

1983 cT-5.1 s19;1987 c37 s10;1990 c16 s4;
1994 c17 s27;1999 c16 s6

Regulations

48 The Lieutenant Governor in Council may make regulations

- (a) defining any word used in this Act but not defined in this Act;
- (b) prescribing the remuneration to be paid to tax collectors;
- (c) establishing a system of licences for wholesalers and importers;
- (d) excluding any class or form of tobacco from this Act;
- (e) exempting any person or class of persons from the payment of the tax imposed by this Act subject to any terms set out in the regulation;
- (e.1) respecting any matter relating to the issuance, possession, use or cancellation of identification cards;
- (f) providing for the refund of the whole or any part of the tax paid under this Act and prescribing the records and material to be furnished on any application for a refund;
- (g) prescribing the rates of interest payable and the time over which interest is payable on any tax or penalty or either of them owing;
- (h) exempting any retailer from collecting the tax imposed by this Act, subject to any terms or conditions prescribed in the regulations;
- (i) respecting the registration of retailers who sell tobacco to persons who are not required to pay tax under this Act and the cancellation and suspension of those registrations;
- (j) governing funds that are held in trust;

- (k) prescribing terms and conditions in respect of the appointment of tax collectors for the purposes of section 5 and respecting any agreements that may be entered into with those tax collectors;
- (l) requiring packages containing tobacco to be marked and governing the marking of those packages;
- (l.1) requiring cigars not sold in packages to be marked, and governing the marking of those cigars;
- (l.2) respecting the packaging of tobacco products;
- (m) respecting the records and books of account required to be kept by wholesalers, importers and retailers, and the period of time those records and books of account must be kept;
- (n) requiring surety bonds, bank guarantees or other financial arrangements to be furnished or made by any person who collects or remits tax pursuant to this Act and prescribing the form and amount of the bonds, guarantees or other financial arrangements;
- (o) respecting returns to be made to the Minister, including the person required to make them;
- (p) respecting records to be kept under this Act;
- (q) respecting the collection and remittance of tax under this Act;
- (r) respecting permits and the eligibility criteria for permits to allow a person to possess tobacco in excess of the amounts set out in section 4.1;
- (s) respecting the licensing of persons who produce tear tape and prescribing the terms and conditions of licences;
- (t) respecting the disclosure and publication of information for the purposes of section 32;
- (t.1) respecting the seizure of anything and the return of anything seized under this Act;
- (t.2) respecting the circumstances under which an application under section 24(7) or 24.1(3) must be made to the Court of Queen's Bench;
- (u) prescribing anything required or authorized by this Act to be prescribed by regulation;

- (v) respecting any other matter that the Lieutenant Governor in Council considers necessary or advisable to carry out the purposes of this Act.

RSA 2000 cT-4 s48;2002 c25 s8;2003 c47 s9;
2007 c43 s19;2009 c33 s23



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