

Notice of Ways and Means Motion to introduce an Act respecting the taxation of spirits, wine and tobacco and to implement increases in tobacco taxes and changes to the treatment of ships' stores

SUMMARY

This enactment introduces a modern framework for the taxation of spirits, wine and tobacco. It re-enacts existing provisions in the *Excise Act* and the *Excise Tax Act* relating to the excise levies on these products, together with technical improvements, and incorporates a range of new provisions. The key features of the enactment include the following:

(a) the continued imposition of a production levy on spirits, tobacco products and raw leaf tobacco and the replacement of the existing excise levy on sales of wine with a production levy at an equivalent rate;

(b) the replacement of the excise duty and excise tax on tobacco products other than cigars with a single excise duty;

(c) the introduction of excise warehouses to allow for the deferral of the payment of the production levy on domestic and imported spirits and wine to the time of sale to the retailer;

(d) more comprehensive licensing requirements and new registration requirements for persons carrying on activities in relation to goods subject to duty;

(e) explicit recognition of limited exemptions for certain goods produced by individuals for their personal use;

(f) tight new controls on the possession and distribution of goods on which duty has not been paid;

(g) modern provisions concerning the use of spirits and wine for non-beverage purposes and the use of specially denatured alcohol;

(h) updated administrative provisions, including new remittance, assessment and appeal provisions that are similar to those under the Goods and Services Tax/Harmonized Sales Tax legislation;

(i) updated enforcement provisions, including new offence, penalty and collection provisions; and

(j) transitional provisions applicable to spirits, wine and tobacco products produced before the enactment comes into force.

This enactment also implements changes to the ships' stores provisions, which were announced by the government on September 27, 2001. These changes broaden the enabling legislation for ships' stores regulations and implement a temporary fuel tax rebate program for certain ships that, as a result of amendments to the *Ships' Stores Regulations* effective June 1, 2002, will no longer qualify for ships' stores relief.

Furthermore, this enactment implements the tobacco tax increases announced by the government on November 1, 2001.

Finally, the replacement of the existing provisions in the *Excise Act* and the *Excise Tax Act* relating to the excise levies on spirits, wine and tobacco necessitates consequential amendments to those Acts as well as other Acts, including the *Budget Implementation Act, 2000*, the *Canada Customs and Revenue Agency Act*, the *Criminal Code*, the *Customs Act*, the *Customs and Excise Offshore Application Act*, the *Customs Tariff*, the *Export Act*, the *Importation of Intoxicating Liquors Act*, the *Special Economic Measures Act* and the *Tax Court of Canada Act*.

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Notice of Ways and Means Motion to introduce an Act respecting the taxation of spirits, wine and tobacco and to implement increases in tobacco taxes and changes to the treatment of ships' stores

That it is expedient to introduce an Act respecting the taxation of spirits, wine and tobacco and to implement increases in tobacco taxes and changes to the treatment of ships' stores, as follows:

SHORT TITLE

Short title

1. This Act may be cited as the *Excise Act, 2001*.

INTERPRETATION

Definitions

2. The definitions in this section apply in this Act.

"absolute ethyl alcohol"
« *alcool éthylique absolu* »

"absolute ethyl alcohol" means the substance with the chemical composition C_2H_5OH .

"accredited representative"
« *représentant accrédité* »

"accredited representative" means a person who is entitled under the *Foreign Missions and International Organizations Act* to the tax exemptions specified in Article 34 of the Convention set out in Schedule I to that Act or in Article 49 of the Convention set out in Schedule II to that Act.

"Agency"
« *Agence* »

"Agency" means the Canada Customs and Revenue Agency established under subsection 4(1) of the *Canada Customs and Revenue Agency Act*.

"alcohol"
« *alcool* »

"alcohol" means spirits or wine.

"alcohol
licensee"
« *titulaire de
licence
d'alcool* »

"alcohol licensee" means a person who is a spirits licensee or a wine licensee.

"alcohol
registrant"
« *détenteur
autorisé
d'alcool* »

"alcohol registrant" means a person who holds an alcohol registration issued under section 17.

"analyst"
« *analyste* »

"analyst" means a person who is designated as an analyst under section 11.

"approved
formulation"
« *préparation
approuvée* »

"approved formulation" means

(a) any product made with alcohol by a licensed user in accordance with a formula for which the user has approval from the Minister; and

(b) any imported product that, in the opinion of the Minister, would be a product under paragraph (a) if it were made in Canada by a licensed user.

"assessment"
« *cotisation* »

"assessment" means an assessment under this Act and includes a reassessment.

"beer"
« *bière* »

"beer" means beer or malt liquor as defined in section 4 of the *Excise Act*.

"black stock"
« *non ciblé* »

"black stock", in respect of manufactured tobacco, means that the tobacco is stamped but not marked in accordance with any statute of a province to indicate that it is intended for retail sale in a particular province or in particular provinces.

"bottle-your-own premises"
« *centre de remplissage libre-service* »

"bottle-your-own premises" means premises in which, in accordance with the laws of the province in which they are located, alcohol is supplied from a marked special container of alcohol for the purpose of being packaged by a purchaser.

"bulk"
« *en vrac* »

"bulk", in respect of alcohol, means alcohol that is not packaged.

"cigar"
« *cigare* »

"cigar" includes

(a) a cigarillo or cheroot; and

(b) any roll or tubular construction intended for smoking that consists of a filler composed of pieces of natural or reconstituted leaf tobacco, a binder of natural or reconstituted leaf tobacco in which the filler is wrapped and a wrapper of natural or reconstituted leaf tobacco.

"cigarette"
« *cigarette* »

"cigarette" includes any roll or tubular construction intended for smoking, other than a cigar or a tobacco stick. If a cigarette exceeds 102 mm in length, each portion of 76 mm or less is considered to be a separate cigarette.

"Commissioner"
« *commissaire* »

"Commissioner" means the Commissioner of Customs and Revenue, appointed under section 25 of the *Canada Customs and Revenue Agency Act*.

"container"
« *contenant* »

"container", in respect of a tobacco product, means a wrapper, package, carton, box, crate or other container that contains the tobacco product.

"customs bonded
carrier"
« *transporteur
cautionné* »

"customs bonded carrier" means a person who transports or causes to be transported goods in accordance with section 20 of the *Customs Act*.

"customs
bonded
warehouse"
« *entrepôt de
stockage* »

"customs bonded warehouse" means a place that is licensed as a bonded warehouse under the *Customs Tariff*.

"customs
bonded
warehouse
licensee"
« *exploitant
agrée
d'entrepôt de
stockage* »

"customs bonded warehouse licensee" means a person licensed under the *Customs Tariff* to operate a bonded warehouse.

"data"
« *données* »

"data" means representations, in any form, of information or concepts.

"denature"
« *dénaturation*
»

"denature" means to denature spirits into denatured alcohol or specially denatured alcohol using prescribed denaturants in the prescribed manner.

"denatured
alcohol"
« *alcool
dénaturé* »

"denatured alcohol" means any prescribed grade of denatured alcohol made from spirits in accordance with the prescribed specification for that grade.

"duty"
« *droit* »

"duty" means, unless a contrary intention appears, the duty imposed under this Act and the duty levied under section 21.1 or 21.2 of the *Customs Tariff* and, except in Parts 3 and 4, includes special duty.

"duty free
shop"
« *boutique hors
taxes* »

"duty free shop" means a place that is licensed as a duty free shop under the *Customs Act*.

"duty free shop
licensee"
« *exploitant
agrée de
boutique hors
taxes* »

"duty free shop licensee" means a person licensed under the *Customs Act* to operate a duty free shop.

"duty-paid
market"
« *marché des
marchandises
acquittées* »

"duty-paid market" means the market for goods in respect of which duty, other than special duty, is payable.

"duty-paid
value"
« *valeur à
l'acquitté* »

"duty-paid value" means

(a) in respect of imported cigars, the value of the cigars as it would be determined for the purpose of calculating an *ad valorem* duty on the cigars in accordance with the *Customs Act*, whether or not the cigars are subject to *ad valorem* duty, plus the amount of any duty imposed on the cigars under section 42 of this Act and section 20 of the *Customs Tariff*; and

(b) in respect of imported cigars that, when imported, are contained in containers or otherwise prepared for sale, the total of the value of the cigars as determined in accordance with paragraph (a) and the value similarly determined of the container in which they are contained.

"excise
warehouse"
« *entrepôt
d'accise* »

"excise warehouse" means the premises of an excise warehouse licensee that are specified by the Minister as the excise warehouse of the licensee.

"excise
warehouse
licensee"
« *exploitant
agrée
d'entrepôt
d'accise* »

"excise warehouse licensee" means a person who holds an excise warehouse licence issued under section 19.

"export"
« *exportation* »

"export" means to export from Canada.

"ferment-on-
premises
facility"
« *vinerie
libre-service* »

"ferment-on-premises facility" means the premises of a ferment-on-premises registrant that are specified by the Minister as the registrant's ferment-on-premises facility.

"ferment-on-
premises
registrant"
« *exploitant
autorisé de
vinerie
libre-service* »

"ferment-on-premises registrant" means a person who holds a ferment-on-premises registration issued under section 15.

"fiscal month"
« *mois
d'exercice* »

"fiscal month" means a fiscal month as determined under section 159.

"foreign duty
free shop"
« *boutique hors
taxes à
l'étranger* »

"foreign duty free shop" means a retail store that is located in a country other than Canada and that is authorized under the laws of that country to sell goods free of certain duties and taxes to individuals who are about to leave that country.

"foreign ships'
stores"
« *provisions de
bord à
l'étranger* »

"foreign ships' stores" means tobacco products taken on board a vessel or aircraft while the vessel or aircraft is outside Canada and that are intended for consumption by or sale to the passengers or crew while the passengers and crew are on board the vessel or aircraft.

"Her Majesty"
« *Sa Majesté* »

"Her Majesty" means Her Majesty in right of Canada.

"import"
« *importation* »

"import" means to import into Canada.

"intoxicating
liquor"
« *boisson
enivrante* »

"intoxicating liquor" has the same meaning as in section 2 of the *Importation of Intoxicating Liquors Act*.

"judge"
« *juge* »

"judge", in respect of any matter, means a judge of a superior court having jurisdiction in the province in which the matter arises or a judge of the Federal Court.

"licensed
tobacco dealer"
« *commerçant
de tabac
agrée* »

"licensed tobacco dealer" means a person who holds a tobacco dealer's licence issued under section 14.

"licensed user"
« *utilisateur
agr  * »

"licensed user" means a person who holds a user's licence issued under section 14.

"liquor
authority"
«
*administration
des alcools* »

"liquor authority" means a government board, commission or agency that is authorized by the laws of a province to sell intoxicating liquor.

"manufacture"
« *fabrication* »

"manufacture", in respect of a tobacco product, includes any step in the preparation or working up of raw leaf tobacco into the tobacco product. It includes packing, stemming, reconstituting, converting or packaging the raw leaf tobacco or tobacco product.

"manufactured
tobacco"
« *tabac
fabriqu  * »

"manufactured tobacco" means every article, other than a cigar or packaged raw leaf tobacco, that is manufactured in whole or in part from raw leaf tobacco by any process.

"mark"
« *marquer* »

"mark" means, in respect of

(a) a special container of spirits, to mark in the prescribed form and manner to indicate that the container is intended for

(i) delivery to and use by a registered user, or

(ii) delivery to and use at a bottle-your-own premises; and

(b) a special container of wine, to mark in the prescribed form and manner to indicate that the container is intended for delivery to and use at a bottle-your-own premises.

"Minister"
« *ministre* »

"Minister" means the Minister of National Revenue.

"month"
« *mois* »

"month" means a period beginning on a particular day in a calendar month and ending on

(a) the day immediately before the day in the next calendar month that has the same calendar number as the particular day; or

(b) if the next calendar month does not have a day that has the same calendar number as the particular day, the last day of that next calendar month.

"non-duty-paid"
« *non acquitté* »
»

"non-duty-paid", in respect of packaged alcohol, means that duty, other than special duty, has not been paid on the alcohol.

"officer"
« *préposé* »

"officer", except in sections 167, 226 and 296, means a person who is appointed or employed in the administration or enforcement of this Act, a member of the Royal Canadian Mounted Police or a member of a police force designated under subsection 10(1).

"packaged"
« *emballé* »

"packaged" means,

(a) in respect of raw leaf tobacco or a tobacco product, packaged in a prescribed package; or

(b) in respect of alcohol, packaged

(i) in a container of a capacity of not more than 100 L that is ordinarily sold to consumers without the alcohol being repackaged, or

(ii) in a marked special container.

"partially
manufactured
tobacco"
« *tabac
partiellement
fabriqué* »

"partially manufactured tobacco" means manufactured tobacco that is cut filler or cut rag or that is manufactured less fully than cut filler or cut rag.

"peace officer"
« *agent de la
paix* »

"peace officer" has the same meaning as in section 2 of the *Criminal Code*.

"person"
« *personne* »

"person" means an individual, a partnership, a corporation, a trust, the estate of a deceased individual, a government or a body that is a society, a union, a club, an association, a commission or another organization of any kind.

"personal use"
« *usage
personnel* »

"personal use", in relation to the use of a good by an individual, means the use of the good by the individual or by others at the individual's expense. It does not include the sale or other commercial use of the good.

"prescribed"
*Version
anglaise
seulement*

"prescribed" means

(a) in the case of a form or the manner of filing a form, authorized by the Minister;

(b) in the case of the information to be given on or with a form, specified by the Minister; and

(c) in any other case, prescribed by regulation or determined in accordance with rules prescribed by regulation.

"produce"
« *production* »

"produce" means

(a) in respect of spirits, to bring into existence by distillation or other process or to recover; or

(b) in respect of wine, to bring into existence by fermentation.

"raw leaf
tobacco"
« *tabac en
feuilles* »

"raw leaf tobacco" means unmanufactured tobacco or the leaves and stems of the tobacco plant.

"record"
« *registre* »

"record" means any material on which data are recorded or marked and which is capable of being read or understood by a person or a computer system or other device.

"registered
user"
« *utilisateur
autorisé* »

"registered user" means a person who holds a user's registration issued under section 16.

"responsible"
« *responsable* »

"responsible", in relation to a person, means that the person is responsible for bulk alcohol in accordance with sections 104 to 121.

"sale price"
« *prix de vente*
»

"sale price", in respect of cigars, means the total of

(a) the amount charged as the price for the cigars before an amount payable in respect of a tax under Part IX of the *Excise Tax Act* is added,

(b) the amount charged as the price for or in respect of the container in which the cigars are contained,

(c) any amount that the purchaser is liable to pay to the vendor by reason of or in respect of the sale of the cigars in addition to the amount charged as the price, whether payable at the same or any other time, including, but not limited to, any amount charged for or to make provision for advertising, financing, commissions or any other matter, and

(d) the amount of duty imposed on the cigars under section 42.

"SDA
registrant"
« *détenteur
autorisé
d'alcool
spécialement
dénaturé* »

"SDA registrant" means a person who holds a specially denatured alcohol registration issued under section 18.

"special
container"
« *contenant
spécial* »

"special container" means

(a) in respect of spirits, a container of a capacity of more than 100 L but not more than 1,500 L; and

(b) in respect of wine, a container of a capacity of more than 100 L.

"special duty"
« *droit spécial*
»

"special duty" means

(a) in respect of a tobacco product, a special duty imposed under subsection 53(1), 54(2) or 56(1); and

(b) in respect of imported spirits, the special duty imposed under subsection 133(1).

"special excise
warehouse"
« *entrepôt
d'accise
spécial* »

"special excise warehouse" means the premises of a special excise warehouse licensee that are specified by the Minister as the special excise warehouse of the licensee.

"special excise
warehouse
licensee"
« *exploitant
agrée
d'entrepôt
d'accise
spécial* »

"special excise warehouse licensee" means a person who holds a special excise warehouse licence issued under section 20.

"specially
denatured
alcohol"
« *alcool
spécialement
dénaturé* »

"specially denatured alcohol" means any prescribed grade of specially denatured alcohol made from spirits in accordance with the prescribed specification for that grade.

"specified
premises"
« *local
déterminé* »

"specified premises", in respect of a licensed user, means the premises of the licensed user that are specified by the Minister under subsection 23(3).

"spirits"
« *spiritueux* »

"spirits" means any material or substance containing more than 0.5% absolute ethyl alcohol by volume other than

(a) wine;

(b) beer;

(c) vinegar;

(d) denatured alcohol;

(e) specially denatured alcohol;

(f) an approved formulation; or

(g) any product containing or manufactured from a material or substance referred to in paragraphs (b) to (f) that is not consumable as a beverage.

"spirits
licensee"
« *titulaire de
licence de
spiritueux* »

"spirits licensee" means a person who holds a spirits licence issued under section 14.

"stamped"
« *estampillé* »

"stamped", in respect of a tobacco product, means that all prescribed information in a prescribed format is, in the prescribed manner, stamped, impressed, printed or marked on, indented into or affixed to the product or its container to indicate that duty, other than special duty, has been paid on the product.

"sufferance
warehouse"
« *entrepôt
d'attente* »

"sufferance warehouse" has the same meaning as in subsection 2(1) of the *Customs Act*.

"sufferance
warehouse
licensee"
« *exploitant
agr  
d'entrep  t
d'attente* »

"sufferance warehouse licensee" means a person licensed under the *Customs Act* to operate a sufferance warehouse.

"take for use"
« *utilisation
pour soi* »

"take for use", in respect of alcohol, means to consume, analyze or destroy alcohol or to use alcohol for any purpose that results in a product other than alcohol.

"Tax Court"
« *Cour de
l'imp  t* »

"Tax Court" means the Tax Court of Canada.

"tobacco
dealer"
« *commer  ant de
tabac* »

"tobacco dealer" means a person, other than a tobacco licensee, who

- (a) purchases for resale, sells or offers to sell raw leaf tobacco on which duty is not imposed under this Act; and
- (b) does not take physical possession of the tobacco.

"tobacco
licensee"
« *titulaire de
licence de
tabac* »

"tobacco licensee" means a person who holds a tobacco licence issued under section 14.

"tobacco
marking"
« *mention
obligatoire* »

"tobacco marking" means prescribed information that is required under this Act to be printed on or affixed to a container of tobacco products that are not required under this Act to be stamped.

"tobacco
product"
« *produit du
tabac* »

"tobacco product" means manufactured tobacco, packaged raw leaf tobacco or cigars.

"tobacco stick"
« *bâtonnet de
tabac* »

"tobacco stick" means any roll or tubular construction of tobacco intended for smoking, other than a cigar, that requires further preparation to be consumed. If a tobacco stick exceeds 90 mm in length or 800 mg, each portion of 60 mm or less or each portion of 650 mg or less, respectively, is considered to be a separate stick.

"wine"
« *vin* »

"wine" means

(a) a beverage, containing more than 0.5% absolute ethyl alcohol by volume, that is produced without distillation, other than distillation to reduce the absolute ethyl alcohol content, by the alcoholic fermentation of

(i) an agricultural product other than grain,

(ii) a plant or plant product, other than grain, that is not an agricultural product, or

(iii) a product wholly or partially derived from an agricultural product or plant or plant product other than grain;

(b) sake; and

(c) a beverage described by paragraph (a) or (b) that is fortified not in excess of 22.9% absolute ethyl alcohol by volume.

"wine licensee"
« *titulaire de
licence de vin*
»

"wine licensee" means a person who holds a wine licence issued under section 14.

References to
other
enactments

3. A reference in this Act to a repealed enactment, or a portion of it, of the legislature of a province or territory shall, with respect to a subsequent transaction, matter or thing, be read as a reference to the provisions of any enactment replacing the repealed enactment or portion that relate to the same subject-matter as the repealed enactment or portion. If there is no replacement enactment or portion, or if there are no provisions in the replacement enactment that relate to the same subject-matter, the repealed enactment or portion shall be read as unrepealed in so far as is necessary to maintain or give effect to the reference.

Meaning of
"administration
or enforcement
of this Act"

4. For greater certainty, a reference in this Act to "administration or enforcement of this Act" includes the collection of any amount payable under this Act.

Constructive
possession

5. (1) For the purposes of subsections 30(1) and 32(1), section 61, subsections 70(1) and 88(1) and sections 230 and 231, if one of two or more persons, with the knowledge and consent of the rest of them, has anything in the person's possession, it is deemed to be in the custody and possession of each and all of them.

Meaning of
"possession"

(2) In this section and in subsections 30(1) and 32(1), section 61 and subsections 70(1) and 88(1), "possession" means not only having in one's own personal possession but also knowingly

(a) having in the actual possession or custody of another person;
or

(b) having in any place, whether belonging to or occupied by one's self or not, for one's own use or benefit or that of another person.

Arm's length

6. (1) For the purposes of this Act,

(a) related persons are deemed not to deal with each other at arm's length; and

(b) it is a question of fact whether persons not related to each other were, at any particular time, dealing with each other at arm's length.

Related persons

(2) For the purposes of this Act, persons are related to each other if they are related persons within the meaning of subsections 251(2) to (6) of the *Income Tax Act*, except that

(a) a reference in those subsections to "corporation" shall be read as a reference to "corporation or partnership"; and

(b) a reference in those subsections to "shares" or "shareholders" shall, in respect of a partnership, be read as a reference to "rights" or "partners", respectively.

PART 1

APPLICATION AND ADMINISTRATIVE MATTERS

Application to Her Majesty

Act binding on
Her Majesty

7. This Act is binding on Her Majesty and Her Majesty in right of a province.

Administration and Officers

Minister's duty

8. The Minister shall administer and enforce this Act and the Commissioner may exercise the powers and perform the duties of the Minister under this Act.

Officers and
employees

9. (1) The officers, employees and agents that are necessary to administer and enforce this Act shall be appointed, employed or engaged in the manner authorized by law.

Delegation of
powers

(2) The Minister may authorize a designated officer or agent or a class of officers or agents to exercise powers or perform duties of the Minister, including any judicial or quasi-judicial power or duty of the Minister, under this Act.

Designation of
police forces

10. (1) The Minister and the Solicitor General of Canada may designate any police force in Canada for the purposes of the enforcement of any of the provisions of this Act that are specified in the designation, subject to any terms and conditions specified in the designation, for any period specified in the designation.

Persons to have
powers and
duties of
officers

(2) All members of a police force designated under subsection (1) have the powers and duties of an officer for the purposes of the enforcement of the provisions of this Act specified in the designation.

Designation to
be published

(3) A designation under subsection (1) or any variation or cancellation of that designation must be published in the *Canada Gazette* and is not effective before it is so published.

Designation of
analysts

11. The Minister may designate any person or class of persons as an analyst for the purposes of this Act.

Administration
of oaths

12. Any officer, if designated by the Minister for the purpose, may administer oaths and take and receive affidavits, declarations and affirmations for the purposes of or incidental to the administration or enforcement of this Act, and every officer so designated has for those purposes all the powers of a commissioner for administering oaths or taking affidavits.

Inquiries

Authorization
of inquiry

13. (1) The Minister may, for any purpose related to the administration or enforcement of this Act, authorize any person, whether or not the person is an officer, to make any inquiry that the Minister considers necessary with reference to anything relating to the administration or enforcement of this Act.

Appointment of
hearing officer

(2) If the Minister authorizes a person to make an inquiry, the Minister shall without delay apply to the Tax Court for an order appointing a hearing officer before whom the inquiry will be held.

Powers of
hearing officer

(3) For the purposes of an inquiry, a hearing officer has all of the powers conferred on a commissioner under sections 4 and 5 of the *Inquiries Act* and that may be conferred on a commissioner under section 11 of that Act.

When powers to
be exercised

(4) A hearing officer shall exercise the powers conferred on a commissioner under section 4 of the *Inquiries Act* in relation to any person that the person authorized to make the inquiry considers appropriate for the conduct of the inquiry, but the hearing officer shall not exercise the power to punish any person unless, on

application by the hearing officer, a judge certifies that the power may be exercised in the matter disclosed in the application and the applicant has given to the person in respect of whom the power is proposed to be exercised 24 hours notice of the hearing of the application, or any shorter notice that the judge considers reasonable.

Rights of
witnesses

(5) Any person who gives evidence in an inquiry is entitled to be represented by counsel and, on request made by the person to the Minister, to receive a transcript of that evidence.

Rights of
person
investigated

(6) Any person whose affairs are investigated in the course of an inquiry is entitled to be present and to be represented by counsel throughout the inquiry unless the hearing officer, on application by the Minister or a person giving evidence, orders otherwise in relation to the whole or any part of the inquiry, on the ground that the presence of the person and their counsel, or either of them, would be prejudicial to the effective conduct of the inquiry.

PART 2

LICENCES AND REGISTRATIONS

Licences

Issuance

14. (1) Subject to the regulations, on application, the Minister may issue to a person

(a) a spirits licence, authorizing the person to produce or package spirits;

(b) a wine licence, authorizing the person to produce or package wine;

(c) a user's licence, authorizing the person to use bulk alcohol or non-duty-paid packaged alcohol;

(d) a tobacco licence, authorizing the person to manufacture tobacco products; or

(e) a tobacco dealer's licence, authorizing the person to carry on the activity of a tobacco dealer.

Deemed
packaging
excluded

(2) A person is not entitled to a licence under paragraph (1)(a) or (b) by reason only of having been deemed to have packaged alcohol under section 77 or 82.

Deemed
production
excluded

(3) A person is not entitled to a licence under paragraph (1)(a) by reason only of having been deemed to have produced spirits under subsection 131(2).

Registrations

Ferment-on-
premises
registration

15. Subject to the regulations, on application, the Minister may issue a ferment-on-premises registration to a person authorizing the person to possess at their ferment-on-premises facility bulk wine produced at the premises by an individual and owned by the individual.

User's
registration

16. Subject to the regulations, on application, the Minister may issue a user's registration authorizing the use of non-duty-paid packaged spirits by

(a) a scientific and research laboratory in receipt annually of aid from the Government of Canada or a province, for scientific purposes;

(b) a university or other post-secondary educational institution recognized by a province, for scientific purposes;

(c) a health care facility, for medicinal and scientific purposes; or

(d) a health institution in receipt annually of aid from the Government of Canada or a province, for medicinal and scientific purposes.

Alcohol
registration

17. Subject to the regulations, on application, the Minister may issue an alcohol registration to a person authorizing the person to store or transport bulk alcohol or specially denatured alcohol.

SDA
registration

18. (1) Subject to the regulations, on application, the Minister may issue a specially denatured alcohol registration to a person authorizing the person to possess and use specially denatured alcohol.

Restrictions on
grades of SDA

(2) The Minister may impose restrictions on the use of particular grades of specially denatured alcohol.

Excise Warehouses

Issuance of
licence

19. (1) Subject to the regulations, on application, the Minister may issue an excise warehouse licence to a person who is not a retailer of alcohol authorizing the person to possess in their excise warehouse non-duty-paid packaged alcohol or a tobacco product that is not stamped.

Eligible
retailers of
alcohol

(2) Even if they are retailers of alcohol, the following persons may be issued an excise warehouse licence under subsection (1):

(a) an alcohol licensee;

(b) a liquor authority; and

(c) any person who supplies goods in accordance with the *Ships' Stores Regulations*.

Special Excise Warehouses

Issuance of
licence

20. (1) Subject to the regulations, on application, the Minister may issue a special excise warehouse licence to a person who is authorized by a tobacco licensee to be the only person, other than the licensee, who is entitled to distribute to an accredited representative a tobacco product manufactured by the licensee.

Single licence

(2) The Minister shall not issue to the same person more than one special excise warehouse licence.

Licence limited
to one premises

(3) The Minister shall not specify more than one premises of a special excise warehouse licensee as a special excise warehouse.

Return of
tobacco
products

21. (1) If a person ceases to be authorized by a tobacco licensee to distribute to an accredited representative a tobacco product manufactured by the tobacco licensee,

(a) the person shall immediately return the tobacco product of that licensee that is stored in the person's special excise warehouse to the excise warehouse of the tobacco licensee; and

(b) the tobacco licensee shall immediately notify the Minister in writing that the person has ceased to be so authorized.

Cancellation

(2) The Minister shall cancel the special excise warehouse licence of the person if the person is no longer authorized by any tobacco licensee to distribute to an accredited representative a tobacco product.

Duty Free Shops

Issuance of
licence

22. Subject to the regulations, the Minister may, on application, issue to a person who is licensed under the *Customs Act* to operate a duty free shop a licence authorizing the person to possess and sell imported manufactured tobacco that is subject to a special duty under section 53.

General

Refusal to
issue licence
or registration

23. (1) The Minister may, for any reason the Minister considers sufficient in the public interest, refuse to issue a licence or registration.

Amendment or
renewal

(2) Subject to the regulations, the Minister may amend, suspend, renew, cancel or reinstate any licence or registration.

Conditions
imposed by
Minister

(3) On issuing a licence or registration, or at any later time, the Minister

(a) may, subject to the regulations, specify the activities that may be carried on under the licence or registration and the premises where those activities may be carried on;

(b) shall, in the case of a spirits licence or a tobacco licence, require security in a form satisfactory to the Minister and in an amount determined in accordance with the regulations; and

(c) may impose any other conditions that the Minister considers appropriate with respect to the carrying on of activities under the licence or registration.

Compliance with
Act

24. A licensee or registrant shall not carry on any activity under their licence or registration otherwise than in accordance with this Act.

PART 3

TOBACCO

Regulation of Tobacco

Manufacturing
tobacco product
without a
licence
prohibited

25. (1) No person shall, other than in accordance with a tobacco licence issued to the person, manufacture a tobacco product.

Deemed
manufacturer

(2) A person who, whether for consideration or otherwise, provides or offers to provide in their place of business equipment for use in that place by another person in the manufacture of a tobacco product is deemed to be manufacturing the tobacco product and the other person is deemed not to be manufacturing the tobacco product.

Exception –
manufacturing
for personal
use

(3) An individual who is not a tobacco licensee may manufacture a tobacco product

(a) from packaged raw leaf tobacco or manufactured tobacco on which the duty has been paid, if the product is for their personal use; or

(b) from raw leaf tobacco grown on land on which the individual resides, if

(i) the product is for their personal use or that of the members of their family who reside with the individual and who are 18 years of age or older, and

(ii) the quantity of product manufactured in any year does not exceed 15 kg for the individual and each member of the individual's family who resides with the individual and who is 18 years of age or older.

Tobacco dealer

26. No person shall carry on the activity of a tobacco dealer except in accordance with a tobacco dealer's licence issued to the person.

Unlawful packaging or stamping

27. No person shall package or stamp any raw leaf tobacco or tobacco product unless the person

(a) is a tobacco licensee; or

(b) is the importer or owner of the tobacco or product and it has been placed in a sufferance warehouse for the purpose of being stamped.

Unlawful removal

28. (1) Except as permitted under section 40, no person shall remove raw leaf tobacco or a tobacco product from the premises of a tobacco licensee unless the tobacco or product is packaged and

(a) if the product is intended for the duty-paid market, it is stamped; or

(b) if the product is not intended for the duty-paid market, all tobacco markings that are required under this Act to be printed on or affixed to its container are so printed or affixed.

Exception

(2) Subsection (1) does not apply to a tobacco licensee who removes from their premises

(a) raw leaf tobacco for return to a tobacco grower, for delivery to another tobacco licensee or for export; or

(b) partially manufactured tobacco for delivery to another tobacco licensee or for export.

Prohibition –
certain tobacco
products for
sale, etc.

29. No person shall purchase or receive for sale a tobacco product

(a) from a manufacturer who the person knows, or ought to know, is not a tobacco licensee;

(b) that is required under this Act to be packaged and stamped unless it is so packaged and stamped; or

(c) that the person knows, or ought to know, is fraudulently stamped.

Selling, etc.,
unstamped raw
leaf tobacco

30. (1) No person shall dispose of, sell, offer for sale, purchase or have in their possession raw leaf tobacco unless the tobacco is packaged and stamped.

Exception

(2) Subsection (1) does not apply to

(a) a person who is a tobacco licensee;

(b) the possession of raw leaf tobacco

(i) in a customs bonded warehouse or a sufferance warehouse by the licensee of that warehouse, or

(ii) by a body established under provincial law for the marketing of raw leaf tobacco grown in the province; or

(c) the sale, offer for sale or purchase of raw leaf tobacco by a licensed tobacco dealer.

Exceptions to
sections 26 and
30

31. A tobacco grower does not contravene section 26 or 30 by reason only that the grower deals in or has in their possession raw leaf tobacco

(a) grown by the grower on their property for sale to a tobacco licensee or a licensed tobacco dealer or for other disposition to a tobacco licensee, if the tobacco is either on the grower's property or is being transported by the grower

(i) in connection with the curing of the tobacco,

(ii) for delivery to or return from a tobacco licensee, or

(iii) for delivery to or return from a body established under provincial law for the marketing of raw leaf tobacco grown in the province;

(b) grown by any other person, if the grower operates a tobacco drying kiln on the grower's property and the grower's possession is solely for the purpose of curing the tobacco and returning it to the other person immediately after completion of the curing process or exporting it in accordance with paragraph (c); or

(c) that is to be exported, if the grower has the written approval of the Minister and complies with any conditions that the Minister considers appropriate.

Unlawful
possession or
sale of tobacco
products

32. (1) No person shall sell, offer for sale or have in their possession a tobacco product unless it is stamped.

Exceptions -
possession

(2) Subsection (1) does not apply to the possession of a tobacco product by

(a) a tobacco licensee at the place of manufacture of the product or at the excise warehouse of the licensee;

(b) in the case of cigars or imported manufactured tobacco, an excise warehouse licensee at the excise warehouse of the licensee;

(c) a special excise warehouse licensee at the special excise warehouse of the licensee, if the tobacco product is one that the licensee is permitted under this Act to distribute;

(d) a prescribed person who is transporting the product under prescribed circumstances and conditions;

(e) in the case of an imported tobacco product, a customs bonded warehouse licensee or a sufferance warehouse licensee in their warehouse;

(f) in the case of cigars, a duty free shop licensee in their duty free shop;

(g) in the case of imported manufactured tobacco, a duty free shop licensee in their duty free shop if the licensee holds a licence issued under section 22;

(h) an accredited representative for their personal or official use;

(i) in the case of cigars or imported manufactured tobacco, a person as ships' stores if the acquisition and possession of the product by that person are in accordance with the *Ships' Stores Regulations*;

(j) an individual who has imported the product for their personal use in quantities not in excess of prescribed limits; or

(k) an individual who has manufactured the product in accordance with subsection 25(3).

Exceptions –
sale or offer
for sale

(3) Subsection (1) does not apply where

(a) a tobacco licensee sells or offers to sell a tobacco product that is exported by the licensee in accordance with this Act;

(b) a tobacco licensee sells or offers to sell

(i) a tobacco product to a special excise warehouse licensee, if the product is one that the special excise warehouse licensee is permitted under this Act to distribute,

(ii) a tobacco product to an accredited representative for their personal or official use,

(iii) cigars to an excise warehouse licensee for delivery as ships' stores in accordance with the *Ships' Stores Regulations*,

(iv) cigars to a duty free shop for sale or offer for sale in accordance with the *Customs Act*, or

(v) cigars as ships' stores in accordance with the *Ships' Stores Regulations*;

(c) a special excise warehouse licensee sells or offers to sell a tobacco product to an accredited representative for their personal or official use, if the product is one that the licensee is permitted under this Act to distribute;

(d) an excise warehouse licensee sells or offers to sell

(i) an imported tobacco product that is exported by the licensee in accordance with this Act,

(ii) an imported tobacco product to an accredited representative for their personal or official use or to a duty free shop, or

(iii) cigars or imported manufactured tobacco as ships' stores in accordance with the *Ships' Stores Regulations*;

(e) a duty free shop licensee sells or offers to sell cigars in accordance with the *Customs Act*;

(f) a duty free shop licensee who holds a licence issued under section 22 sells or offers to sell imported manufactured tobacco in accordance with the *Customs Act*;

(g) a customs bonded warehouse licensee sells or offers to sell an imported tobacco product that is exported by the licensee in accordance with this Act;

(h) a customs bonded warehouse licensee sells or offers to sell an imported tobacco product

(i) to an accredited representative for their personal or official use,

(ii) to a duty free shop for sale or offer for sale in accordance with the *Customs Act*, or

(iii) as ships' stores in accordance with the *Ships' Stores Regulations*; and

(i) a person sells or offers for sale cigars or imported manufactured tobacco as ships' stores in accordance with the *Ships' Stores Regulations*.

No sale or
distribution
except in
original
package

33. No person shall

(a) sell or offer for sale cigars otherwise than in or from the original package;

(b) sell or offer for sale manufactured tobacco otherwise than in the original package; or

(c) distribute free of charge for advertising purposes any tobacco product otherwise than in or from the original package.

Packaging and
stamping of
tobacco

34. A tobacco licensee who manufactures a tobacco product shall not enter the tobacco product into the duty-paid market unless

(a) the product has been packaged by the licensee;

(b) the package has printed on it prescribed information; and

(c) the product is stamped at the time of packaging.

Packaging and
stamping of
imported
tobacco

35. (1) If a tobacco product or raw leaf tobacco is imported, it must, before it is released under the *Customs Act* for entry into the duty-paid market,

(a) be packaged in a package that has printed on it prescribed information; and

(b) be stamped.

Exception for
certain
importations

(2) Subsection (1) does not apply to

(a) partially manufactured tobacco that is imported by a tobacco licensee for further manufacturing by the licensee;

(b) a tobacco product that a tobacco licensee is authorized to import under subsection 41(2);

(c) a tobacco product that is imported by an individual for their personal use in quantities not in excess of prescribed limits; or

(d) raw leaf tobacco that is imported by a tobacco licensee.

Absence of
stamping -
notice

36. The absence of stamping on a tobacco product is notice to all persons that duty has not been paid on the product.

Unstamped
products to be
warehoused

37. If a tobacco product manufactured in Canada is not stamped by a tobacco licensee, the tobacco licensee shall immediately enter the product into the licensee's excise warehouse.

No warehousing
of tobacco
without
markings

38. (1) No person shall enter into an excise warehouse a container of tobacco products unless the container has printed on it or affixed to it tobacco markings and other prescribed information.

No delivery of
imported
tobacco without
markings

(2) No person shall deliver a container of imported tobacco products that does not have printed on it or affixed to it tobacco markings and other prescribed information to

(a) a duty free shop for sale or offer for sale in accordance with the *Customs Act*;

(b) an accredited representative; or

(c) a customs bonded warehouse.

Exception for
prescribed
tobacco product

(3) Subsections (1) and (2) do not apply to a tobacco product of a brand if the brand is not commonly sold in Canada and is prescribed.

Exception for
prescribed
cigarettes

(4) Subsection (1) does not apply to cigarettes of a particular type or formulation, manufactured in Canada and exported under a brand that is also applied to cigarettes of a different type or formulation that are manufactured and sold in Canada, if

(a) cigarettes of the particular type or formulation exported under that brand are prescribed cigarettes; and

(b) cigarettes of the particular type or formulation have never been sold in Canada under that brand or any other brand.

Distinguishing
different
cigarettes

(5) For the purpose of subsection (4), a cigarette of a particular type or formulation sold under a brand may be considered to be different from another cigarette sold under that brand if it is reasonable to consider them to be different having regard to their physical characteristics before and during consumption.

Non-compliant
imports

39. If an imported tobacco product or imported raw leaf tobacco intended for the duty-paid market is not stamped when it is reported under the *Customs Act*, it shall be placed in a sufferance warehouse for the purpose of being stamped.

Removal of raw
leaf tobacco or
waste tobacco

40. (1) No person other than a tobacco licensee shall remove raw leaf tobacco or tobacco that is waste from the premises of the licensee.

Removal
requirements

(2) If raw leaf tobacco or tobacco that is waste is removed from the premises of a tobacco licensee, the licensee shall deal with the tobacco in the manner authorized by the Minister.

Re-working or
destruction of
tobacco

41. (1) A tobacco licensee may re-work or destroy a tobacco product in the manner authorized by the Minister.

Importation for
reworking or
destruction

(2) The Minister may authorize a tobacco licensee to import any tobacco product manufactured in Canada by the licensee for re-working or destruction by the licensee in accordance with subsection (1).

Duty on Tobacco

Imposition

42. (1) Duty is imposed on tobacco products manufactured in Canada or imported and on imported raw leaf tobacco at the rates set out in Schedule 1 and is payable

(a) in the case of tobacco products manufactured in Canada, by the tobacco licensee who manufactured the tobacco products, at the time they are packaged; and

(b) in the case of imported tobacco products or raw leaf tobacco, by the importer, owner or other person who is liable under the *Customs Act* to pay duty levied under section 20 of the *Customs Tariff* or who would be liable to pay that duty on the tobacco or products if they were subject to that duty.

Imported
partially
manufactured
tobacco

(2) The following rules apply to partially manufactured tobacco that is imported by a tobacco licensee for further manufacture:

(a) for the purposes of this Act, the tobacco is deemed to be manufactured in Canada by the licensee; and

(b) paragraph (1)(a) applies to the tobacco and paragraph (1)(b) and section 44 do not apply.

Additional duty
on cigars

43. In addition to the duty imposed under section 42, duty is imposed on cigars at the rates set out in Schedule 2 and is payable

(a) in the case of cigars manufactured and sold in Canada, by the tobacco licensee who manufactured the cigars, at the time of their delivery to a purchaser; and

(b) in the case of imported cigars, by the importer, owner or other person who is liable under the *Customs Act* to pay duty levied under section 20 of the *Customs Tariff* or who would be liable to pay that duty on the cigars if they were subject to that duty.

Application of
Customs Act

44. The duties imposed under sections 42 and 43 on imported raw leaf tobacco and tobacco products shall be paid and collected under the *Customs Act*, and interest and penalties shall be imposed, calculated, paid and collected under that Act, as if the duties were a duty levied under section 20 of the *Customs Tariff*, and, for those purposes, the *Customs Act* applies with any modifications that the circumstances require.

Duty relieved

45. (1) The duties imposed under sections 42 and 43 are relieved on a tobacco product that is not stamped.

Tobacco
imported by an
individual for
personal use

(2) Subsection (1) does not apply to the importation of tobacco products by an individual for their personal use to the extent that the quantity of the products imported exceeds the quantity permitted under Chapter 98 of the List of Tariff Provisions set out in the schedule to the *Customs Tariff* to be imported without the payment of duties (as defined in Note 4 to that Chapter).

Duty relieved -
raw leaf
tobacco

46. The duty imposed under section 42 is relieved on raw leaf tobacco that is imported by a tobacco licensee for manufacture by the licensee.

Duty relieved -
stamped tobacco
imported by
individual

47. The duty imposed under section 42 is relieved on manufactured tobacco imported by an individual for their personal use if it was manufactured in Canada and is stamped.

Duty relieved -
importation for
destruction

48. The duty imposed under paragraph 42(1)(b) is relieved on stamped manufactured tobacco that was manufactured in Canada by a tobacco licensee and that is imported by the licensee for re-working or destruction in accordance with section 41.

Excise Warehouses

Restriction -
entering
tobacco

49. No person shall enter into an excise warehouse

(a) a tobacco product that is stamped; or

(b) any other tobacco product except in accordance with this Act.

Definitions

50. (1) The definitions in this subsection apply in this section.

"Canadian
manufactured
tobacco"
« *tabac
fabriqué
canadien* »

"Canadian manufactured tobacco" means manufactured tobacco that is manufactured in Canada but does not include partially manufactured tobacco or foreign brand tobacco.

"foreign brand
tobacco"
« *tabac de
marque
étrangère* »

"foreign brand tobacco" means manufactured tobacco in respect of which the special duty imposed under section 56 is relieved because of section 58.

Categories of
Canadian
manufactured
tobacco

(2) For the purposes of subsection (5), each of the following constitutes a category of Canadian manufactured tobacco:

(a) cigarettes;

(b) tobacco sticks; and

(c) manufactured tobacco other than cigarettes and tobacco sticks.

Prohibition on
removal

(3) No person shall remove from an excise warehouse or a special excise warehouse a tobacco product manufactured in Canada.

Exception for
Canadian
manufactured
tobacco

(4) Subject to the regulations, Canadian manufactured tobacco may be removed from the excise warehouse of the tobacco licensee who manufactured it only if it is

(a) for export by the licensee in accordance with subsection (5) and not for delivery to a foreign duty free shop or as foreign ships' stores;

(b) for delivery to the special excise warehouse of a special excise warehouse licensee, if the special excise warehouse licensee is permitted under this Act to distribute the Canadian manufactured tobacco; or

(c) for delivery to an accredited representative for their personal or official use.

Maximum
quantity
permitted to be
exported from
excise
warehouse

(5) A tobacco licensee shall not, at a particular time in a calendar year, remove a particular quantity of a category of Canadian manufactured tobacco from the licensee's excise warehouse for export if the total quantity of that category removed in the year up to that time by the licensee from the warehouse for export, plus the particular quantity, exceeds 1.5% of the total quantity of that category manufactured by the licensee in the preceding calendar year.

Quantities to
be excluded for
the purposes of
subsection (5)

(6) In subsection (5), the total quantity of a category of Canadian manufactured tobacco manufactured by a licensee in the preceding calendar year does not include any quantity of that category that was exported by the licensee for delivery to a foreign duty free shop or as foreign ships' stores.

Exception for
cigars

(7) Subject to the regulations, cigars manufactured in Canada may be removed from the excise warehouse of the tobacco licensee who manufactured them only if they are

(a) for export by the licensee in accordance with this Act;

(b) for delivery to the special excise warehouse of a special excise warehouse licensee, if the special excise warehouse licensee is permitted under this Act to distribute the cigars;

(c) for delivery to an accredited representative for their personal or official use;

(d) for delivery as ships' stores in accordance with the *Ships' Stores Regulations*;

(e) for delivery to another excise warehouse, if the excise warehouse licensee of the other excise warehouse certifies in the prescribed form to the tobacco licensee that the cigars are for delivery as ships' stores in accordance with the *Ships' Stores Regulations*; or

(f) for delivery to a duty free shop for sale or offer for sale in accordance with the *Customs Act*.

Exception for
partially
manufactured
tobacco or
foreign brand
tobacco

(8) Subject to the regulations, partially manufactured tobacco or foreign brand tobacco may be removed from the excise warehouse of the tobacco licensee who manufactured it only if it is exported by the licensee and not for delivery to a foreign duty free shop or as foreign ships' stores.

Removal from
warehouse -
ships' stores

(9) Subject to the regulations, cigars manufactured in Canada may be removed from an excise warehouse referred to in paragraph (7)(e) for delivery as ships' stores in accordance with the *Ships' Stores Regulations*.

Removal from
warehouse for
reworking or
destruction

(10) Subject to the regulations, tobacco products manufactured in Canada may be removed from the excise warehouse of the tobacco licensee who manufactured them if they are removed for reworking or destruction by the licensee in accordance with section 41.

Removal from
special excise
warehouse –
accredited
representatives

(11) Subject to the regulations, Canadian manufactured tobacco and cigars may be removed from a special excise warehouse for delivery to an accredited representative for their personal or official use if the special excise warehouse licensee is permitted under this Act to distribute the tobacco or cigars.

Removal of
imported
tobacco product

51. (1) No person shall remove an imported tobacco product from an excise warehouse.

Exception

(2) Subject to the regulations, an imported tobacco product may be removed from an excise warehouse

(a) for delivery to another excise warehouse;

(b) for delivery to an accredited representative for their personal or official use;

(c) for delivery as ships' stores, in accordance with the *Ships' Stores Regulations*;

(d) for delivery to a duty free shop for sale or offer for sale in accordance with the *Customs Act*; or

(e) for export in accordance with this Act by the excise warehouse licensee.

Restriction -
special excise
warehouse

52. No special excise warehouse licensee shall store a tobacco product that is manufactured in Canada in their special excise warehouse for any purpose other than its sale and distribution to an accredited representative for the personal or official use of the representative.

Special Duties on Tobacco Products

Special duty on
imported
manufactured
tobacco
delivered to
duty free shop

53. (1) A special duty is imposed on imported manufactured tobacco that is delivered to a duty free shop at the rates set out in section 1 of Schedule 3.

When and by
whom duty is
payable

(2) The special duty is payable at the time of delivery and is payable by the duty free shop licensee.

Meaning of
"traveller's
tobacco"

54. (1) In this section, "traveller's tobacco" means manufactured tobacco that is imported by a person at any time and

(a) is classified under tariff item No. 9804.10.00, 9804.20.00, 9805.00.00 or 9807.00.00 in the List of Tariff Provisions set out in the schedule to the *Customs Tariff*; or

(b) would be classified under tariff item No. 9804.10.00 or 9804.20.00 in that List but for the fact that the total value for duty as determined under section 46 of the *Customs Act* of all goods imported by the person at that time exceeds the maximum value specified in that tariff item.

Special duty on
traveller's
tobacco

(2) A special duty is imposed on traveller's tobacco at the time it is imported at the rates set out in section 2 of Schedule 3.

When and how
duty is payable

(3) The special duty shall be paid and collected under the *Customs Act*, and interest and penalties shall be imposed, calculated, paid and collected under that Act, as if the special duty were a duty levied under section 20 of the *Customs Tariff*, and for those purposes, the *Customs Act* applies with any modifications that the circumstances require.

Exception

(4) The special duty is not imposed on traveller's tobacco imported by an individual for their personal use if it was manufactured in Canada and is stamped.

Definition of
"tobacco
product"

55. In sections 56 to 58, "tobacco product" means manufactured tobacco other than partially manufactured tobacco.

Imposition

56. (1) A special duty is imposed on a tobacco product that is manufactured in Canada and exported

(a) if the export is in accordance with paragraph 50(4)(a) by the tobacco licensee who manufactured it, at the rates set out in section 3 of Schedule 3; or

(b) in any other case, at the rates set out in section 4 of Schedule 3.

When and by
whom duty is
payable

(2) Subject to sections 57 and 58, the special duty is payable, at the time the tobacco product is exported, by

(a) if paragraph (1)(a) applies, the tobacco licensee who manufactured it; or

(b) if paragraph (1)(b) applies, the person who exported it.

Duty relieved –
deliveries to a
foreign duty
free shop and
as foreign
ships' stores

57. The special duty imposed under section 56 is relieved on a tobacco product that is exported by the tobacco licensee who manufactured it for delivery to a foreign duty free shop or as foreign ships' stores.

Duty relieved –
prescribed
tobacco product

58. (1) The special duty imposed under section 56 is relieved on a tobacco product of a particular brand if

(a) the tobacco product of that brand is prescribed;

(b) during the three-year period before the year in which the tobacco product of that brand is exported, the tobacco product of that brand was not sold in Canada, other than in a duty free shop, except in quantities not significantly greater than the minimum quantities sufficient for the purposes of registering the trade mark for that brand; and

(c) during any year before the three-year period referred to in paragraph (b), sales in Canada of the product of that brand never exceeded

(i) 0.5% of total sales in Canada of similar products, or

(ii) if another percentage that is less than 0.5% is prescribed for the purposes of this subsection, that percentage of total sales in Canada of similar products.

Duty relieved –
prescribed
cigarettes

(2) The special duty imposed under section 56 is relieved on cigarettes of a particular type or formulation manufactured in Canada and exported under a brand that is also applied to

cigarettes of a different type or formulation that are manufactured and sold in Canada if

(a) cigarettes of the particular type or formulation exported under that brand are prescribed; and

(b) cigarettes of the particular type or formulation have never been sold in Canada under that brand or any other brand.

Distinguishing
different
cigarettes

(3) For the purpose of subsection (2), a cigarette of a particular type or formulation sold under a brand may be considered to be different from another cigarette sold under that brand if it is reasonable to consider them to be different having regard to their physical characteristics before and during consumption.

PART 4

ALCOHOL

General

Application -
*Importation of
Intoxicating
Liquors Act*

59. For greater certainty, the *Importation of Intoxicating Liquors Act* continues to apply to the importation, sending, taking and transportation of intoxicating liquor into a province.

Prohibition -
production and
packaging of
spirits

60. (1) No person shall, except in accordance with a spirits licence issued to the person, produce or package spirits.

Exception

(2) Subsection (1) does not apply to the packaging of spirits from a marked special container by a purchaser at a bottle-your-own premises.

Prohibition –
possession of
still

61. No person shall possess a still or other equipment suitable for the production of spirits with the intent of producing spirits unless the person

(a) is a spirits licensee; or

(b) has a pending application for a spirits licence.

Prohibition –
production and
packaging of
wine

62. (1) No person shall, except in accordance with a wine licence issued to the person, produce or package wine.

Exception

(2) Subsection (1) does not apply to

(a) the production of wine by an individual for their personal use;

(b) the packaging of wine referred to in paragraph (a) by an individual for their personal use; or

(c) the packaging of wine from a marked special container by a purchaser at a bottle-your-own premises.

Prohibition –
sale of wine
produced for
personal use

63. No person shall sell or put to a commercial use wine that was produced, or produced and packaged, by an individual for their personal use.

Wine produced
by individual

64. For the purposes of this Act, wine is not produced or packaged by an individual if it has been produced or packaged by a person acting on their behalf.

Prohibition -
ferment-on-prem
ises facility

65. No person shall carry on at a ferment-on-premises facility any activity specified in a licence or registration issued under this Act other than an activity specified in a ferment-on-premises registration.

Application -
in-transit and
transhipped
alcohol

66. Sections 67 to 72, 74, 76, 80, 85, 88, 97 to 100 and 102 do not apply to imported alcohol or specially denatured alcohol that is, in accordance with the *Customs Act*, the *Customs Tariff* and the regulations made under those Acts,

(a) transported by a customs bonded carrier from a place outside Canada to another place outside Canada;

(b) stored in a customs bonded warehouse or sufferance warehouse for subsequent delivery to a place outside Canada; or

(c) transported by a customs bonded carrier

(i) from a place outside Canada to a customs bonded warehouse or a sufferance warehouse for subsequent delivery to a place outside Canada, or

(ii) from a customs bonded warehouse or a sufferance warehouse to a place outside Canada.

Prohibition -
sale of alcohol

67. No person shall sell

(a) bulk alcohol unless it was produced or imported in accordance with this Act;

(b) packaged alcohol unless it was, in accordance with this Act,

(i) produced and packaged in Canada,

(ii) imported and packaged in Canada, or

(iii) imported; or

(c) a marked special container of alcohol unless it was marked in accordance with this Act.

Availability
and sampling of
imported DA and
SDA

68. (1) Any person who imports a product that is reported under the *Customs Act* as being denatured alcohol or specially denatured alcohol shall make the product available for sampling and the product is required to be sampled by the Minister before it is released under that Act.

Testing

(2) The samples must be tested to verify that the product is denatured alcohol or specially denatured alcohol.

Minister may
waive

(3) The Minister may at any time waive the requirement to sample an imported product under subsection (1).

Fees

(4) The Minister may fix fees to be paid by the importer of the product but those fees must not exceed an amount determined by the Minister to be the costs to Her Majesty in respect of the sampling and testing.

Bulk Alcohol

Prohibition -
ownership of
bulk alcohol

69. No person shall own bulk alcohol unless it was produced or imported in accordance with this Act.

Prohibition -
possession

70. (1) No person shall possess bulk alcohol.

Exception

(2) Subsection (1) does not apply

(a) to a spirits licensee or a licensed user who possesses bulk spirits that were produced or imported by a spirits licensee;

(b) to a wine licensee or a licensed user who possesses bulk wine that was produced or imported by a wine licensee;

(c) to a licensed user who possesses bulk alcohol that was imported by the licensed user;

(d) to an alcohol registrant who possesses, for the purposes of storage or transportation, bulk alcohol that was produced by an alcohol licensee or imported by an alcohol licensee or licensed user;

(e) to a sufferance warehouse licensee who possesses in their sufferance warehouse bulk alcohol that was imported by a person permitted to do so under this Act;

(f) to a ferment-on-premises registrant who possesses bulk wine that was produced at the registrant's ferment-on-premises facility by an individual for the individual's personal use; or

(g) to an individual who possesses less than 500 L of bulk wine that was lawfully produced at a residence or a ferment-on-premises facility for an individual's personal use.

Prohibition –
supply of
spirits

71. No person shall give possession of bulk spirits to a person other than a spirits licensee, a licensed user or an alcohol registrant.

Prohibition –
supply of wine

72. (1) No person shall give possession of bulk wine to a person other than a wine licensee, a licensed user or an alcohol registrant.

Exception

(2) Subsection (1) does not apply to an individual who, in connection with their personal use of it, gives possession of bulk wine lawfully produced by an individual for their personal use.

Restriction -
licensed user

73. A licensed user shall not use or dispose of bulk alcohol other than to

- (a) use it in an approved formulation;
- (b) use it in a process in which the absolute ethyl alcohol is destroyed to the extent approved by the Minister;
- (c) use it to produce vinegar;
- (d) use it in accordance with section 130 or 131;
- (e) return it to
 - (i) in the case of alcohol returned in circumstances to which paragraph 105(1)(a) or 114(1)(a) applies, a licensee referred to in that paragraph, or
 - (ii) in any other case, the alcohol licensee who supplied it;
- (f) subject to section 76, export it;
- (g) use it for analysis in a manner approved by the Minister; or
- (h) destroy it in a manner approved by the Minister.

Importation -
bulk spirits

74. (1) No person shall import bulk spirits other than a spirits licensee, a licensed user or, if the spirits are in a special container, an excise warehouse licensee in accordance with section 80.

Importation -
bulk wine

(2) No person shall import bulk wine other than a wine licensee, a licensed user or, if the wine is in a special container, an excise warehouse licensee in accordance with section 85.

Importations
involving a
provincial
authority

75. If bulk alcohol is imported under circumstances in which subsection 3(1) of the *Importation of Intoxicating Liquors Act* applies, the alcohol is deemed, for the purposes of this Act, to have been imported by the person who would have been the importer in the absence of that subsection and not by Her Majesty in right of a province or a liquor authority.

Unauthorized
export

- 76.** No person shall export bulk alcohol other than
- (a) the alcohol licensee who is responsible for the alcohol;
 - (b) the licensed user who imported the alcohol; or
 - (c) a person required to do so under section 101.

Special Containers of Spirits

Marked
container
deemed packaged

77. If a special container of spirits is marked, the spirits are deemed to be packaged at the time the container is marked.

Marking

- 78.** (1) No person shall mark a special container of spirits unless
- (a) the person is a spirits licensee; or
 - (b) the container is one that has been placed in a sufferance warehouse in accordance with section 80 and the person marks the container in the circumstances described in that section.

Container to be
warehoused

(2) If a spirits licensee marks a special container of spirits, the licensee shall immediately enter it into an excise warehouse.

Importation

79. No person, other than an excise warehouse licensee, shall import a marked special container of spirits.

Marking of
imported
container

80. If a special container of spirits that is imported by an excise warehouse licensee is not marked when it is reported under the *Customs Act*, it shall be placed in a sufferance warehouse for the purpose of being marked.

Imported
container to be
warehoused

81. If a marked special container of spirits is released under the *Customs Act*, the excise warehouse licensee who imported it shall immediately enter it into their excise warehouse.

Special Containers of Wine

Marked
container
deemed packaged

82. If a special container of wine is marked, the wine is deemed to be packaged at the time the container is marked.

Marking

83. (1) No person shall mark a special container of wine unless

(a) the person is a wine licensee; or

(b) the container is one that has been placed in a sufferance warehouse in accordance with section 85 and the person marks the container in the circumstances described in that section.

Container to be
warehoused

(2) If a wine licensee marks a special container of wine, the licensee shall immediately enter it into an excise warehouse.

Importation

84. No person, other than an excise warehouse licensee, shall import a marked special container of wine.

Marking of
imported
container

85. If a special container of wine that is imported by an excise warehouse licensee is not marked when it is reported under the *Customs Act*, it shall be placed in a sufferance warehouse for the purpose of being marked.

Imported
container to be
warehoused

86. If a marked special container of wine is released under the *Customs Act*, the excise warehouse licensee who imported it shall immediately enter it into their excise warehouse.

Packaged Alcohol

Information on
container

87. Every alcohol licensee who packages alcohol shall cause all prescribed information to be displayed on the container containing the alcohol and on any packaging encasing the container

(a) in the case of wine that is entered into an excise warehouse immediately after it is packaged, before the wine is removed from the warehouse; and

(b) in any other case, immediately after the alcohol is packaged.

Prohibition -
possession

88. (1) No person shall possess non-duty-paid packaged alcohol.

Exception

(2) Non-duty-paid packaged alcohol, other than alcohol in a marked special container,

(a) that is packaged by an alcohol licensee or imported by an excise warehouse licensee may be possessed by

- (i) an excise warehouse licensee in their excise warehouse,
 - (ii) a licensed user in their specified premises,
 - (iii) a registered user for use in accordance with their registration,
 - (iv) a prescribed person who is transporting the alcohol under prescribed circumstances and conditions,
 - (v) a duty free shop licensee, in their duty free shop,
 - (vi) an accredited representative, for their personal or official use, or
 - (vii) a person as ships' stores, if the acquisition and possession of the alcohol by that person are in accordance with the *Ships' Stores Regulations*;
- (b) that is imported may be possessed by a sufferance warehouse licensee, in their sufferance warehouse;
- (c) that is imported by a licensed user may be possessed by
- (i) the licensed user in their specified premises, or
 - (ii) a prescribed person who is transporting the alcohol under prescribed circumstances and conditions;
- (d) that is imported by an accredited representative may be possessed by
- (i) the accredited representative, for their personal or official use, or
 - (ii) a prescribed person who is transporting the alcohol under prescribed circumstances and conditions;
- (e) that is imported for sale in a duty free shop, for sale to an accredited representative or for use as ships' stores, may be possessed by
- (i) a customs bonded warehouse licensee, in their customs bonded warehouse,
 - (ii) a duty free shop licensee, in their duty free shop,
 - (iii) an accredited representative, for their personal or official use,

(iv) a customs bonded carrier in accordance with the *Customs Act*, or

(v) a person as ships' stores, if the acquisition and possession of the alcohol by that person are in accordance with the *Ships' Stores Regulations*;

(f) that is imported for supply to an air carrier that is licensed under section 69 or 73 of the *Canada Transportation Act* to operate an international air service may be possessed by a customs bonded warehouse licensee, in their customs bonded warehouse;

(g) that is imported by an individual in accordance with the *Customs Act* and the *Customs Tariff* for their personal use may be possessed by an individual; and

(h) that is wine that is produced and packaged by an individual for their personal use may be possessed by an individual.

Exception -
special
containers

(3) A non-duty-paid marked special container of alcohol may be possessed by

(a) an excise warehouse licensee in their excise warehouse;

(b) a prescribed person who is transporting the alcohol under prescribed circumstances and conditions;

(c) in the case of an imported special container of alcohol, a sufferance warehouse licensee in their sufferance warehouse; or

(d) in the case of a special container of spirits that is marked for delivery to and use by a registered user, a registered user for use in accordance with their registration.

Storage

89. A ferment-on-premises registrant shall not store packaged wine at their ferment-on-premises facility.

Restriction -
licensed user

90. A licensed user shall not use or dispose of non-duty-paid packaged alcohol other than to

- (a) use it in an approved formulation;
- (b) use it in a process in which the absolute ethyl alcohol is destroyed to the extent approved by the Minister;
- (c) use it to produce vinegar;
- (d) return it under prescribed conditions to the excise warehouse licensee who supplied it;
- (e) export it, if the alcohol was imported by the licensed user;
- (f) use it for analysis in a manner approved by the Minister; or
- (g) destroy it in a manner approved by the Minister.

Restriction -
registered user

91. A registered user shall not use or dispose of non-duty-paid packaged spirits other than to

- (a) use them in accordance with their registration;
- (b) use them for analysis in a manner approved by the Minister;
- (c) return them under prescribed conditions to the excise warehouse licensee who supplied them; or
- (d) destroy them in a manner approved by the Minister.

Unauthorized
removal -
spirits

92. (1) No person shall remove spirits from a marked special container of spirits other than

- (a) a registered user, in the case of a container that is marked for delivery to and use by a registered user; and
- (b) a purchaser of the spirits at a bottle-your-own premises, in the case of a container that is marked for delivery to and use at a bottle-your-own premises.

Removal of
spirits from
returned
container

(2) If the operator of a bottle-your-own premises returns a marked special container of spirits to the excise warehouse licensee who supplied the container to the operator, the licensee may remove the spirits from the container for the purpose of destroying the spirits in a manner approved by the Minister.

Unauthorized
removal - wine

93. (1) No person shall remove wine from a marked special container of wine other than a purchaser of the wine at a bottle-your-own premises.

Removal of wine
from returned
container

(2) If the operator of a bottle-your-own premises returns a marked special container of wine to the excise warehouse licensee who supplied the container to the operator, the licensee may remove the wine from the container for the purpose of destroying the wine in a manner approved by the Minister.

Denatured Alcohol and Specially Denatured Alcohol

Prohibition -
denaturing of
spirits

94. No person, other than a spirits licensee, shall denature spirits.

Prohibition -
sale as
beverage

95. (1) No person shall sell or provide denatured alcohol or specially denatured alcohol for use in or as a beverage.

Prohibition -
use as beverage

(2) No person shall use denatured alcohol or specially denatured alcohol in or as a beverage.

Prohibition -
use of SDA

96. No person shall, except in accordance with a specially denatured alcohol registration issued to the person, use specially denatured alcohol.

Prohibition -
possession of
SDA

97. (1) No person shall possess specially denatured alcohol.

Exception

(2) Subsection (1) does not apply to

(a) a spirits licensee or an SDA registrant who possesses specially denatured alcohol produced by a spirits licensee;

(b) a spirits licensee, an SDA registrant or a sufferance warehouse licensee who possesses specially denatured alcohol imported by a spirits licensee;

(c) an SDA registrant who possesses specially denatured alcohol that they imported;

(d) a sufferance warehouse licensee who possesses specially denatured alcohol imported by an SDA registrant; or

(e) an alcohol registrant who possesses specially denatured alcohol only for the purposes of its storage and transportation, if the alcohol was produced by a spirits licensee or imported by a spirits licensee or an SDA registrant.

Prohibition -
supply of SDA

98. No person shall give possession of specially denatured alcohol to a person who is not a spirits licensee, an SDA registrant or an alcohol registrant.

Prohibition -
sale of SDA

99. (1) No person shall sell specially denatured alcohol.

Exceptions

(2) Subsection (1) does not apply where

(a) a spirits licensee sells specially denatured alcohol to another spirits licensee or to an SDA registrant; or

(b) an SDA registrant returns specially denatured alcohol in accordance with paragraph 103(a) or exports it in accordance with paragraph 103(b).

Prohibition –
importing of
SDA

100. No person shall import specially denatured alcohol other than a spirits licensee or an SDA registrant.

Spirits
mistakenly
imported as DA
or SDA

101. (1) If a person, other than a spirits licensee or licensed user, who has imported a product that was reported under the *Customs Act* as being denatured alcohol or specially denatured alcohol learns that the product is spirits and not denatured alcohol or specially denatured alcohol, the person shall without delay

(a) export it for return to the person from whom it was acquired;
or

(b) dispose of or destroy it in the manner specified by the Minister.

Spirits
mistakenly
possessed as DA
or SDA

(2) If a person, other than a spirits licensee, licensed user or alcohol registrant, who possesses a product that the person believed was denatured alcohol or specially denatured alcohol learns that the product is spirits and not denatured alcohol or specially denatured alcohol, the person shall without delay

(a) return it to the spirits licensee who produced or supplied the product; or

(b) dispose of or destroy it in the manner specified by the Minister.

If product used

(3) If the person is unable to comply with subsection (1) or (2) in respect of an amount of the product because they had already used it in the production of another product before they learned that the product was not denatured alcohol or specially denatured alcohol, the person shall

(a) dispose of or destroy the other product in the manner specified by the Minister; and

(b) pay any penalty imposed under section 254 for which they are liable under section 244 in respect of the amount.

Exception

(4) Subsection (3) does not apply if

(a) the other product is not, in the opinion of the Minister, spirits;

(b) the Minister deems the other product to have been produced using denatured alcohol or specially denatured alcohol, as the case may be; and

(c) the person complies with any conditions imposed by the Minister.

Prohibition –
exporting of
SDA

102. No person shall export specially denatured alcohol other than the SDA registrant who imported it or a spirits licensee.

Restriction on
disposal

103. An SDA registrant shall not dispose of specially denatured alcohol other than to

(a) return it to the spirits licensee who supplied it;

(b) export it, if it was imported by the SDA registrant; or

(c) destroy it in a manner approved by the Minister.

Responsibility for Bulk Spirits

Responsibility

104. Subject to sections 105 to 107, 111 and 112, the person who is responsible for bulk spirits at any time is

(a) the spirits licensee or licensed user who owns the spirits at that time;

(b) if the spirits are not owned at that time by a spirits licensee or licensed user, the spirits licensee or licensed user who last owned them; or

(c) if the spirits were never owned by a spirits licensee or licensed user, the spirits licensee who imported or produced them or the licensed user who imported them.

Return of
spirits
purchased from
unlicensed
person

105. (1) This section applies if a spirits licensee or licensed user (in this section referred to as the "purchaser") purchases bulk spirits from a person who is not a spirits licensee or licensed user (in this section referred to as the "unlicensed person"), and, within 30 days after the purchaser receives the spirits,

(a) the purchaser returns the spirits to the spirits licensee who was responsible for them immediately before they were purchased by the purchaser (in this section referred to as the "previously responsible licensee") or to the spirits licensee who supplied them (in this section referred to as the "supplier"); and

(b) the ownership of the spirits reverts to the unlicensed person.

Determination
of person
responsible for
returned
spirits

(2) At the later of the time at which the previously responsible licensee or supplier receives the spirits and the time at which the ownership of the spirits reverts to the unlicensed person,

(a) the previously responsible licensee becomes again responsible for the spirits; and

(b) the purchaser of the spirits ceases to be responsible for them.

Exception –
provincial
ownership

106. If, at any time, the government of a province or a liquor authority that is a spirits licensee or a licensed user owns bulk spirits for a purpose not related to its licence, section 104 applies as though that ownership by the government or the liquor authority did not exist at that time.

Spirits
imported by
licensed user

107. A licensed user who imports bulk spirits is responsible for them.

Blended spirits
– joint and
several or
solidary
responsibility

108. (1) If bulk spirits are blended with other bulk spirits, or if bulk spirits are blended with bulk wine and the resulting product is spirits, every person who is a person responsible for any of the spirits or who is a licensed user responsible for any of the bulk wine is jointly and severally or solidarily responsible for the resulting blended spirits.

Responsibility
for wine ceases

(2) The wine licensee or licensed user who was responsible for the bulk wine before it was blended with bulk spirits as described in subsection (1) ceases to be responsible for the wine as of the time of blending.

Person not
responsible

109. A person who is responsible for bulk spirits ceases to be responsible for them if they are

- (a) taken for use and the duty on them is paid;
- (b) taken for use in an approved formulation;
- (c) taken for use for a purpose described in section 145 or subsection 146(1);
- (d) denatured into denatured alcohol or specially denatured alcohol;
- (e) exported in accordance with this Act; or
- (f) lost in prescribed circumstances, if the person fulfills any prescribed conditions.

Notification of
change of
ownership

110. If a spirits licensee or licensed user (in this section referred to as the "purchaser") purchases bulk spirits from a person who is not a spirits licensee or licensed user, the purchaser shall, except in respect of bulk spirits that are to be imported,

- (a) at the time of the purchase, obtain from the vendor the name and address of the spirits licensee who is responsible for the spirits immediately before they are sold to the purchaser; and
- (b) without delay, notify in writing that licensee of the purchase.

Removal of
special
container

111. If an unmarked special container of spirits is removed by a spirits licensee from their excise warehouse in accordance with section 156, the licensee is responsible for the spirits unless they are owned by another spirits licensee or a licensed user, in which case the other spirits licensee or the licensed user is responsible for them.

Removal of
spirits

112. If spirits are removed by a spirits licensee from their excise warehouse in accordance with section 158, the licensee is responsible for the spirits unless they are owned by another

spirits licensee or a licensed user, in which case the other spirits licensee or the licensed user is responsible for them.

Responsibility for Bulk Wine

Responsibility

113. Subject to sections 114 to 116, 120 and 121, the person who is responsible for bulk wine at any time is

(a) the wine licensee or licensed user who owns the wine at that time;

(b) if the wine is not owned at that time by a wine licensee or licensed user, the wine licensee or licensed user who last owned it; or

(c) if the wine was never owned by a wine licensee or licensed user, the wine licensee who imported or produced it or the licensed user who imported it.

Return of wine
purchased from
unlicensed
person

114. (1) This section applies if a wine licensee or licensed user (in this section referred to as the "purchaser") purchases bulk wine from a person who is not a wine licensee or licensed user (in this section referred to as the "unlicensed person"), and, within 30 days after the purchaser receives the wine,

(a) the purchaser returns the wine to the wine licensee who was responsible for it immediately before it was purchased by the purchaser (in this section referred to as the "previously responsible licensee") or to the wine licensee who supplied it (in this section referred to as the "supplier"); and

(b) the ownership of the wine reverts to the unlicensed person.

Determination
of person
responsible for
returned wine

(2) At the later of the time at which the previously responsible licensee or supplier receives the wine and the time at which the ownership of the wine reverts to the unlicensed person,

(a) the previously responsible licensee becomes again responsible for the wine; and

(b) the purchaser of the wine ceases to be responsible for it.

Exception -
provincial
ownership

115. If, at any time, the government of a province or a liquor authority that is a wine licensee or a licensed user owns bulk wine for a purpose not related to its licence, section 113 applies as though that ownership by the government or the liquor authority did not exist at that time.

Wine imported
by licensed
user

116. A licensed user who imports bulk wine is responsible for it.

Blended wine -
joint and
several or
solidary
responsibility

117. (1) If bulk wine is blended with other bulk wine, or if bulk wine is blended with bulk spirits and the resulting product is wine, every person who is a person responsible for any of the wine or who is a licensed user responsible for any of the bulk spirits is jointly and severally or solidarily responsible for the resulting blended wine.

Responsibility
for spirits
ceases

(2) The spirits licensee or licensed user who was responsible for the bulk spirits before they were blended with bulk wine as described in subsection (1) ceases to be responsible for the spirits as of the time of blending.

Person not
responsible

118. A person who is responsible for bulk wine ceases to be responsible for it if it is

(a) taken for use and the duty on it is paid;

(b) taken for use in an approved formulation;

(c) taken for use for a purpose described in section 145 or subsection 146(1);

(d) exported in accordance with this Act; or

(e) lost, if the loss is recorded in a manner authorized by the Minister.

Notification of
change of
ownership

119. If a wine licensee or licensed user (in this section referred to as the "purchaser") purchases bulk wine from a person who is not a wine licensee or licensed user, the purchaser shall, except in respect of bulk wine that is to be imported,

(a) at the time of the purchase, obtain from the vendor the name and address of the wine licensee who is responsible for the wine immediately before it is sold to the purchaser; and

(b) without delay, notify in writing that licensee of the purchase.

Removal of
special
container

120. If an unmarked special container of wine is removed by a wine licensee from their excise warehouse in accordance with section 156, the licensee is responsible for the wine unless the wine is owned by another wine licensee or a licensed user, in which case the other wine licensee or the licensed user is responsible for it.

Removal of wine

121. If wine is removed by a wine licensee from their excise warehouse in accordance with section 157, the licensee is responsible for the wine unless it is owned by another wine licensee or a licensed user, in which case the other wine licensee or the licensed user is responsible for it.

Imposition and Payment of Duty on Alcohol

Imposition -
domestic
spirits

122. (1) Duty is imposed on spirits produced in Canada at the rate set out in section 1 of Schedule 4.

Time of
imposition

(2) The duty is imposed at the time the spirits are produced.

Imposition -
low alcoholic
strength
spirits

123. If spirits do not contain more than 7% of absolute ethyl alcohol by volume at the time that they are packaged,

(a) the duty imposed on the spirits under section 122 or levied under section 21.1 of the *Customs Tariff* is relieved; and

(b) duty is imposed on the spirits at the rate set out in section 2 of Schedule 4.

Duty payable
when packaged

124. (1) Subject to sections 126 and 127, the duty imposed on spirits is payable at the time the spirits are packaged unless, immediately after packaging, they are entered into an excise warehouse.

Payable by
responsible
person

(2) Duty is payable by the person who is responsible for the spirits immediately before they are packaged.

Spirits
licensee ceases
to be liable
for duty

(3) If an excise warehouse licensee becomes liable under section 140 for duty on the spirits, the person required under subsection (2) to pay the duty ceases to be liable to pay it.

Duty payable
when removed
from warehouse

125. If packaged spirits are removed from an excise warehouse for entry into the duty-paid market, duty is payable on the spirits at the time of their removal and is payable by the excise warehouse licensee of the warehouse.

Duty payable on
bulk spirits
taken for use

126. Subject to sections 144 to 146, if bulk spirits are taken for use, duty is payable at the time the spirits are taken for use by the person who is responsible for the spirits at that time.

Duty payable on
unaccounted
bulk spirits

127. (1) Duty is payable by the person who is responsible for bulk spirits on any portion of the spirits that cannot be accounted for by the person as being in the possession of a spirits licensee, a licensed user or an alcohol registrant.

When duty
payable

(2) The duty is payable at the time the spirits cannot be accounted for.

Exception

(3) Subsection (1) does not apply in circumstances where the person is convicted of an offence under section 218 or is liable to pay a penalty under section 241.

Duty payable on
packaged
spirits taken
for use

128. Subject to sections 144 to 146, if non-duty-paid packaged spirits that are in the possession of an excise warehouse licensee or a licensed user are taken for use, duty is payable at the time the spirits are taken for use and is payable by the licensee or user.

Duty payable on
unaccounted
packaged
spirits

129. (1) Duty is payable on non-duty-paid packaged spirits that have been received by an excise warehouse licensee or a licensed user but cannot be accounted for by the licensee or user

(a) as being in the excise warehouse of the licensee or the specified premises of the user;

(b) as having been removed, used or destroyed in accordance with this Act; or

(c) as having been lost in prescribed circumstances, if the licensee or user fulfills any prescribed conditions.

When duty
payable

(2) Duty is payable by the licensee or user at the time the spirits cannot be accounted for.

Fortifying wine

130. (1) A licensed user who is also a wine licensee may use bulk spirits to fortify wine to an alcoholic strength not in excess of 22.9% absolute ethyl alcohol by volume.

Duty relieved
on spirits

(2) The duty imposed under section 122 or levied under section 21.1 of the *Customs Tariff* on the spirits that were used to fortify the wine is relieved.

Blending wine
with spirits

131. (1) A licensed user who is also a spirits licensee may blend bulk wine with spirits if the resulting product is spirits.

Blending deemed
to be
production of
spirits

(2) The resulting spirits are deemed to be produced at the time of the blending and the duty imposed under section 122 or levied under section 21.1 of the *Customs Tariff* on the spirits that were blended with the wine is relieved.

Duty relieved -
DA and SDA

132. If a spirits licensee denatures bulk spirits into denatured alcohol or specially denatured alcohol, the duty imposed on the spirits under section 122 or levied under section 21.1 of the *Customs Tariff* is relieved.

Imposition of
special duty

133. (1) In addition to the duty levied under section 21.1 or 21.2 of the *Customs Tariff*, a special duty is imposed on imported spirits delivered to or imported by a licensed user at the rate set out in Schedule 5.

Bulk spirits

(2) If a spirits licensee imports bulk spirits that are delivered to a licensed user, the special duty is payable at the time the spirits are delivered to the licensed user and is payable

(a) by the spirits licensee who is responsible for the spirits at that time;

(b) if the licensed user is responsible for the spirits at that time and there was a spirits licensee who was responsible immediately before that time, by that spirits licensee; or

(c) if the licensed user is responsible for the spirits at that time and there was not a spirits licensee who was responsible immediately before that time, by the spirits licensee who delivered the spirits.

Packaged
spirits

(3) If imported packaged spirits or imported spirits that have been packaged in Canada are removed from an excise warehouse for delivery to a licensed user, the special duty is payable by the excise warehouse licensee at the time the spirits are removed from the excise warehouse.

Spirits
imported by
licensed user

(4) If bulk or packaged spirits are imported by a licensed user, the special duty

(a) is payable by the licensed user at the time the spirits are imported; and

(b) shall be paid and collected under the *Customs Act*, and interest and penalties shall be imposed, calculated, paid and collected under that Act, as if the duty were a duty levied on the spirits under section 20 of the *Customs Tariff*, and, for those purposes, the *Customs Act* applies with any modifications that the circumstances require.

Imposition -
bulk wine taken
for use

134. (1) Duty is imposed on bulk wine that is taken for use at the rates set out in Schedule 6.

Payable by
responsible
person

(2) Subject to sections 144 to 146, the duty is payable at the time the wine is taken for use and is payable by the person who is responsible for the wine at that time.

Wine produced
for personal
use

(3) Subsection (1) does not apply to wine produced by an individual for their personal use and that is consumed in the course of that use.

Imposition -
wine packaged
in Canada

135. (1) Duty is imposed on wine that is packaged in Canada at the rates set out in Schedule 6.

Wine produced
for personal
use and by
small producers

(2) Subsection (1) does not apply to wine that is

(a) produced and packaged by an individual for their personal use; or

(b) produced by a wine licensee and packaged by the licensee during a fiscal month of the licensee if the sales by the licensee of products subject to duty under subsection (1), or that would have been so subject to duty in the absence of this subsection, in the 12 fiscal months preceding that fiscal month did not exceed \$50,000.

Time of
imposition

(3) The duty is imposed at the time the wine is packaged. It is also payable at that time unless the wine is entered into an excise warehouse immediately after packaging.

Payable by
responsible
person

(4) The duty is payable by the person who is responsible for the wine immediately before it is packaged.

Wine licensee
ceases to be
liable for duty

(5) If an excise warehouse licensee becomes liable under section 140 for duty on the wine, the person required under subsection (4) to pay the duty ceases to be liable to pay it.

Duty payable on
removal from
warehouse

136. If packaged wine is removed from an excise warehouse for entry into the duty-paid market, duty is payable on the wine at the time of its removal and is payable by the excise warehouse licensee.

Duty payable on
packaged wine
taken for use

137. Subject to sections 144 to 146, if non-duty-paid packaged wine that is in the possession of an excise warehouse licensee or a licensed user is taken for use, duty is payable on the wine at the time it is taken for use and is payable by the licensee or user.

Duty payable on
unaccounted
packaged wine

138. (1) Duty is payable on non-duty-paid packaged wine that has been received by an excise warehouse licensee or a licensed user but that cannot be accounted for by the licensee or user

(a) as being in the excise warehouse of the licensee or the specified premises of the user;

(b) as having been removed, used or destroyed in accordance with this Act; or

(c) as having been lost in prescribed circumstances, if the licensee or user fulfills any prescribed conditions.

When duty
payable

(2) Duty is payable by the licensee or user at the time the wine cannot be accounted for.

Duty on wine in
marked special
container
relieved

139. (1) Duty imposed under subsection 135(1) is relieved on wine that is contained in a marked special container of wine from which the marking has been removed in accordance with section 156.

Duty on
returned wine
relieved

(2) Duty imposed under subsection 135(1) or levied under subsection 21.2(2) of the *Customs Tariff* is relieved on wine that is returned to the bulk wine inventory of a wine licensee in accordance with section 157.

Liability of Excise Warehouse Licensees and Licensed Users

Non-duty-paid
packaged
alcohol

140. If non-duty-paid packaged alcohol is entered into an excise warehouse immediately after being packaged, the excise warehouse licensee is liable for the duty on the alcohol at the time it is entered into the warehouse.

Imported
packaged
alcohol

141. If, in accordance with subsection 21.2(3) of the *Customs Tariff*, imported packaged alcohol is, without the payment of duty, released under the *Customs Act* to the excise warehouse licensee or licensed user who imported it, the excise warehouse licensee or licensed user is liable for the duty on the alcohol.

Transfer
between
warehouse
licensees

142. (1) If non-duty-paid packaged alcohol is removed from the excise warehouse of an excise warehouse licensee (in this subsection referred to as the "transferor") to the excise warehouse of another excise warehouse licensee, at the time the alcohol is entered into the warehouse of the other licensee,

(a) the other licensee becomes liable for the duty on the alcohol; and

(b) the transferor ceases to be liable for the duty.

Transfer to
licensed user

(2) If non-duty-paid packaged alcohol is removed from an excise warehouse to the specified premises of a licensed user, at the time the alcohol is entered into those premises,

(a) the licensed user becomes liable for the duty on the alcohol;
and

(b) the excise warehouse licensee ceases to be liable for the duty.

Transfer from
licensed user

(3) If non-duty-paid packaged alcohol is removed from the specified premises of a licensed user to an excise warehouse, at the time the alcohol is entered into the warehouse,

(a) the excise warehouse licensee becomes liable for the duty on the alcohol; and

(b) the licensed user ceases to be liable for the duty.

Non-dutiable Uses and Removals of Alcohol

Approved
formulations

143. The Minister may impose any conditions or restrictions that the Minister considers necessary in respect of the making, importation, packaging, use or sale of, or other dealing with, an approved formulation.

Non-dutiable
uses – approved
formulations

144. Duty is relieved on bulk alcohol and non-duty-paid packaged alcohol used by a licensed user in an approved formulation.

Duty not
payable – bulk
alcohol

145. (1) Duty is not payable on bulk alcohol

(a) taken for analysis by an alcohol licensee or a licensed user in a manner approved by the Minister;

(b) destroyed by an alcohol licensee or a licensed user in a manner approved by the Minister; or

(c) used by a licensed user in a process in which the absolute ethyl alcohol is destroyed to the extent approved by the Minister.

Duty not payable – packaged alcohol

(2) Duty is not payable on non-duty-paid packaged alcohol

(a) taken for analysis by an excise warehouse licensee or a licensed user in a manner approved by the Minister;

(b) destroyed by an excise warehouse licensee or a licensed user in a manner approved by the Minister; or

(c) used by a licensed user in a process in which the absolute ethyl alcohol is destroyed to the extent approved by the Minister.

No duty payable – alcohol taken for analysis or destroyed

(3) Duty is not payable on bulk alcohol or non-duty-paid packaged alcohol that is taken for analysis or destroyed by the Minister.

Duty not payable – vinegar

146. (1) Duty is not payable on alcohol that is used by a licensed user to produce vinegar if not less than 0.5 kg of acetic acid is produced from every litre of absolute ethyl alcohol used.

Deemed taken for use if deficiency

(2) If a licensed user uses alcohol to produce vinegar and less than 0.5 kg of acetic acid is produced from every litre of absolute ethyl alcohol used, the licensed user is deemed to have taken for use, at the time the vinegar is produced, the number of litres of that alcohol that is equivalent to the number determined by the formula

$$A - (2 \times B)$$

where

A is the number of litres of absolute ethyl alcohol used, and

B is the number of kilograms of acetic acid produced.

Duty not
payable –
packaged
alcohol

147. (1) Duty is not payable on non-duty-paid packaged alcohol, other than alcohol contained in a marked special container, that is removed from an excise warehouse

(a) for delivery

(i) to an accredited representative for their personal or official use,

(ii) to a duty free shop for sale in accordance with the *Customs Act*,

(iii) to a registered user for use in accordance with their registration, or

(iv) as ships' stores in accordance with the *Ships' Stores Regulations*; or

(b) for export by the excise warehouse licensee in accordance with this Act.

Duty not
payable –
special
container of
spirits

(2) Duty is not payable on spirits contained in a marked special container that is removed from an excise warehouse

(a) for delivery to a registered user for use in accordance with their registration, if the container is marked for delivery to and use by a registered user; or

(b) for export by the excise warehouse licensee in accordance with this Act, if the container was imported.

Duty not payable - special container of wine

(3) Duty is not payable on wine imported in a marked special container that is removed from an excise warehouse for export by the excise warehouse licensee in accordance with this Act.

Determining Volume of Alcohol

Volume of alcohol

148. (1) The volume and absolute ethyl alcohol content of alcohol shall be determined in a manner specified by the Minister using approved instruments.

Approval of instrument

(2) The Minister may examine and approve an instrument or a class, type or design of instruments for the measurement of the volume and absolute ethyl alcohol content of alcohol.

Re-examination

(3) The Minister may direct in writing that any instrument previously examined and approved, or of a class, type or design previously examined and approved, by the Minister be submitted to the Minister for re-examination and, if the Minister so directs, the person who has the custody and control of the instrument shall immediately submit it to the Minister for re-examination.

Revocation of approval

(4) After re-examining an instrument, the Minister may, in writing, revoke the Minister's approval of that instrument or instruments of the same class, type or design as that instrument.

Indicating instrument is approved

(5) Every approved instrument the approval of which has not been revoked shall indicate the approval in a manner acceptable to the Minister.

Excise Warehouses

Restriction –
entering into
warehouse

149. No person shall enter non-duty-paid packaged alcohol into an excise warehouse except in accordance with this Act.

Import by
warehouse
licensee

150. (1) If imported packaged alcohol is, without the payment of duty, released under the *Customs Act* to the excise warehouse licensee who imported it, the licensee shall immediately enter it into the excise warehouse of the licensee.

Import by
licensed user

(2) If imported packaged alcohol is, without the payment of duty, released under the *Customs Act* to the licensed user who imported it, the licensed user shall immediately enter it into the specified premises of the licensed user.

Restriction on
removal

151. (1) No person shall remove non-duty-paid packaged alcohol from an excise warehouse.

Exception

(2) Subject to the regulations, a person may remove from an excise warehouse

(a) non-duty-paid packaged alcohol, other than alcohol in a marked special container, for

(i) entry into the duty-paid market,

(ii) delivery to another excise warehouse,

(iii) delivery to an accredited representative for their personal or official use,

(iv) delivery as ships' stores, in accordance with the *Ships' Stores Regulations*,

(v) delivery to a duty free shop for sale in accordance with the *Customs Act* to persons who are about to leave Canada,

(vi) delivery to a licensed user,

(vii) delivery to a registered user for use in accordance with their registration, or

(viii) export;

(b) a non-duty-paid marked special container of wine for

(i) delivery to another excise warehouse, or

(ii) entry into the duty-paid market for delivery to a bottle-your-own premises;

(c) a non-duty-paid marked special container of spirits for

(i) delivery to another excise warehouse,

(ii) if the container is marked for delivery to and use by a registered user, delivery to a registered user for use in accordance with their registration, or

(iii) if the container is marked for delivery to and use at a bottle-your-own premises, entry into the duty-paid market for delivery to a bottle-your-own premises; or

(d) an imported non-duty-paid marked special container of alcohol, for export.

Return of duty-
paid alcohol

152. If packaged alcohol that has been removed from an excise warehouse for entry into the duty-paid market is returned to that warehouse under prescribed conditions, the alcohol may be entered into the warehouse as non-duty-paid packaged alcohol.

Return of
non-duty-paid
alcohol

153. If non-duty-paid packaged alcohol that has been removed from an excise warehouse in accordance with section 147 is returned to an excise warehouse under prescribed conditions, the alcohol may be entered into the warehouse as non-duty-paid packaged alcohol.

Supplying
packaged
alcohol to
retail store

154. (1) Subject to subsections (2) and 155(1), an excise warehouse licensee shall not, during a calendar year, supply from a particular premises specified in the excise warehouse licence of the licensee to a retail store more than 30% of the total volume of packaged alcohol supplied from those premises to all retail stores during the year.

Exception for
certain retail
stores

(2) An excise warehouse licensee who is an alcohol licensee may supply from the particular premises to a retail store of the licensee more than 30% of that total volume if

(a) the store is located at a place at which the licensee produces or packages alcohol; and

(b) not less than 90% of the volume of packaged alcohol supplied to the store from the particular premises in the year consists of alcohol that was packaged by, or, if the licensee was responsible for the alcohol immediately before it was packaged, on behalf of, the licensee.

Exception for
remote stores

155. (1) On application in the prescribed form and manner by an excise warehouse licensee who is a liquor authority or a non-retailer of alcohol, the Minister may authorize the licensee to supply during a calendar year from a particular premises specified in their excise warehouse licence to a retail store more than 30% of the total volume of packaged alcohol to be supplied from the premises to all retail stores during the year if the Minister is satisfied that the delivery of packaged alcohol by railway, truck or water vessel to the store is not possible for five consecutive months in every year.

Revocation

(2) The Minister may revoke an authorization under subsection (1) if

(a) the licensee makes a written request to the Minister to revoke the authorization;

(b) the licensee fails to comply with any condition imposed in respect of the authorization or any provision of this Act;

(c) the Minister is no longer satisfied that the requirements of subsection (1) are met; or

(d) the Minister considers that the authorization is no longer required.

Notice of
revocation

(3) If the Minister revokes an authorization of a licensee, the Minister shall notify the licensee in writing of the revocation and its effective date.

Removal of
special
container

156. An alcohol licensee who has marked a special container of alcohol may remove the container from their excise warehouse to return it to the bulk alcohol inventory of the licensee if the marking on the container is removed by the licensee in the manner approved by the Minister.

Removal of
packaged wine
from excise
warehouse

157. A wine licensee may remove non-duty-paid packaged wine from their excise warehouse to return it to the bulk wine inventory of the licensee.

Removal of
packaged
spirits from
excise
warehouse

158. A spirits licensee may remove non-duty-paid packaged spirits from their excise warehouse to return them to the bulk spirits inventory of the licensee.

PART 5

GENERAL PROVISIONS CONCERNING DUTY AND OTHER AMOUNTS PAYABLE

Fiscal Month

Determination
of fiscal
months

159. (1) The fiscal months of a person shall be determined in accordance with the following rules:

(a) if fiscal months of the person have been determined under subsection 243(2) or (4) of the *Excise Tax Act* for the purposes of Part IX of that Act, each of those fiscal months is a fiscal month of the person for the purposes of this Act;

(b) if fiscal months of the person have not been determined under subsection 243(2) or (4) of the *Excise Tax Act* for the purposes of Part IX of that Act, the person may select for the purposes of this Act fiscal months that meet the requirements set out in that subsection 243(2); and

(c) if neither paragraph (a) nor paragraph (b) applies, each calendar month is a fiscal month of the person for the purposes of this Act.

Notification of
Minister

(2) Every person who is required to file a return shall notify the Minister of their fiscal months in the prescribed form and manner.

Returns and Payment of Duty and Other Amounts

Filing by
licensee

160. (1) Every person who is licensed under this Act shall, not later than the last day of the first month after each fiscal month of the person,

(a) file a return with the Minister, in the prescribed form and manner, for that fiscal month;

(b) calculate, in the return, the total amount of the duty payable, if any, by the person for that fiscal month; and

(c) pay that amount to the Receiver General.

Exception -
licensed
tobacco dealers

(2) Subsection (1) does not apply to licensed tobacco dealers.

Filing by other
persons

161. Every person who is not licensed under this Act and who is required to pay duty under this Act shall, not later than the last day of the first month after the fiscal month of the person in which the duty became payable,

(a) file a return with the Minister, in the prescribed form and manner, for that fiscal month;

(b) calculate, in the return, the total amount of the duty payable by the person for that fiscal month; and

(c) pay that amount to the Receiver General.

Set-off of
refunds

162. If, at any time, a person files a return in which the person reports an amount that is required to be paid under this Act by them and the person claims a refund payable to them at that time, in the return or in another return, or in a separate application filed under this Act with the return, the person is deemed to have paid at that time, and the Minister is deemed to have refunded at that time, an amount equal to the lesser of the amount required to be paid and the amount of the refund.

Large payments

163. Every person who is required under this Act to pay any duty, interest or other amount to the Receiver General shall, if the amount is \$50,000 or more, make the payment to the account of the Receiver General at

(a) a bank;

(b) an authorized foreign bank, as defined in section 2 of the *Bank Act*, that is not subject to the restrictions and requirements referred to in subsection 524(2) of that Act;

(c) a credit union;

(d) a corporation authorized under the laws of Canada or a province to carry on the business of offering its services as a trustee to the public; or

(e) a corporation authorized under the laws of Canada or a province to accept deposits from the public and that carries on the business of lending money on the security of real property or immovables or investing in mortgages on real property or hypothecs on immovables.

Authority for
separate
returns

164. (1) A licensee who engages in one or more activities in separate branches or divisions may file an application, in the prescribed form and manner, with the Minister for authority to file separate returns and applications for refunds under this Act in respect of a branch or division specified in the application.

Authorization
by Minister

(2) On receipt of the application, the Minister may, in writing, authorize the licensee to file separate returns and applications for refunds in relation to the specified branch or division, subject to any conditions that the Minister may at any time impose, if the Minister is satisfied that

(a) the branch or division can be separately identified by reference to the location of the branch or division or the nature of the activities engaged in by it; and

(b) separate records, books of account and accounting systems are maintained in respect of the branch or division.

Revocation of
authorization

(3) The Minister may revoke an authorization if

(a) the licensee, in writing, requests the Minister to revoke the authorization;

(b) the licensee fails to comply with any condition imposed in respect of the authorization or any provision of this Act;

(c) the Minister is no longer satisfied that the requirements of subsection (2) in respect of the licensee are met; or

(d) the Minister considers that the authorization is no longer required.

Notice of
revocation

(4) If the Minister revokes an authorization, the Minister shall send a notice in writing of the revocation to the licensee and shall specify in the notice the effective date of the revocation.

Small amounts
owing

165. (1) If, at any time, the total of all unpaid amounts owing by a person to the Receiver General under this Act does not exceed a prescribed amount, the amount owing by the person is deemed to be nil.

Small amounts
payable

(2) If, at any time, the total of all amounts payable by the Minister to a person under this Act does not exceed a prescribed amount, the Minister is not required to pay any of the amounts payable. The Minister may apply those amounts against a liability of the person.

Meaning of
"electronic
filing"

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

Filing of
return by
electronic
filing

(2) A person who is required to file with the Minister a return under this Act, and who meets the criteria specified in writing by the Minister for the purposes of this section, may file the return by way of electronic filing.

Deemed filing

(3) For the purposes of this Act, if a person files a return by way of electronic filing, it is deemed to be a return in the

prescribed form filed with the Minister on the day the Minister acknowledges acceptance of it.

Execution of
returns, etc.

167. A return, other than a return filed by way of electronic filing under section 166, a certificate or other document made by a person, other than an individual, under this Act shall be signed on behalf of the person by an individual duly authorized to do so by the person or the governing body of the person. If the person is a corporation or an association or organization that has duly elected or appointed officers, the president, vice-president, secretary and treasurer, or other equivalent officers, of the corporation, association or organization, are deemed to be so duly authorized.

Extension of
time

168. (1) At any time, the Minister may, in writing, extend the time limited under this Act for a person to file a return or provide information.

Effect of
extension

(2) If the Minister extends the time under subsection (1),

(a) the return shall be filed, or the information shall be provided, within the time so extended;

(b) any duty payable that the person is required to report in the return shall be paid within the time so extended; and

(c) interest is payable under section 170 as if the time had not been extended.

Demand for
return

169. The Minister may, on demand served personally or by registered or certified mail, require any person to file, within any reasonable time that may be stipulated in the demand, a return under this Act for any period that may be designated in the demand.

Interest

Compound
interest on
amounts not
paid when
required

170. (1) If a person fails to pay an amount to the Receiver General as and when required under this Act, the person shall pay to the Receiver General interest on the amount. The interest shall be compounded daily at the prescribed rate and computed for the period beginning on the first day after the day on which the amount was required to be paid and ending on the day the amount is paid.

Payment of
interest that
is compounded

(2) For the purposes of subsection (1), interest that is compounded on a particular day on an unpaid amount of a person is deemed to be required to be paid by the person to the Receiver General at the end of the particular day, and, if the person has not paid the interest so computed by the end of the day after the particular day, the interest shall be added to the unpaid amount at the end of the particular day.

Minister may
issue notice

(3) The Minister may serve or send to a person who is required under this Act to pay an amount that may consist of principal and interest a notice specifying the amount owed by the person and a date by which the payment must be made.

Effect of
notice

(4) If the person to whom a notice referred to in subsection (3) is served or sent pays in full the specified amount within the specified time, interest is not payable, despite subsection (1), on the amount for the period beginning on the date of the notice and ending on the day on which the amount is paid.

Minimal
interest
amounts

(5) If at any time a person has paid all amounts, other than interest, owed to Her Majesty under this Act and, immediately

before that time, the total amount of interest owed by the person under this Act is less than the prescribed amount, the Minister may write off and cancel the interest owed.

Compound
interest on
amounts owed by
Her Majesty

171. Interest shall be compounded daily at the prescribed rate on amounts owed by Her Majesty to a person and computed for the period beginning on the first day after the day on which the amount is required to be paid by Her Majesty and ending on the day on which the amount is paid or is applied against an amount owed by the person to Her Majesty.

Application of
interest
provisions if
Act amended

172. For greater certainty, if a provision of an Act amends this Act and provides that the amendment comes into force on, or applies as of, a particular day that is before the day on which the provision is assented to, the provisions of this Act that relate to the calculation and payment of interest apply in respect of the amendment as though the provision had been assented to on the particular day.

Waiving or
reducing
interest

173. The Minister may at any time waive or reduce any interest payable by a person under this Act.

Refunds

Statutory
recovery rights

174. Except as specifically provided under this Act, the *Customs Act*, the *Customs Tariff* or the *Financial Administration Act*, no person has a right to recover any money paid to Her Majesty as or on account of, or that has been taken into account by Her Majesty as, duty, interest or other amount payable under this Act.

Applications
for refunds

175. (1) An application for a refund under this Act shall be filed with the Minister in the prescribed form and manner.

Single
application

(2) Only one application may be made under this Act for a refund with respect to any matter.

Payment if
error

176. (1) If a person has paid an amount as or on account of, or that was taken into account as, duty, interest or other amount payable under this Act in circumstances in which the amount was not payable by the person, whether the amount was paid by mistake or otherwise, the Minister shall pay a refund of that amount to the person.

Restriction

(2) A refund in respect of an amount shall not be paid to a person to the extent that

(a) the amount was taken into account as duty for a fiscal month of the person and the Minister has assessed the person for the month under section 188; or

(b) the amount paid was duty, interest or other amount assessed under that section.

Application for
refund

(3) A refund of an amount shall not be paid to a person unless the person files an application for the refund within two years after the person paid the amount.

Restriction on
refunds, etc.

177. A refund or a payment of an amount under this Act shall not be paid to a person to the extent that it can reasonably be regarded that

(a) the amount has previously been refunded, remitted, applied or paid to that person under this or any other Act of Parliament; or

(b) the person has applied for a refund, payment or remission of the amount under any other Act of Parliament.

Restriction re
trustees

178. If a trustee is appointed under the *Bankruptcy and Insolvency Act* to act in the administration of the estate of a bankrupt, a refund or any other payment under this Act that the bankrupt was entitled to claim before the appointment shall not be paid after the appointment unless all returns required under this Act to be filed for fiscal months of the bankrupt ending before the appointment have been filed and all amounts required under this Act to be paid by the bankrupt in respect of those fiscal months have been paid.

Overpayment of
refunds, etc.

179. (1) If an amount is paid to, or applied to a liability of, a person as a refund or other payment under this Act and the person is not entitled to the amount or the amount paid or applied exceeds the refund or other payment to which the person is entitled, the person shall pay to the Receiver General an amount equal to the refund, payment or excess on the day the amount is paid to, or applied to a liability of, the person.

Effect of
reduction of
refund, etc.

(2) For the purposes of subsection (1), if a refund or other payment has been paid to a person in excess of the amount to which the person was entitled and the amount of the excess has, by reason of section 177, reduced the amount of any other refund or other payment to which the person would, but for the payment of the excess, be entitled, the person is deemed to have paid the amount of the reduction to the Receiver General.

No refund on
exported
tobacco
products or
alcohol

180. Subject to this Act, the duty paid on any tobacco product or alcohol entered into the duty-paid market shall not be refunded on the exportation of the tobacco product or alcohol.

Re-worked or
destroyed
tobacco
products

181. The Minister may refund to a tobacco licensee the duty paid on a tobacco product that is re-worked or destroyed by the tobacco licensee in accordance with section 41 if the licensee applies for the refund within two years after the tobacco product is re-worked or destroyed.

Refund of tax
to importer if
foreign taxes
paid

182. (1) The Minister may refund, to a person who has imported into a foreign country a tobacco product (as defined in section 55) that was manufactured in Canada and exported by the tobacco licensee who manufactured it to the foreign country in accordance with paragraph 50(4)(a), an amount determined in accordance with subsection (2) in respect of the product if

(a) the person provides evidence satisfactory to the Minister that

(i) all taxes and duties imposed on the product under the laws of the foreign country having national application have been paid, and

(ii) the container containing the product has printed on it or affixed to it tobacco markings; and

(b) the person applies to the Minister for the refund within two years after the product was exported to the foreign country.

Determination
of refund

(2) The amount of the refund under subsection (1) is equal to the lesser of

(a) the total of the taxes and duties referred to in subparagraph (1)(a)(i) that are paid in respect of the tobacco product, and

(b) the amount of the special duty imposed under paragraph 56(1)(a) in respect of the product that is paid by the tobacco licensee who manufactured it.

Overpayment of
refund or
interest

(3) If an amount has been paid to a person as a refund in respect of a tobacco product exported by the tobacco licensee who manufactured it or as interest in respect of such a refund and a special duty under paragraph 56(1)(b) was imposed in respect of the product, the amount is deemed to be duty payable under this Act by the licensee that became payable during the fiscal month of the licensee in which the amount was paid to the person.

Refund of
special duty to
tobacco
licensee if
foreign taxes
paid

(4) If a refund under subsection (1) has been paid in respect of an exported tobacco product, the Minister may refund to the tobacco licensee who manufactured the product the amount, if any, by which the special duty imposed under paragraph 56(1)(a) in respect of the product and paid by the licensee exceeds the amount of the refund under subsection (1) if the licensee applies to the Minister for the refund under this subsection within two years after the product was exported.

Refund of
special duty to
duty free shop
licensee

183. (1) If a duty free shop licensee who holds a licence issued under section 22 sells, in accordance with the *Customs Act*, imported manufactured tobacco to an individual who is not a resident of Canada and who is about to depart Canada, the Minister may refund to the licensee the special duty paid under section 53 in respect of that portion of the total quantity of the tobacco exported by the individual on their departure that does not exceed

(a) in the case of cigarettes, 200 cigarettes;

(b) in the case of tobacco sticks, 200 sticks; and

(c) in the case of manufactured tobacco other than cigarettes and tobacco sticks, 200 g.

Application

(2) No refund shall be paid to a duty free shop licensee in respect of a sale of imported manufactured tobacco unless the licensee applies to the Minister for the refund within two years after the sale.

Payment if bad
debt

184. (1) If an *ad valorem* duty under section 43 has been paid by a tobacco licensee in respect of an arm's length sale of cigars and the licensee has established that any debt owing to the licensee in respect of the sale has become in whole or in part a bad debt and has accordingly written off all or part of the debt as a bad debt in the licensee's books of account, an amount equal to the proportion of the amount of that duty that the amount of the debt written off is of the price for which the cigars were sold may, subject to this Act, be paid to that licensee if the licensee applies for a refund of the amount within two years after the end of the licensee's fiscal month during which the debt was so written off.

Recovery of
payment

(2) If a tobacco licensee recovers all or any part of a debt in respect of which an amount is paid to the licensee under subsection (1) (in this subsection referred to as the "refunded amount"), that licensee shall immediately pay to the Receiver General an amount equal to the proportion of the refunded amount that the amount of the debt so recovered is of the amount of the debt written off in respect of which the refunded amount was paid.

Definition of
"arm's length
sale"

(3) In this section, "arm's length sale" in respect of cigars means a sale of cigars by a tobacco licensee to a person with whom the licensee is dealing at arm's length at the time of the sale.

Refund -
imported bulk
spirits

185. (1) If imported bulk spirits on which special duty has been paid are returned by a licensed user to the spirits licensee who supplied them to the licensed user, the Minister may refund the duty to the spirits licensee who paid the duty if the licensee

applies for the refund within two years after the spirits are returned.

Refund –
packaged
imported
spirits

(2) If imported spirits that are packaged and on which special duty has been paid are returned under prescribed conditions by a licensed user to the excise warehouse of the excise warehouse licensee who supplied them to the licensed user, the Minister may refund the duty to the excise warehouse licensee who paid the duty if the excise warehouse licensee applies for the refund within two years after the spirits are returned.

Refund –
alcohol
returned to
warehouse

186. If packaged alcohol that has been removed from the excise warehouse of an excise warehouse licensee for entry into the duty-paid market is returned in accordance with section 152 to the warehouse, the Minister may refund to the licensee the duty paid on the alcohol if the licensee applies for the refund within two years after the alcohol is returned.

Refund –
alcohol in
special
container

187. If a marked special container of alcohol is returned to the excise warehouse licensee who paid duty on the alcohol, the Minister may refund to the licensee the duty on the alcohol remaining in the container when it is returned if the licensee

(a) destroys the alcohol in the manner approved by the Minister;
and

(b) applies for the refund within two years after the container is returned.

Assessments

Assessments

188. (1) The Minister may assess

(a) the duty payable by a person for a fiscal month of the person; and

(b) subject to section 190, interest and any other amount payable by a person under this Act.

Reassessment

(2) The Minister may reassess or make an additional assessment of any duty, interest or other amount that may be assessed under subsection (1).

Allowance of unclaimed amounts

(3) If, in assessing the duty, interest or other amount payable by a person for a fiscal month of the person or other amount payable by a person under this Act, the Minister determines that

(a) a refund would have been payable to the person if it had been claimed in an application under this Act filed on the particular day that is

(i) if the assessment is in respect of duty payable for the fiscal month, the day on which the return for the month was required to be filed, or

(ii) if the assessment is in respect of interest or other amount, the day on which the interest or other amount became payable by the person,

(b) the refund was not claimed by the person in an application filed before the day on which notice of the assessment is sent to the person, and

(c) the refund would be payable to the person if it were claimed in an application under this Act filed on the day on which notice of the assessment is sent to the person or would be disallowed if it were claimed in that application only because the period for claiming the refund expired before that day,

the Minister shall, unless otherwise requested by the person, apply all or part of the refund against that duty, interest or other amount that is payable as if the person had, on the particular day, paid the amount so applied on account of that duty, interest or other amount.

Application of
overpayment

(4) If, in assessing the duty payable by a person for a fiscal month of the person, the Minister determines that there is an overpayment of duty payable for the month, unless the assessment is made in the circumstances described in paragraph 191(4)(a) or (b) after the time otherwise limited for the assessment under paragraph 191(1)(a), the Minister shall, unless otherwise requested by the person,

(a) apply

(i) all or part of the overpayment

against

(ii) any amount (in this paragraph referred to as the "outstanding amount") that, on the particular day on which the person was required to file a return for the month, the person defaulted in paying under this Act and that remains unpaid on the day on which notice of the assessment is sent to the person,

as if the person had, on the particular day, paid the amount so applied on account of the outstanding amount;

(b) apply

(i) all or part of the overpayment that was not applied under paragraph (a) together with interest on the overpayment at the prescribed rate, computed for the period beginning on the day that is 30 days after the latest of

(A) the particular day,

(B) the day on which the return for the fiscal month was filed, and

(C) in the case of an overpayment that is attributable to a payment made on a day subsequent to the days referred to in clauses (A) and (B), that subsequent day,

and ending on the day on which the person defaulted in paying the outstanding amount referred to in subparagraph (ii)

against

(ii) any amount (in this paragraph referred to as the "outstanding amount") that, on a day (in this paragraph

referred to as the "later day") after the particular day, the person defaulted in paying under this Act and that remains unpaid on the day on which notice of the assessment is sent to the person,

as if the person had, on the later day, paid the amount and interest so applied on account of the outstanding amount; and

(c) refund to the person the part of the overpayment that was not applied under paragraphs (a) and (b) together with interest on the refund at the prescribed rate, computed for the period beginning on the day that is 30 days after the latest of

(i) the particular day,

(ii) the day on which the return for the fiscal month was filed, and

(iii) in the case of an overpayment that is attributable to a payment made on a day subsequent to the days referred to in subparagraphs (i) and (ii), that subsequent day,

and ending on the day on which the refund is paid to the person.

Application of payment

(5) If, in assessing the duty payable by a person for a fiscal month of the person or an amount (in this subsection referred to as the "overdue amount") payable by a person under this Act, all or part of a refund is not applied under subsection (3) against that duty payable or overdue amount, except if the assessment is made in the circumstances described in paragraph 191(4)(a) or (b) after the time otherwise limited for the assessment under paragraph 191(1)(a), the Minister shall, unless otherwise requested by the person,

(a) apply

(i) all or part of the refund that was not applied under subsection (3)

against

(ii) any other amount (in this paragraph referred to as the "outstanding amount") that, on the particular day that is

(A) if the assessment is in respect of duty payable for the fiscal month, the day on which the return for the month was required to be filed, or

(B) if the assessment is in respect of an overdue amount, the day on which the overdue amount became payable by the person,

the person defaulted in paying under this Act and that remains unpaid on the day on which notice of the assessment is sent to the person,

as if the person had, on the particular day, paid the refund so applied on account of the outstanding amount;

(b) apply

(i) all or part of the refund that was not applied under subsection (3) or paragraph (a) together with interest on the refund at the prescribed rate, computed for the period beginning on the day that is 30 days after the later of

(A) the particular day, and

(B) if the assessment is in respect of duty payable for the fiscal month, the day on which the return for the month was filed,

and ending on the day on which the person defaulted in paying the outstanding amount referred to in subparagraph (ii)

against

(ii) any amount (in this paragraph referred to as the "outstanding amount") that, on a day (in this paragraph referred to as the "later day") after the particular day, the person defaulted in paying under this Act and that remains unpaid on the day on which notice of the assessment is sent to the person,

as if the person had, on the later day, paid the refund and interest so applied on account of the outstanding amount; and

(c) refund to the person the part of the refund that was not applied under any of subsection (3) and paragraphs (a) and (b) together with interest on the refund at the prescribed rate, computed for the period beginning on the day that is 30 days after the later of

(i) the particular day, and

(ii) if the assessment is in respect of duty payable for the fiscal month, the day on which the return for the month was filed,

and ending on the day on which the refund is paid to the person.

Limitation on
refunding
overpayments

(6) An overpayment of duty payable for a fiscal month of a person and interest on the overpayment shall not be applied under paragraph (4)(b) or refunded under paragraph (4)(c) unless the person has, before the day on which notice of the assessment is sent to the person, filed all returns or other records that the person was required to file with the Minister under this Act, the *Customs Act*, the *Excise Act*, the *Excise Tax Act* and the *Income Tax Act*.

Limitation

(7) A refund or a part of the refund that was not applied under subsection (3) and interest on the refund under paragraphs (5)(b) and (c)

(a) shall not be applied under paragraph (5)(b) against an amount (in this paragraph referred to as the "outstanding amount") that is payable by a person unless the refund would have been payable to the person as a refund if the person had claimed it in an application under this Act filed on the day on which the person defaulted in paying the outstanding amount and, in the case of a payment under section 176, if that section allowed the person to claim the payment within four years after the person paid the amount in respect of which the payment would be so payable; and

(b) shall not be refunded under paragraph (5)(c) unless

(i) the refund would have been payable to the person as a refund if the person had claimed it in an application under this Act filed on the day on which notice of the assessment is sent to the person, and

(ii) the person has filed all returns or other records that the person was required to file with the Minister under this Act, the *Customs Act*, the *Excise Act*, the *Excise Tax Act* and the *Income Tax Act* before the day on which notice of the assessment is sent to the person.

Deemed claim or
application

(8) If, in assessing any duty, interest or other amount payable by a person under this Act, the Minister applies or refunds an amount under subsection (3), (4) or (5),

(a) the person is deemed to have claimed the amount in a return or application filed under this Act; and

(b) to the extent that an amount is applied against any duty, interest or other amount payable by the person, the Minister is deemed to have refunded or paid the amount to the person and the person is deemed to have paid the duty, interest or other amount payable against which it was applied.

Refund on
reassessment

(9) If a person has paid an amount on account of any duty, interest or other amount assessed under this section in respect of a fiscal month and the amount paid exceeds the amount determined on reassessment to have been payable by the person, the Minister may refund to the person the amount of the excess, together with interest on the excess amount at the prescribed rate for the period that

(a) begins on the day that is 30 days after the latest of

(i) the day on which the person was required to file a return for the month,

(ii) the day on which the person filed a return for the month, and

(iii) the day on which the amount was paid by the person; and

(b) ends on the day on which the refund is paid.

Meaning of
"overpayment of
duty payable"

(10) In this section, "overpayment of duty payable" of a person for a fiscal month of the person means the amount, if any, by which the total of all amounts paid by the person on account of duty payable for the month exceeds the total of

(a) the duty payable for the month, and

(b) all amounts paid to the person under this Act as a refund for the month.

Assessment of
refund

189. (1) On receipt of an application made by a person for a refund under this Act, the Minister shall, without delay, consider the application and assess the amount of the refund, if any, payable to the person.

Reassessment

(2) The Minister may reassess or make an additional assessment of the amount of a refund despite any previous assessment of the amount of the refund.

Payment

(3) If on assessment under this section the Minister determines that a refund is payable to a person, the Minister shall pay the refund to the person.

Restriction

(4) A refund shall not be paid until the person has filed with the Minister all returns or other records that are required to be filed under this Act, the *Customs Act*, the *Excise Act*, the *Excise Tax Act* and the *Income Tax Act*.

Interest

(5) If a refund is paid to a person, the Minister shall pay interest at the prescribed rate to the person on the refund for the period beginning on the day that is 30 days after the day on which the application for the refund is filed with the Minister and ending on the day on which the refund is paid.

No assessment
for penalty

190. No assessment shall be made for any penalty imposed under section 254.

Limitation
period for
assessments

191. (1) Subject to subsections (3) to (7), no assessment shall be made for any duty, interest or other amount payable under this Act

(a) in the case of an assessment of the duty payable for a fiscal month, more than four years after the later of the day on which the return for the month was required to be filed and the day on which the return was filed;

(b) in the case of an assessment for any other amount payable under this Act, more than four years after the amount became payable; or

(c) in the case of an assessment for an amount for which a trustee in bankruptcy became liable under section 212, after the earlier of

(i) the day that is 90 days after the return on which the assessment is based is filed with, or other evidence of the facts on which the assessment is based comes to the attention of, the Minister, and

(ii) the expiry of the period referred to in paragraph (a) or (b), whichever applies in the circumstances.

Limitation re
refund
assessment

(2) Subject to subsections (3) to (7), an assessment of the amount of a refund or any other payment that may be obtained under this Act may be made at any time but a reassessment or additional assessment of an amount paid or applied as a refund under this Act or of an amount paid as interest in respect of an amount paid or applied as a refund under this Act shall not be made more than four years after the application for the amount was filed in accordance with this Act.

Exception

(3) Subsections (1) and (2) do not apply to a reassessment of a person made

(a) to give effect to a decision on an objection or appeal; or

(b) with the consent in writing of the person to dispose of an appeal.

No limitation
on assessment
if fraud, etc.

(4) An assessment in respect of any matter may be made at any time if the person to be assessed has, in respect of that matter,

(a) made a misrepresentation that is attributable to their neglect, carelessness or wilful default;

(b) committed fraud

(i) in making or filing a return under this Act,

(ii) in making or filing an application for a refund under this Act, or

(iii) in supplying or failing to supply any information under this Act; or

(c) filed a waiver under subsection (8) that is in effect at that time.

No limitation
if payment for
another fiscal
month

(5) If, in making an assessment, the Minister determines that a person has paid in respect of any matter an amount as or on account of duty payable for a fiscal month of the person that was payable for another fiscal month of the person, the Minister may at any time make an assessment for that other month in respect of that matter.

Reduction of
duty - fiscal
month

(6) If the result of a reassessment on an objection to, or a decision on an appeal from, an assessment is to reduce the amount of duty payable by a person and, by reason of the reduction, any refund or other payment claimed by the person for a fiscal month, or in an application for a refund or other payment, should be decreased, the Minister may at any time assess or reassess that fiscal month or that application only for the purpose of taking the reduction of duty into account in respect of the refund or other payment.

Alternative
argument in
support of
assessment

(7) The Minister may advance an alternative argument in support of an assessment of a person at any time after the period otherwise

limited by subsection (1) or (2) for making the assessment unless on an appeal under this Act

(a) there is relevant evidence that the person is no longer able to adduce without the leave of the court; and

(b) it is not appropriate in the circumstances for the court to order that the evidence be adduced.

Waiver

(8) Any person may, within the time otherwise limited by subsection (1) or (2) for an assessment, waive the application of subsection (1) or (2) by filing with the Minister a waiver in the prescribed form and manner specifying the matter in respect of which the person waives the application of that subsection.

Revoking waiver

(9) Any person who files a waiver under subsection (8) may revoke it on six months notice to the Minister by filing with the Minister a notice of revocation of the waiver in the prescribed form and manner.

Minister not bound

192. (1) The Minister is not bound by any return, application or information provided by or on behalf of a person and may make an assessment despite any return, application or information provided or not provided.

Liability not affected

(2) Liability to pay any duty, interest or other amount is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

Binding effect

—

unincorporated body

(3) If a person (referred to in this subsection as the "body") that is not an individual or a corporation is assessed in respect of any matter,

(a) the assessment is not invalid only because one or more other persons (each of which is referred to in this subsection as a

"representative") who are liable for obligations of the body did not receive a notice of the assessment;

(b) the assessment is binding on each representative of the body, subject to a reassessment of the body and the rights of the body to object to or appeal from the assessment under this Act; and

(c) an assessment of a representative in respect of the same matter is binding on the representative, subject only to a reassessment of the representative and the rights of the representative to object to or appeal from the assessment of the representative under this Act on the grounds that the representative is not a person who is liable to pay an amount to which the assessment of the body relates, the body has been reassessed in respect of that matter or the assessment of the body in respect of that matter has been vacated.

Assessment
deemed valid

(4) Subject to being reassessed or vacated as a result of an objection or appeal under this Act, an assessment is deemed to be valid and binding despite any error, defect or omission in the assessment or in any proceeding under this Act relating to it.

Irregularities

(5) An appeal from an assessment shall not be allowed by reason only of an irregularity, informality, omission or error on the part of any person in the observation of a directory provision of this Act.

Notice of
assessment

193. (1) After making an assessment, the Minister shall send to the person assessed a notice of the assessment.

Scope of notice

(2) A notice of assessment may include assessments in respect of any number or combination of fiscal months, refunds or amounts payable under this Act.

Assessment
payable

194. Any amount assessed by the Minister is payable by the person assessed as of the date of the assessment.

Objections to Assessment

Objection to
assessment

195. (1) Any person who has been assessed and who objects to the assessment may, within 90 days after the date of the notice of the assessment, file with the Minister a notice of objection in the prescribed form and manner setting out the reasons for the objection and all relevant facts.

Issue to be
decided

(2) A notice of objection shall

(a) reasonably describe each issue to be decided;

(b) specify in respect of each issue the relief sought, expressed as the change in any amount that is relevant for the purposes of the assessment; and

(c) provide the facts and reasons relied on by the person in respect of each issue.

Late compliance

(3) Despite subsection (2), if a notice of objection does not include the information required under paragraph (2)(b) or (c) in respect of an issue to be decided that is described in the notice, the Minister may, in writing, request the person to provide the information, and that paragraph is deemed to be complied with in respect of the issue if, within 60 days after the request is made, the person submits the information in writing to the Minister.

Limitation on
objections

(4) Despite subsection (1), if a person has filed a notice of objection to an assessment (in this subsection referred to as the "earlier assessment") and the Minister makes a particular assessment under subsection (8) as a result of the notice of objection, unless the earlier assessment was made in accordance with an order of a court vacating, varying or restoring an assessment or referring an assessment back to the Minister for reconsideration and reassessment, the person may object to the particular assessment in respect of an issue

(a) only if the person complied with subsection (2) in the notice with respect to that issue; and

(b) only with respect to the relief sought in respect of that issue as specified by the person in the notice.

Application of
subsection (4)

(5) If a person has filed a notice of objection to an assessment (in this subsection referred to as the "earlier assessment") and the Minister makes a particular assessment under subsection (8) as a result of the notice of objection, subsection (4) does not limit the right of the person to object to the particular assessment in respect of an issue that was part of the particular assessment and not part of the earlier assessment.

Limitation on
objections

(6) Despite subsection (1), no objection may be made by a person in respect of an issue for which the right of objection has been waived in writing by the person.

Acceptance of
objection

(7) The Minister may accept a notice of objection even though it was not filed in the prescribed form and manner.

Consideration
of objection

(8) On receipt of a notice of objection, the Minister shall, without delay, reconsider the assessment and vacate or confirm it or make a reassessment.

Waiving
reconsideration

(9) If, in a notice of objection, a person who wishes to appeal directly to the Tax Court requests the Minister not to reconsider the assessment objected to, the Minister may confirm the assessment without reconsideration.

Notice of
decision

(10) After reconsidering an assessment under subsection (8) or confirming an assessment under subsection (9), the Minister shall send notice of the Minister's decision by registered or certified mail to the person objecting.

Extension of
time by
Minister

196. (1) If no objection to an assessment is filed under section 195 within the time limited under this Act, a person may make an application to the Minister to extend the time for filing a notice of objection and the Minister may grant the application.

Contents of
application

(2) An application must set out the reasons why the notice of objection was not filed within the time limited under this Act for doing so.

How application
made

(3) An application must be made by delivering or mailing to the Chief of Appeals in a Tax Services Office or Taxation Centre of the Agency the application accompanied by a copy of the notice of objection.

Defect in
application

(4) The Minister may accept an application even though it was not made in accordance with subsection (3).

Duties of
Minister

(5) On receipt of an application, the Minister shall, without delay, consider the application and grant or refuse it, and shall notify the person of the decision by registered or certified mail.

Date of
objection if
application
granted

(6) If an application is granted, the notice of objection is deemed to have been filed on the day of the decision of the Minister.

Conditions -
grant of
application

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

(a) the application is made within one year after the expiry of the time limited under this Act for objecting; and

(b) the person demonstrates that

(i) within the time limited under this Act for objecting, the person

(A) was unable to act or to give a mandate to act in their name, and

(B) had a *bona fide* intention to object to the assessment,

(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 it to be made.

Appeal

Extension of
time by Tax
Court

197. (1) A person who has made an application under section 196 may apply to the Tax Court to have the application granted after either

(a) the Minister has refused the application; or

(b) 90 days have elapsed after the application was made and the Minister has not notified the person of the Minister's decision.

When
application may
not be made

(2) No application may be made after the expiry of 30 days after the decision referred to in subsection 196(5) was mailed to the person.

How application
made

(3) An application must be made by filing in the Registry of the Tax Court, in accordance with the *Tax Court of Canada Act*, three copies of the documents delivered or mailed under subsection 196(3).

Copy to the
Commissioner

(4) The Tax Court must send a copy of the application to the Commissioner.

Powers of Court

(5) The Tax Court may dispose of an application by dismissing or granting it and, in granting it, the Court may impose any terms that it considers just or order that the notice of objection be deemed to be a valid objection as of the date of the order.

When
application to
be granted

(6) No application shall be granted under this section unless

(a) the application under subsection 196(1) was made within one year after the expiry of the time limited under this Act for objecting; and

(b) the person demonstrates that

(i) within the time limited under this Act for objecting, the person

(A) was unable to act or to give a mandate to act in their name, and

(B) had a *bona fide* intention to object to the assessment,

(ii) given the reasons set out in the application under this section and the circumstances of the case, it would be just and equitable to grant the application, and

(iii) the application under subsection 196(1) was made as soon as circumstances permitted it to be made.

Appeal to Tax
Court

198. (1) Subject to subsection (2), a person who has filed a notice of objection to an assessment may appeal to the Tax Court to have the assessment vacated or a reassessment made after

(a) the Minister has confirmed the assessment or has reassessed;
or

(b) 180 days have elapsed after the filing of the notice of objection and the Minister has not notified the person that the Minister has vacated or confirmed the assessment or has reassessed.

No appeal

(2) No appeal under subsection (1) may be instituted after the expiry of 90 days after notice that the Minister has reassessed or confirmed the assessment is sent to the person under subsection 195(10).

Amendment of
appeal

(3) The Tax Court may, on any terms that it sees fit, authorize a person who has instituted an appeal in respect of a matter to amend the appeal to include any further assessment in respect of the matter that the person is entitled under this section to appeal.

Extension of
time to appeal

199. (1) If no appeal to the Tax Court under section 198 has been instituted within the time limited by that section for doing so, a person may make an application to the Tax Court for an order extending the time within which an appeal may be instituted, and the Court may make an order extending the time for appealing and may impose any terms that it considers just.

Contents of
application

(2) An application must set out the reasons why the appeal was not instituted within the time limited under section 198 for doing so.

How application
made

(3) An application must be made by filing in the Registry of the Tax Court, in accordance with the *Tax Court of Canada Act*, three copies of the application together with three copies of the notice of appeal.

Copy to Deputy
Attorney
General of
Canada

(4) The Tax Court must send a copy of the application to the office of the Deputy Attorney General of Canada.

When order to
be made

(5) No order shall be made under this section unless

(a) the application is made within one year after the expiry of the time limited under section 198 for appealing; and

(b) the person demonstrates that

(i) within the time limited under section 198 for appealing, the person

(A) was unable to act or to give a mandate to act in their name, and

(B) had a *bona fide* intention to appeal,

(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,

(iii) the application was made as soon as circumstances permitted it to be made, and

(iv) there are reasonable grounds for appealing from the assessment.

Limitation on
appeals to the
Tax Court

200. (1) Despite section 198, if a person has filed a notice of objection to an assessment, the person may appeal to the Tax Court

to have the assessment vacated, or a reassessment made, only with respect to

(a) an issue in respect of which the person has complied with subsection 195(2) in the notice and only with respect to the relief sought in respect of the issue as specified by the person in the notice; or

(b) an issue described in subsection 195(5) if the person was not required to file a notice of objection to the assessment that gave rise to the issue.

No appeal if
waiver

(2) Despite section 198, a person may not appeal to the Tax Court to have an assessment vacated or varied in respect of an issue for which the right of objection or appeal has been waived in writing by the person.

Institution of
appeals

201. An appeal to the Tax Court under this Act shall be instituted in accordance with the *Tax Court of Canada Act*.

Notice to the
Commissioner

202. If an appeal is made to the Tax Court under section 18.3001 of the *Tax Court of Canada Act*, the Court shall immediately send a copy of the notice of appeal to the office of the Commissioner.

Disposition of
appeal

203. The Tax Court may dispose of an appeal from an assessment by

(a) dismissing it; or

(b) allowing it and

(i) vacating the assessment, or

(ii) referring the assessment back to the Minister for reconsideration and reassessment.

References to
Tax Court

204. (1) If the Minister and another person agree in writing that a question arising under this Act, in respect of any assessment or proposed assessment, should be determined by the Tax Court, that question shall be determined by that Court.

Time during
consideration
not to count

(2) For the purpose of making an assessment of a person who agreed in writing to the determination of a question, filing a notice of objection to an assessment or instituting an appeal from an assessment, the time between the day on which proceedings are instituted in the Tax Court to have a question determined and the day on which the question is finally determined shall not be counted in the computation of

(a) the four-year periods referred to in section 191;

(b) the period within which a notice of objection to an assessment may be filed under section 195; or

(c) the period within which an appeal may be instituted under section 198.

Reference of
common
questions to
Tax Court

205. (1) If the Minister is of the opinion that a question arising out of one and the same transaction or occurrence or series of transactions or occurrences is common to assessments or proposed assessments in respect of two or more persons, the Minister may apply to the Tax Court for a determination of the question.

Contents of
application

(2) An application shall set out

(a) the question in respect of which the Minister requests a determination;

(b) the names of the persons that the Minister seeks to have bound by the determination of the question; and

(c) the facts and reasons on which the Minister relies and on which the Minister based or intends to base assessments of each person named in the application.

Service

(3) A copy of the application shall be served by the Minister on each of the persons named in it and on any other person who, in the opinion of the Tax Court, is likely to be affected by the determination of the question.

Determination by Tax Court of question

(4) If the Tax Court is satisfied that a determination of a question set out in an application will affect assessments or proposed assessments in respect of two or more persons who have been served with a copy of the application and who are named in an order of the Tax Court under this subsection, it may

(a) if none of the persons so named has appealed from such an assessment, proceed to determine the question in any manner that it considers appropriate; or

(b) if one or more of the persons so named has or have appealed, make any order joining a party or parties to that or those appeals that it considers appropriate and proceed to determine the question.

Determination final and conclusive

(5) Subject to subsection (6), if a question set out in an application is determined by the Tax Court, the determination is final and conclusive for the purposes of any assessments of persons named by the Court under subsection (4).

Appeal

(6) If a question set out in an application is determined by the Tax Court, the Minister or any of the persons who have been served with a copy of the application and who are named in an order of the Court under subsection (4) may, in accordance with the provisions of this Act, the *Tax Court of Canada Act* or the *Federal Court Act*, as they relate to appeals from or applications for judicial review of decisions of the Tax Court, appeal from the determination.

Parties to
appeal

(7) The parties who are bound by a determination are parties to any appeal from the determination.

Time during
consideration
not counted

(8) For the purpose of making an assessment of the person, filing a notice of objection to an assessment or instituting an appeal from an assessment, the periods described in subsection (9) shall not be counted in the computation of

(a) the four-year periods referred to in section 191;

(b) the period within which a notice of objection to an assessment may be filed under section 195; or

(c) the period within which an appeal may be instituted under section 198.

Excluded
periods

(9) The period that is not to be counted in the computation of the periods described in paragraphs (8)(a) to (c) is the time between the day on which an application that is made under this section is served on a person under subsection (3) and

(a) in the case of a person named in an order of the Tax Court under subsection (4), the day on which the determination becomes final and conclusive and not subject to any appeal; or

(b) in the case of any other person, the day on which the person is served with notice that the person has not been named in an order of the Tax Court under subsection (4).

Records and Information

Keeping records
- general

206. (1) The following persons shall keep all records that are necessary to determine whether they have complied with this Act:

(a) every licensee or registrant;

(b) every person who is required under this Act to file a return;

(c) every person who makes an application for a refund that may be obtained under this Act; and

(d) every person who transports non-duty-paid packaged alcohol or a tobacco product that is not stamped.

Keeping records
- tobacco
growers and
provincial
tobacco
marketing
boards

(2) Every tobacco grower and every body established under provincial law for the marketing of raw leaf tobacco grown in the province shall keep records that will enable the determination of the amount of raw leaf tobacco grown, received or disposed of by them.

Minister may
specify
information

(3) The Minister may specify in writing the form a record is to take and any information that the record must contain.

Language and
location of
record

(4) Unless otherwise authorized by the Minister, a record shall be kept in Canada in English or French.

Electronic
records

(5) Every person required under this Act to keep a record who does so electronically shall ensure that all equipment and software necessary to make the record intelligible are available during the retention period required for the record.

Inadequate
records

(6) If a person fails to keep adequate records for the purposes of this Act, the Minister may, in writing, require the person to keep any records that the Minister may specify and the person shall keep the records specified by the Minister.

Period for
retention

(7) Every person who is required to keep records shall retain them until the expiry of six years after the end of the year to which they relate or for any other period that may be prescribed.

Objection or
appeal

207. (1) If a person who is required under this Act to keep records serves a notice of objection or is a party to an appeal or reference under this Act, the person shall retain every record that pertains to the subject-matter of the objection, appeal or reference until the objection, appeal or reference is finally disposed of.

Demand by
Minister

(2) If the Minister is of the opinion that it is necessary for the administration or enforcement of this Act, the Minister may, by a demand served personally or by registered or certified mail, require any person required under this Act to keep records to retain those records for any period that is specified in the demand and the person shall comply with the demand.

Permission for
earlier
disposal

(3) A person who is required under this Act to keep records may dispose of them before the expiry of the period in respect of which they are required to be kept if written permission for their disposal is given by the Minister.

Requirement to
provide records
or information

208. (1) Despite any other provision of this Act, the Minister may, subject to subsection (2), for any purpose related to the administration or enforcement of this Act, by notice served personally or by registered or certified mail, require any person to provide the Minister, within any reasonable time that is stipulated in the notice, with

(a) any information or additional information, including a return under this Act; or

(b) any record.

Unnamed persons

(2) The Minister shall not impose on any person (in this section referred to as a "third party") a requirement to provide information or any record relating to one or more unnamed persons unless the Minister first obtains the authorization of a judge under subsection (3).

Judicial authorization

(3) On *ex parte* application by the Minister, a judge may, subject to any conditions that the judge considers appropriate, authorize the Minister to impose on a third party a requirement relating to an unnamed person or more than one unnamed person (in this section referred to as the "group") if the judge is satisfied by information on oath that

(a) the person or group is ascertainable; and

(b) the requirement is made to verify compliance by the person or persons in the group with any duty or obligation under this Act.

Service of authorization

(4) If an authorization is granted, it shall be served together with the notice referred to in subsection (1).

Review of authorization

(5) If an authorization is granted, a third party on whom a notice is served may, within 15 days after the service of the notice, apply to the judge who granted the authorization or, if that judge is unable to act, to another judge of the same court for a review of the authorization.

Powers on review

(6) On hearing an application under subsection (5), a judge may

(a) cancel the authorization previously granted if the judge is not then satisfied that the conditions in paragraphs (3)(a) and (b) have been met; or

(b) confirm or vary the authorization if the judge is satisfied that those conditions have been met.

Compliance
order

209. (1) On summary application by the Minister, a judge may, despite section 224, order a person to provide any access, assistance, information or record sought by the Minister under section 208 or 260 if the judge is satisfied that

(a) the person was required under section 208 or 260 to provide the access, assistance, information or record and did not do so; and

(b) in the case of information or a record, the information or record is not protected from disclosure by solicitor-client privilege.

Notice required

(2) An application must not be heard before the end of five clear days from the time the notice of application is served on the person against whom the order is sought.

Judge may
impose
conditions

(3) The judge making an order may impose any conditions in respect of the order that the judge considers appropriate.

Contempt of
court

(4) If a person fails or refuses to comply with an order, a judge may find the person in contempt of court and the person is subject to the processes and the punishments of the court to which the judge is appointed.

Appeal

(5) An order by a judge may be appealed to a court having appellate jurisdiction over decisions of the court to which the judge is appointed. An appeal does not suspend the execution of the order unless it is so ordered by a judge of the court to which the appeal is made.

Scope of
solicitor-
client
privilege

(6) For the purposes of paragraph (1)(b), an accounting record of a legal counsel and any invoice, voucher or cheque that relates to the record is deemed not to be protected from disclosure by solicitor-client privilege.

Meaning of
"foreign-based
information or
record"

210. (1) In this section, "foreign-based information or record" means any information or record that is available or located outside Canada and that may be relevant to the administration or enforcement of this Act.

Requirement to
provide
foreign-based
information

(2) Despite any other provision of this Act, the Minister may, by notice served personally or by registered or certified mail, require a person resident in Canada or a non-resident person who carries on business in Canada to provide any foreign-based information or record.

Notice

(3) The notice shall set out

(a) a reasonable period of not less than 90 days for the provision of the information or record;

(b) a description of the information or record being sought; and

(c) the consequences under subsection (8) to the person of the failure to provide the information or record being sought within the period set out in the notice.

Review of
foreign
information
requirement

(4) The person on whom a notice of a requirement is served may, within 90 days after the service of the notice, apply to a judge for a review of the requirement.

Powers on
review

(5) On hearing an application in respect of a requirement, a judge may

(a) confirm the requirement;

(b) vary the requirement if satisfied that it is appropriate in the circumstances; or

(c) set aside the requirement if satisfied that it is unreasonable.

Requirement not
unreasonable

(6) For the purposes of subsection (5), a requirement to provide information or a record shall not be considered to be unreasonable because the information or record is under the control of or available to a non-resident person that is not controlled by the person served with the notice of the requirement if that person is related to the non-resident person.

Time during
consideration
not to count

(7) The period between the day on which an application for the review of a requirement is made and the day on which the review is decided shall not be counted in the computation of

(a) the period set out in the notice of the requirement; and

(b) the period within which an assessment may be made under section 188 or 189.

Consequence of
failure

(8) If a person fails to comply substantially with a notice served under subsection (2) and the notice is not set aside under subsection (5), any court having jurisdiction in a civil proceeding relating to the administration or enforcement of this Act shall, on the motion of the Minister, prohibit the introduction by that person of any foreign-based information or record described in that notice.

Definitions
applicable to
confidentiality
provisions

211. (1) The definitions in this subsection apply in this section.

"authorized
person"
« *personne
autorisée* »

"authorized person" means a person who is engaged or employed, or who was formerly engaged or employed, by or on behalf of Her Majesty to assist in carrying out the provisions of this Act.

"business
number"
« *numéro
d'entreprise* »

"business number" means the number (other than a Social Insurance Number) used by the Minister to identify

(a) a licensee or a registrant for the purposes of this Act; or

(b) an applicant for a refund under this Act.

"confidential
information"
« *renseignement
confidentiel* »

"confidential information" means information of any kind and in any form that relates to one or more persons and that is

(a) obtained by or on behalf of the Minister for the purposes of this Act; or

(b) prepared from information referred to in paragraph (a).

It excludes information that does not directly or indirectly reveal the identity of the person to whom it relates.

"court of
appeal"
« *cour d'appel*
»

"court of appeal" has the same meaning as in section 2 of the
Criminal Code.

"official"
« *fonctionnaire*
»

"official" means a person who is employed in the service of, who occupies a position of responsibility in the service of, or who is engaged by or on behalf of, Her Majesty or Her Majesty in right of a province, or a person who was formerly so employed, who formerly occupied such a position or who formerly was so engaged.

Provision of
information

(2) Except as authorized under this section, no official shall knowingly

(a) provide, or allow to be provided, to any person any confidential information;

(b) allow any person to have access to any confidential information; or

(c) use any confidential information other than in the course of the administration or enforcement of this Act.

Confidential
information
evidence not
compellable

(3) Despite any other Act of Parliament or other law, no official shall be required, in connection with any legal proceedings, to give or produce evidence relating to any confidential information.

Communications
if proceedings
have been
commenced

(4) Subsections (2) and (3) do not apply to

(a) criminal proceedings, either by indictment or on summary conviction, that have been commenced by the laying of an information or the preferring of an indictment, under an Act of Parliament; or

(b) any legal proceedings relating to the administration or enforcement of this Act, the *Canada Pension Plan*, the *Employment Insurance Act*, the *Unemployment Insurance Act* or any other Act of Parliament or law of a province that provides for the imposition or collection of a tax or duty.

Authorized
provision of
information

(5) The Minister may provide appropriate persons with any confidential information that may reasonably be regarded as necessary solely for a purpose relating to the life, health or safety of an individual or to the environment in Canada or any other country.

Disclosure of
personal
information

(6) An official may

(a) provide any confidential information to any person that may reasonably be regarded as necessary for the purpose of the administration or enforcement of this Act, solely for that purpose;

(b) provide a person with confidential information that can reasonably be regarded as necessary for the purposes of determining any liability or obligation of the person or any refund or other payment to which the person is or may become entitled under this Act;

(c) provide, allow to be provided, or allow inspection of or access to any confidential information to or by any person, or any person within a class of persons, that the Minister may authorize, subject to any conditions that the Minister may specify;

(d) provide any person who is legally entitled under an Act of Parliament to confidential information with, or access to, that information, solely for the purposes for which the person is entitled to the information;

(e) provide confidential information

(i) to an official of the Department of Finance solely for the purpose of the formulation or evaluation of fiscal policy,

(ii) to an official solely for the purpose of the initial implementation of a fiscal policy or for the purposes of the administration or enforcement of the *Canada Pension Plan*, the *Employment Insurance Act*, the *Unemployment Insurance Act* or an Act of Parliament that provides for the imposition or collection of a tax or duty,

(iii) to an official solely for the purposes of the administration or enforcement of a law of a province that provides for the imposition or collection of a tax or duty,

(iv) to an official of the government of a province solely for the purpose of the formulation or evaluation of fiscal policy,

(v) to an official of a department or agency of the Government of Canada or of a province as to the name, address, occupation, size or type of business of a person, solely for the purpose of enabling the department or agency to obtain statistical data for research and analysis,

(vi) to an official solely for the purpose of setting off, against any sum of money that may be due or payable by Her Majesty, a debt due to

(A) Her Majesty, or

(B) Her Majesty in right of a province on account of taxes payable to the province, if an agreement exists between Canada and the province under which Canada is authorized to collect taxes on behalf of the province, or

(vii) to an official solely for the purposes of section 7.1 of the *Federal-Provincial Fiscal Arrangements Act*;

(f) provide confidential information solely for the purposes of sections 23 to 25 of the *Financial Administration Act*;

(g) use confidential information to compile information in a form that does not directly or indirectly reveal the identity of the person to whom the information relates;

(h) use, or provide any person with, confidential information solely for a purpose relating to the supervision, evaluation or discipline of an authorized person by Her Majesty in respect of a period during which the authorized person was employed by or engaged by or on behalf of Her Majesty to assist in the administration or enforcement of this Act, to the extent that the information is relevant for that purpose;

(i) use confidential information relating to a person to provide that person with information;

(j) provide the business number, name, address, telephone number and facsimile number of a holder of a business number to an official of a department or agency of the Government of Canada or of a province solely for the purposes of the administration or enforcement of an Act of Parliament or a law of a province, if the holder of the business number is required under that Act or that law to provide the information (other than the business number) to the department or agency; or

(k) provide confidential information to a police officer (within the meaning assigned by subsection 462.48(17) of the *Criminal Code*) solely for the purpose of investigating whether an offence has been committed under the *Criminal Code*, or the laying of an information or the preferring of an indictment, if

(i) the information can reasonably be regarded as being relevant for the purpose of ascertaining the circumstances in which an offence under the *Criminal Code* may have been committed, or the identity of the person or persons who may have committed an offence, with respect to an official, or with respect to any person related to that official,

(ii) the official was or is engaged in the administration or enforcement of this Act, and

(iii) the offence can reasonably be considered to be related to that administration or enforcement.

Measures to
prevent
unauthorized
use or
disclosure

(7) The person presiding at a legal proceeding relating to the supervision, evaluation or discipline of an authorized person may order any measures that are necessary to ensure that confidential information is not used or provided to any person for any purpose not relating to that proceeding, including

- (a) holding a hearing *in camera*;
- (b) banning the publication of the information;
- (c) concealing the identity of the person to whom the information relates; and
- (d) sealing the records of the proceeding.

Disclosure to
person or on
consent

- (8) An official may provide confidential information relating to a person
 - (a) to that person; and
 - (b) with the consent of that person, to any other person.

Appeal from
order or
direction

- (9) An order or direction that is made in the course of or in connection with any legal proceedings and that requires an official to give or produce evidence relating to any confidential information may, by notice served on all interested parties, be appealed immediately by the Minister or by the person against whom it is made to
 - (a) the court of appeal of the province in which it is made, in the case of an order or direction made by a court or other tribunal established under the laws of the province, whether that court or tribunal is exercising a jurisdiction conferred by the laws of Canada; or
 - (b) the Federal Court of Appeal, in the case of an order or direction made by a court or other tribunal established under the laws of Canada.

Disposition of
appeal

- (10) The court to which an appeal is taken may allow the appeal and quash the order or direction appealed from or may dismiss the appeal, and the rules of practice and procedure from time to time governing appeals to the courts shall apply, with any modifications that the circumstances require, in respect of the appeal.

Stay

(11) An appeal shall stay the operation of the order or direction appealed from until judgment is pronounced.

Bankruptcies and Corporate Reorganizations

Definitions

212. (1) The definitions in this subsection apply in this section.

"bankrupt"
« *failli* »

"bankrupt" has the same meaning as in subsection 2(1) of the *Bankruptcy and Insolvency Act*.

"business"
« *entreprise* »

"business" includes a part of a business.

"receiver"
« *séquestre* »

"receiver" means a person who

(a) under the authority of a debenture, bond or other debt security, of a court order or of an Act of Parliament or of the legislature of a province, is empowered to operate or manage a business or a property of another person;

(b) is appointed by a trustee under a trust deed in respect of a debt security to exercise the authority of the trustee to manage or operate a business or a property of the debtor under the debt security;

(c) is appointed by a bank or an authorized foreign bank, within the meaning of section 2 of the *Bank Act*, to act as an agent of the bank in the exercise of the authority of the bank under subsection 426(3) of that Act in respect of property of another person;

(d) is appointed as a liquidator to liquidate the assets of a corporation or to wind up the affairs of a corporation; or

(e) is appointed as a committee, guardian or curator with the authority to manage and care for the affairs and assets of an

individual who is incapable of managing those affairs and assets.

It includes a person who is appointed to exercise the authority of a creditor under a debenture, bond or other debt security to operate or manage a business or a property of another person, but, if a person is appointed to exercise the authority of a creditor under a debenture, bond or other debt security to operate or manage a business or a property of another person, it does not include that creditor.

"relevant
assets"
« *actif
pertinent* »

"relevant assets" of a receiver means

(a) if the receiver's authority relates to all the properties, businesses, affairs and assets of a person, all those properties, businesses, affairs and assets; and

(b) if the receiver's authority relates to only part of the properties, businesses, affairs or assets of a person, that part of the properties, businesses, affairs or assets.

"representative"
"
« *représentant*
»

"representative" means a person, other than a trustee in bankruptcy or a receiver, who is administering, winding up, controlling or otherwise dealing with any property, business or estate.

Trustee's
obligations

(2) For the purposes of this Act, if on a particular day a person becomes a bankrupt,

(a) the trustee in bankruptcy, and not the person, is liable for the payment of any duty, interest or other amount (other than an amount that relates solely to activities in which the person begins to engage on or after the particular day and to which the bankruptcy does not relate) that becomes payable by the person under this Act during the period beginning on the day immediately after the day on which the trustee became the trustee in bankruptcy of the person and ending on the day on which the

discharge of the trustee is granted under the *Bankruptcy and Insolvency Act*, except that

(i) the trustee is liable for the payment of any duty, interest or other amount that became payable by the person after the particular day in respect of fiscal months that ended on or before the particular day, or of any duty, interest or other amount that became payable by the person after the particular day, only to the extent of the property of the person in possession of the trustee available to satisfy the liability,

(ii) the trustee is not liable for the payment of any duty, interest or other amount for which a receiver is liable under subsection (3), and

(iii) the payment by the person of an amount in respect of the liability shall discharge the liability of the trustee to the extent of that amount;

(b) if, on the particular day the person is licensed or registered under this Act, the licence or registration continues in relation to the activities of the person to which the bankruptcy relates as though the trustee in bankruptcy were the licensee or registrant in respect of those activities and ceases to apply to the activities of the person in which the person begins to engage on or after the particular day and to which the bankruptcy does not relate;

(c) the fiscal month of the person begins and ends on the day on which it would have begun and ended if the bankruptcy had not occurred, except that

(i) the fiscal month of the person during which the person becomes a bankrupt shall end on the particular day and a new fiscal month of the person in relation to the activities of the person to which the bankruptcy relates shall begin on the day immediately after the particular day, and

(ii) the fiscal month of the person, in relation to the activities of the person to which the bankruptcy relates, during which the trustee in bankruptcy is discharged under the *Bankruptcy and Insolvency Act* shall end on the day on which the discharge is granted;

(d) subject to paragraph (f), the trustee in bankruptcy shall file with the Minister in the prescribed form and manner all returns in respect of the activities of the person to which the bankruptcy relates for the fiscal months of the person ending in the period beginning on the day immediately after the particular day and ending on the day on which the discharge of the trustee

is granted under the *Bankruptcy and Insolvency Act* and that are required under this Act to be filed by the person, as if those activities were the only activities of the person;

(e) subject to paragraph (f), if the person has not on or before the particular day filed a return required under this Act to be filed by the person for a fiscal month of the person ending on or before the particular day, the trustee in bankruptcy shall, unless the Minister waives in writing the requirement for the trustee to file the return, file with the Minister in the prescribed form and manner a return for that fiscal month of the person; and

(f) if there is a receiver with authority in respect of any business, property, affairs or assets of the person, the trustee in bankruptcy is not required to include in any return any information that the receiver is required under subsection (3) to include in a return.

Receiver's obligations

(3) For the purposes of this Act, if on a particular day a receiver is vested with authority to manage, operate, liquidate or wind up any business or property, or to manage and care for the affairs and assets, of a person,

(a) if the relevant assets of the receiver are a part and not all of the person's businesses, properties, affairs or assets, the relevant assets of the receiver shall be deemed to be, throughout the period during which the receiver is acting as receiver of the person, separate from the remainder of the businesses, properties, affairs or assets of the person as though the relevant assets were businesses, properties, affairs or assets, as the case may be, of a separate person;

(b) the person and the receiver are jointly and severally or solidarily liable for the payment of any duty, interest or other amount that becomes payable by the person under this Act before or during the period during which the receiver is acting as receiver of the person to the extent that the duty, interest or other amount can reasonably be considered to relate to the relevant assets of the receiver or to the businesses, properties, affairs or assets of the person that would have been the relevant assets of the receiver if the receiver had been acting as receiver of the person at the time the duty, interest or other amount became payable except that

(i) the receiver is liable for the payment of any duty, interest or other amount that became payable before that period

only to the extent of the property of the person in possession or under the control and management of the receiver after

(A) satisfying the claims of creditors whose claims ranked, on the particular day, in priority to the claim of the Crown in respect of the duty, interest or other amount, and

(B) paying any amounts that the receiver is required to pay to a trustee in bankruptcy of the person,

(ii) the person is not liable for the payment of any duty, interest or other amount payable by the receiver, and

(iii) the payment by the person or the receiver of an amount in respect of the duty, interest or other amount shall discharge the joint and several or solidary liability to the extent of that amount;

(c) the fiscal month of the person begins and ends on the day on which it would have begun and ended if the vesting had not occurred, except that

(i) the fiscal month of the person, in relation to the relevant assets of the receiver, during which the receiver begins to act as receiver of the person, shall end on the particular day and a new fiscal month of the person in relation to the relevant assets shall begin on the day immediately after the particular day, and

(ii) the fiscal month of the person, in relation to the relevant assets, during which the receiver ceases to act as receiver of the person, shall end on the day on which the receiver ceases to act as receiver of the person;

(d) the receiver shall file with the Minister in the prescribed form and manner all returns in respect of the relevant assets of the receiver for fiscal months ending in the period during which the receiver is acting as receiver and that are required under this Act to be made by the person, as if the relevant assets were the only businesses, properties, affairs and assets of the person; and

(e) if the person has not on or before the particular day filed a return required under this Act to be filed by the person for a fiscal month of the person ending on or before the particular day, the receiver shall, unless the Minister waives in writing the requirement for the receiver to file the return, file with the Minister in the prescribed form and manner a return for that fiscal month that relates to the businesses, properties, affairs or assets of the person that would have been the relevant assets

of the receiver if the receiver had been acting as receiver of the person during that fiscal month.

Certificates
for receivers
and
representatives

(4) Every receiver and representative who controls property of another person who is required to pay any duty, interest or other amount under this Act shall, before distributing the property to any person, obtain a certificate from the Minister certifying that the following amounts have been paid or that security for the payment of them has, in accordance with this Act, been accepted by the Minister:

(a) all duty, interest and other amounts that are payable by the other person under this Act in respect of the fiscal month during which the distribution is made, or any previous fiscal month; and

(b) all duty, interest and other amounts that are, or can reasonably be expected to become, payable under this Act by the representative or receiver in that capacity in respect of the fiscal month during which the distribution is made, or any previous fiscal month.

Liability for
failure to
obtain
certificate

(5) Any receiver or representative who distributes property without obtaining a certificate in respect of the duty, interest or other amounts referred to in subsection (4) is personally liable for the payment of those amounts to the extent of the value of the property so distributed.

Amalgamations

213. If two or more corporations (each of which is referred to in this section as a "predecessor") are merged or amalgamated to form one corporation (in this section referred to as the "new corporation"), the new corporation is deemed to be a separate person from each of the predecessors for the purposes of this Act except that, for prescribed purposes, the new corporation is deemed to be the same corporation as, and a continuation of, each predecessor.

PART 6

ENFORCEMENT

Offences and Punishment

Unlawful
production,
sale, etc., of
tobacco or
alcohol

214. Every person who contravenes section 25, 27, 29, 60 or 62 is guilty of an offence and liable

(a) on conviction on indictment, to a fine of not less than \$50,000 and not more than \$1,000,000 or to imprisonment for a term of not more than five years, or to both; or

(b) on summary conviction, to a fine of not less than \$10,000 and not more than \$500,000 or to imprisonment for a term of not more than 18 months, or to both.

Punishment –
section 30

215. (1) Every person who contravenes section 30 is guilty of an offence and liable

(a) on conviction on indictment, to a fine of not less than the amount determined under subsection (2) and not more than the amount determined under subsection (3) or to imprisonment for a term of not more than five years, or to both; or

(b) on summary conviction, to a fine of not less than the amount determined under subsection (2) and not more than the lesser of \$100,000 and the amount determined under subsection (3) or to imprisonment for a term of not more than 18 months, or to both.

Minimum amount

(2) The amount determined under this subsection for an offence under subsection (1) is the greater of

(a) \$3.144 multiplied by the number of kilograms of raw leaf tobacco to which the offence relates, and

(b) \$1,000 in the case of an indictable offence and \$500 in the case of an offence punishable on summary conviction.

Maximum amount

(3) The amount determined under this subsection for an offence under subsection (1) is the greater of

(a) \$4.716 multiplied by the number of kilograms of raw leaf tobacco to which the offence relates, and

(b) \$2,000 in the case of an indictable offence and \$1,000 in the case of an offence punishable on summary conviction.

Punishment -
section 32

216. (1) Every person who contravenes section 32 is guilty of an offence and liable

(a) on conviction on indictment, to a fine of not less than the amount determined under subsection (2) and not more than the amount determined under subsection (3) or to imprisonment for a term of not more than five years, or to both; or

(b) on summary conviction, to a fine of not less than the amount determined under subsection (2) and not more than the lesser of \$500,000 and the amount determined under subsection (3) or to imprisonment for a term of not more than 18 months, or to both.

Minimum amount

(2) The amount determined under this subsection for an offence under subsection (1) is the greater of

(a) the total of

(i) \$0.16 multiplied by the number of cigarettes to which the offence relates,

(ii) \$0.11 multiplied by the number of tobacco sticks to which the offence relates,

(iii) \$0.11 multiplied by the number of grams of manufactured tobacco other than cigarettes or tobacco sticks to which the offence relates, and

(iv) \$0.21 multiplied by the number of cigars to which the offence relates, and

(b) \$1,000 in the case of an indictable offence and \$500 in the case of an offence punishable on summary conviction.

Maximum amount

(3) The amount determined under this subsection for an offence under subsection (1) is the greater of

(a) the total of

(i) \$0.24 multiplied by the number of cigarettes to which the offence relates,

(ii) \$0.16 multiplied by the number of tobacco sticks to which the offence relates,

(iii) \$0.16 multiplied by the number of grams of manufactured tobacco other than cigarettes or tobacco sticks to which the offence relates, and

(iv) \$0.65 multiplied by the number of cigars to which the offence relates, and

(b) \$2,000 in the case of an indictable offence and \$1,000 in the case of an offence punishable on summary conviction.

Punishment for
certain alcohol
offences

217. (1) Every person who contravenes section 63 or 73, subsection 78(1) or 83(1) or section 90 or 96 is guilty of an offence and liable

(a) on conviction on indictment, to a fine of not less than the amount determined under subsection (2) and not more than the amount determined under subsection (3) or to imprisonment for a term of not more than five years, or to both; or

(b) on summary conviction, to a fine of not less than the amount determined under subsection (2) and not more than the lesser of \$100,000 and the amount determined under subsection (3) or to imprisonment for a term of not more than 18 months, or to both.

Minimum amount

(2) The amount determined under this subsection for an offence under subsection (1) is the greater of

(a) the total of

(i) \$11.066 multiplied by the number of litres of absolute ethyl alcohol in the spirits to which the offence relates,

(ii) \$0.5122 multiplied by the number of litres of wine to which the offence relates, and

(iii) \$10 multiplied by the number of litres of denatured alcohol or specially denatured alcohol to which the offence relates, and

(b) \$1,000 in the case of an indictable offence and \$500 in the case of an offence punishable on summary conviction.

Maximum amount

(3) The amount determined under this subsection for an offence under subsection (1) is the greater of

(a) the total of

(i) \$22.132 multiplied by the number of litres of absolute ethyl alcohol in the spirits to which the offence relates,

(ii) \$1.0244 multiplied by the number of litres of wine to which the offence relates, and

(iii) \$20 multiplied by the number of litres of denatured alcohol or specially denatured alcohol to which the offence relates, and

(b) \$2,000 in the case of an indictable offence and \$1,000 in the case of an offence punishable on summary conviction.

Punishment for
more serious
alcohol
offences

218. (1) Every person who contravenes any of sections 67, 69 to 72, 74, or 88 or subsection 101(1) or (2) is guilty of an offence and liable

(a) on conviction on indictment, to a fine of not less than the amount determined under subsection (2) and not more than the amount determined under subsection (3) or to imprisonment for a term of not more than five years, or to both; or

(b) on summary conviction, to a fine of not less than the amount determined under subsection (2) and not more than the lesser of \$500,000 and the amount determined under subsection (3) or to imprisonment for a term of not more than 18 months, or to both.

Minimum amount

(2) The amount determined under this subsection for an offence under subsection (1) is the greater of

(a) the total of

(i) \$22.132 multiplied by the number of litres of absolute ethyl alcohol in the spirits to which the offence relates, and

(ii) \$1.0244 multiplied by the number of litres of wine to which the offence relates, and

(b) \$1,000 in the case of an indictable offence and \$500 in the case of an offence punishable on summary conviction.

Maximum amount

(3) The amount determined under this subsection for an offence under subsection (1) is the greater of

(a) the total of

(i) \$33.198 multiplied by the number of litres of absolute ethyl alcohol in the spirits to which the offence relates, and

(ii) \$1.5366 multiplied by the number of litres of wine to which the offence relates, and

(b) \$2,000 in the case of an indictable offence and \$1,000 in the case of an offence punishable on summary conviction.

Falsifying or
destroying
records

219. (1) Every person commits an offence who

(a) makes, or participates in, assents to or acquiesces in the making of, a false or deceptive statement in a return, application, certificate, record or answer filed or made as required under this Act;

(b) for the purpose of evading payment of any duty or obtaining a refund to which the person is not entitled under this Act

(i) destroys, alters, mutilates, conceals or otherwise disposes of any records of a person, or

(ii) makes, or assents to or acquiesces in the making of, a false or deceptive entry, or omits, or assents to or acquiesces in the omission, to enter a material particular in the records of a person;

(c) wilfully, in any manner, evades or attempts to evade compliance with this Act or payment of duty, interest or other amount imposed under this Act;

(d) wilfully, in any manner, obtains or attempts to obtain a refund to which the person is not entitled under this Act; or

(e) conspires with any person to commit an offence described in any of paragraphs (a) to (d).

Punishment

(2) Every person who commits an offence under subsection (1) is guilty of

(a) an indictable offence and is liable to

(i) a fine of not less than \$1,000 plus 200%, and not more than \$10,000 plus 300%, of the total amount of duty, interest or other amount that was sought to be evaded, or of the refund sought, or, if that total amount cannot be ascertained, a fine of not less than \$10,000 and not more than \$100,000,

(ii) imprisonment for a term of not more than five years, or

(iii) both a fine referred to in subparagraph (i) and imprisonment referred to in subparagraph (ii); or

(b) an offence punishable on summary conviction and liable to

(i) a fine of not less than \$100 plus 200%, and not more than \$1,000 plus 300%, of the total amount of duty, interest or other amount that was sought to be evaded, or of the refund sought, or, if that total amount cannot be ascertained, a fine of not less than \$1,000 and not more than \$25,000,

(ii) imprisonment for a term of not more than 18 months, or

(iii) both a fine referred to in subparagraph (i) and imprisonment referred to in subparagraph (ii).

Stay of appeal

(3) If, in any appeal under Part 5, substantially the same facts are at issue as those that are at issue in a prosecution under this

section, the Minister may file a stay of proceedings with the Tax Court and, on doing so, the proceedings before the Tax Court are stayed pending final determination of the outcome of the prosecution.

Obstruction of
officer

220. (1) No person shall, physically or otherwise, do or attempt to do any of the following:

(a) interfere with, hinder or molest any officer doing anything the officer is authorized to do under this Act; or

(b) prevent any officer from doing anything the officer is authorized to do under this Act.

Failure to
comply

(2) Every person shall do everything the person is required to do under any of sections 208 to 210 or 260.

Punishment

(3) Every person who contravenes subsection (1) or (2) is guilty of an offence punishable on summary conviction and liable to a fine of not less than \$1,000 and not more than \$25,000 or to imprisonment for a term of not more than 12 months, or to both.

Offence -
confidential
information

221. (1) Every person who

(a) contravenes subsection 211(2), or

(b) knowingly contravenes an order made under subsection 211(7)

is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000 or to imprisonment for a term of not more than 12 months, or to both.

Offence –
confidential
information

(2) Every person

(a) to whom confidential information has been provided for a purpose pursuant to paragraph 211(6)(b), (d), or (h), or

(b) who is an official to whom confidential information has been provided for a purpose pursuant to paragraph 211(6)(a), (e) or (f),

and who for any other purpose knowingly uses, provides to any person, allows the provision to any person of, or allows any person access to, that information is guilty of an offence and liable on summary conviction to a fine of not more than \$5,000 or to imprisonment for a term of not more than 12 months, or to both.

Definitions

(3) In this section, "confidential information" and "official" have the same meaning as in subsection 211(1).

Other
contraventions

222. Every person who contravenes a provision of this Act or the regulations for which no other offence is specified in this Act is guilty of an offence and is liable on summary conviction to a fine of not more than \$100,000 or to imprisonment for a term of not more than 12 months, or to both.

Defence of due
diligence

223. No person shall be convicted of an offence under this Act if the person establishes that they exercised all due diligence to prevent the commission of the offence.

Compliance
orders

224. If a person has been convicted by a court of an offence for a failure to comply with a provision of this Act, the court may make any order that it considers proper in order to enforce compliance with the provision.

No penalty
unless imposed
before laying
of information

225. A person who is convicted of failing to comply with a provision of this Act is not liable to pay a penalty under any of sections 233 to 253 for the same failure unless the penalty was imposed under section 254 before the information or complaint giving rise to the conviction was laid or made.

Officers of
corporations,
etc.

226. If a person other than an individual commits an offence under this Act, every officer, director or agent of the person who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence and liable on conviction to the punishment provided for the offence, whether or not the person has been prosecuted or convicted.

Offences by
employees or
agents

227. In any prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the knowledge or consent of the accused and that the accused exercised all due diligence to prevent its commission.

Power to
decrease
punishment

228. Despite the *Criminal Code* or any other law, the court has, in any prosecution or proceeding under this Act, neither the power to impose less than the minimum fine fixed under this Act nor the power to suspend sentence.

Information or
complaint

229. (1) An information or complaint under this Act may be laid or made by any officer. If an information or complaint is purported to have been laid or made under this Act, it is deemed to have been

laid or made by an officer and shall not be called into question for lack of authority of the officer except by the Minister or a person acting for the Minister or for Her Majesty.

Two or more offences

(2) An information or complaint in respect of an offence under this Act may be for one or more offences and no information, complaint, warrant, conviction or other proceeding in a prosecution under this Act is objectionable or insufficient by reason of the fact that it relates to two or more offences.

Limitation of prosecutions

(3) Despite subsection 786(2) of the *Criminal Code*, an information or complaint in respect of an offence under this Act that is to be prosecuted by way of summary conviction proceedings may be laid or made within two years after the day on which the matter of the information or complaint arose.

Proceeds of Crime

Property obtained from offences

230. (1) No person shall possess any property or any proceeds of any property knowing that all or any part of it was obtained or derived directly or indirectly as a result of

(a) the commission of an offence under section 214 or subsection 216(1), 218(1) or 231(1); or

(b) a conspiracy or an attempt to commit, being a party to, being an accessory after the fact in relation to, or any counselling in relation to, an offence referred to in paragraph (a).

Punishment

(2) Every person who contravenes subsection (1)

(a) is guilty of an indictable offence and liable to a fine of not more than \$500,000 or to imprisonment for a term of not more than five years, or to both; or

(b) is guilty of an offence punishable on summary conviction and liable to a fine of not more than \$100,000 or to imprisonment for a term of not more than 18 months, or to both.

Exception

(3) A peace officer or a person acting under the direction of a peace officer is not guilty of an offence under this section by reason only that the peace officer or person possesses property or the proceeds of property mentioned in subsection (1) for the purposes of an investigation or otherwise in the execution of the peace officer's duties.

Laundering
proceeds of
certain
offences

231. (1) No person shall use, transfer the possession of, send or deliver to any person or place, transport, transmit, alter, dispose of or otherwise deal with, in any manner or by any means, any property or any proceeds of any property with intent to conceal or convert that property or those proceeds, knowing that all or part of that property or those proceeds were obtained or derived directly or indirectly as a result of

(a) the commission of an offence under section 214 or subsection 216(1) or 218(1); or

(b) a conspiracy or an attempt to commit, being a party to, being an accessory after the fact in relation to, or any counselling in relation to, an offence referred to in paragraph (a).

Punishment

(2) Every person who contravenes subsection (1)

(a) is guilty of an indictable offence and liable to a fine of not more than \$500,000 or to imprisonment for a term of not more than five years, or to both; or

(b) is guilty of an offence punishable on summary conviction and liable to a fine of not more than \$100,000 or to imprisonment for a term of not more than 18 months, or to both.

Exception

(3) A peace officer or a person acting under the direction of a peace officer is not guilty of an offence under this section by reason only that the peace officer or person does any of the things mentioned in subsection (1) for the purposes of an investigation or otherwise in the execution of the peace officer's duties.

Part XII.2 of
Criminal Code
applicable

232. (1) Sections 462.3 and 462.32 to 462.5 of the *Criminal Code* apply, with any modifications that the circumstances require, in respect of proceedings for an offence under section 214, subsection 216(1) or 218(1) or section 230 or 231.

Reference to
enterprise
crime offence

(2) For the purpose of subsection (1), the references in sections 462.37 and 462.38 and subsection 462.41(2) of the *Criminal Code* to an enterprise crime offence are deemed to include references to the offences referred to in subsection (1).

Penalties

Contravention
of section 34
or 37

233. Every tobacco licensee who contravenes section 34 or 37 is liable to a penalty equal to 200% of the duty that was imposed on the tobacco product to which the contravention relates.

Contravention
of section 38,
40, 41, 49, 61,
99, 149 or 151

234. Every person who contravenes section 38, 40, 41, 49, 61, 99, 149 or 151 is liable to a penalty of not more than \$25,000.

Penalty for
unauthorized
export of raw
leaf tobacco

235. Every tobacco grower who exports raw leaf tobacco without the written approval of the Minister or who fails to comply with a condition imposed by the Minister in respect of the export is liable to a penalty of not more than \$25,000.

Diversion of
black stock
tobacco

236. (1) Every tobacco licensee is liable to a penalty if manufactured tobacco on which duty was imposed under section 42 at a rate set out in paragraph 1(a), 2(a) or 3(a) of Schedule 1 is

(a) delivered by the licensee other than to a duty free shop or customs bonded warehouse or to a person for use as ships' stores in accordance with the *Ships' Stores Regulations*; or

(b) exported by the licensee other than for delivery to a foreign duty free shop or as foreign ships' stores.

Amount of
penalty

(2) The amount of the penalty is equal to 200% of the total of

(a) the amount by which

(i) the duty that would have been imposed under section 42 on the tobacco if the applicable rate of duty had been the rate set out in paragraph 1(b), 2(b) or 3(b) of Schedule 1

exceeds

(ii) the duty that was imposed under section 42 on the tobacco;
and

(b) the amount, if any, of special duty that was payable under paragraph 56(1)(b) in respect of the tobacco.

Diversion of
non-duty-paid
alcohol

237. (1) Every excise warehouse licensee is liable to a penalty equal to 200% of the duty imposed on packaged alcohol that was removed from the warehouse of the licensee for a purpose described in section 147 if the alcohol is not delivered or exported, as the case may be, for that purpose.

Diversion of
duty-free
tobacco

(2) Every tobacco licensee is liable to a penalty equal to 200% of the duty that was imposed on a tobacco product manufactured in

Canada that was removed from the excise warehouse of the licensee for a purpose described in subsection 50(4), (7) or (8) if the product is not delivered or exported, as the case may be, for that purpose.

Diversion of
duty-free
cigars

(3) Every excise warehouse licensee is liable to a penalty equal to 200% of the duty that was imposed on cigars manufactured in Canada that were removed from the excise warehouse of the licensee for a purpose described in subsection 50(9) if the cigars are not delivered for that purpose.

Diversion of
duty-free
tobacco in
special excise
warehouse

(4) Every special excise warehouse licensee is liable to a penalty equal to 200% of the duty that was imposed on a tobacco product manufactured in Canada that was removed from the special excise warehouse of the licensee for a purpose described in subsection 50(11) if the product is not delivered for that purpose.

Diversion of
imported
tobacco

(5) Every excise warehouse licensee is liable to a penalty equal to 200% of the duty that was imposed on an imported tobacco product that was removed from the excise warehouse of the licensee for a purpose described in subsection 51(2) if the product is not delivered or exported, as the case may be, for that purpose.

Exception

(6) A licensee who would otherwise be liable to a penalty under this section is not liable if the licensee proves to the satisfaction of the Minister that the alcohol or tobacco product that was removed from their excise warehouse or special excise warehouse was returned to that warehouse.

Penalty in
respect of
unaccounted
tobacco

238. Every excise warehouse licensee and every special excise warehouse licensee is liable to a penalty equal to 200% of the duty that was imposed on a tobacco product entered into their excise warehouse or special excise warehouse, as the case may be, if the licensee cannot account for the product

(a) as being in the warehouse;

(b) as having been removed from the warehouse in accordance with this Act; or

(c) as having been destroyed by fire while kept in the warehouse.

Other
diversions

239. Unless section 237 applies, every person is liable to a penalty equal to 200% of the duty that was imposed on packaged alcohol or a tobacco product if

(a) it was acquired by the person and duty was not payable because of the purpose for which the person acquired it or because of its destination; and

(b) it is sold or used for a purpose or sent to a destination in circumstances in which duty would have been payable if it had originally been acquired for that purpose or sent to that destination.

Contravention
of subsection
50(5)

240. Every tobacco licensee who contravenes subsection 50(5) is liable to a penalty equal to the total of

(a) \$0.25995 per cigarette that was removed in contravention of that subsection,

(b) \$0.159966 per tobacco stick that was removed in contravention of that subsection, and

(c) \$149.966 per kilogram of manufactured tobacco, other than cigarettes and tobacco sticks, that was removed in contravention of that subsection.

Contravention
of section 71

241. Every person who contravenes section 71 is liable to a penalty equal to 200% of the duty that was imposed on the bulk spirits to which the contravention relates.

Contravention
of section 72

242. Every person who contravenes section 72 is liable to a penalty equal to \$1.0244 per litre of wine to which the contravention relates.

Contravention
of section 73,
etc.

243. Every person who contravenes any of sections 73, 76 or 89 to 91 is liable to a penalty equal to

(a) if the contravention relates to spirits, the duty that was imposed on the spirits; or

(b) if the contravention relates to wine, \$0.5122 per litre of that wine.

Spirits
improperly used
as DA or SDA

244. Every person who is required to export, return, dispose of or destroy an amount of spirits under paragraph 101(1)(a) or (b) or (2)(a) or (b) but is unable to do so because the amount has been used in the production of another product is liable to a penalty equal to the duty imposed under section 122 or levied under section 21.1 or subsection 21.2(1) of the *Customs Tariff* on the amount.

Contravention
of section 78,
83 or 94

245. Every person who contravenes section 78, 83 or 94 is liable to a penalty equal to 100% of the duty that was imposed on the alcohol to which the contravention relates.

Contravention
of section 81,
86, 92 or 93

246. Every person who contravenes section 81, 86, 92 or 93 is liable to a penalty equal to 50% of the duty that was imposed on the alcohol to which the contravention relates.

Unauthorized
possession,
etc., of SDA

247. Every person who contravenes any of sections 96 to 98, 100, 102 or 103 is liable to a penalty of \$10 per litre of specially denatured alcohol to which the contravention relates.

Unauthorized
removal of
marked special
container

248. Every excise warehouse licensee who removes a marked special container of alcohol from their excise warehouse for entry into the duty-paid market is liable to a penalty equal to 50% of the duty that was imposed on the alcohol in the container unless the container is marked for delivery to and use at a bottle-your-own premises and it is delivered to a bottle-your-own premises.

Contravention
of section 154

249. Every excise warehouse licensee who contravenes section 154 is liable to a penalty equal to the total of

(a) \$1,000, and

(b) 50% of the duty that was imposed on the alcohol supplied in contravention of that section.

Failure to
comply

250. Every person is liable to a penalty of not more than \$25,000 if the person fails to comply with

(a) section 206 or 207;

(b) a requirement in a notice referred to in section 208 or 210;

(c) a condition or requirement of a licence or registration issued to the person under this Act;

(d) a condition or restriction imposed under section 143; or

(e) the regulations.

Failure to file
return

251. Every person who does not file a return as and when required under a demand issued under section 169 is liable to a penalty equal to the greater of

(a) \$250, and

(b) 5% of the amount of duty payable by the person for the period designated in the demand that was unpaid on the day that the return was due.

Failure to
provide
information

252. Every person who fails to provide any information or record as and when required under this Act is liable to a penalty of \$100 for every failure unless, in the case of information required in respect of another person, a reasonable effort was made by the person to obtain the information.

False
statements or
omissions

253. Every person who knowingly, or under circumstances amounting to gross negligence, makes, or participates in, assents to or acquiesces in the making of, a false statement or omission in a return, application, form, certificate, statement, invoice or answer (each of which is in this section referred to as a "return") made in respect of a fiscal month or activity is liable to a penalty equal to the greater of \$250 and 25% of the total of

(a) if the false statement or omission is relevant to the determination of an amount of duty payable by the person, the amount, if any, by which

(i) that duty payable
exceeds

(ii) the amount that would be the duty payable by the person if the duty were determined on the basis of the information provided in the return; and

(b) if the false statement or omission is relevant to the determination of a refund or any other payment that may be obtained under this Act, the amount, if any, by which

(i) the amount that would be the refund or other payment payable to the person if the refund or other payment were determined on the basis of the information provided in the return

exceeds

(ii) the amount of the refund or other payment payable to the person.

Penalty Imposition

Notice of
imposed penalty

254. (1) A penalty that a person is liable to pay under any of sections 233 to 253 may be imposed by the Minister by serving on the person a written notice of the imposed penalty or by sending the notice by registered or certified mail to the person's last known address.

Penalty is in
addition to
other sanction

(2) A penalty may be imposed in addition to a seizure or forfeiture of a thing or the suspension or cancellation of a licence or registration under this Act that arises from the same event as the contravention in respect of which the penalty is imposed.

When penalty
becomes payable

255. The amount of a penalty imposed on a person under section 254 is payable by the person to the Receiver General at the time it is imposed.

Interest on
penalty during
review period

256. Despite subsection 170(1), if a request is made under subsection 271(1) for a decision of the Minister in respect of a penalty imposed under section 254, no interest is payable in respect of the penalty for the period beginning on the day on which the request is made and ending on the day on which the Minister gives notice of the decision under subsection 273(2) or, if the decision is appealed to the Federal Court under section 276, the day on which the appeal is resolved.

Review of
imposed penalty

257. The debt due to Her Majesty as a result of a penalty imposed under section 254 is final and not subject to review or to be restrained, prohibited, removed, set aside or otherwise dealt with except to the extent and in the manner provided under this Act.

Search Warrants

Information for
search warrant

258. (1) A judge may at any time issue a warrant signed by the judge authorizing an officer to search a building, receptacle or place for a thing and to seize it if the judge is satisfied by information on oath that there are reasonable grounds to believe that there will be found in the building, receptacle or place anything that there are reasonable grounds to believe will afford evidence in respect of a contravention under this Act.

Form of search
warrant

(2) A warrant must refer to the contravention for which it is issued, identify the building, receptacle or place to be searched and be reasonably specific as to the thing to be searched for and seized.

Endorsement of
search warrant

(3) If the building, receptacle or place is in a territorial division other than that in which the judge has jurisdiction, the judge may issue the warrant and the warrant may be executed in the other territorial division after it has been endorsed by a judge having jurisdiction in that territorial division.

Effect of
endorsement

(4) An endorsement that is made on a warrant as provided for in subsection (3) is sufficient authority to the officers to whom it was originally directed, and to all officers within the jurisdiction of the judge by whom it is endorsed, to execute the warrant and to deal with the things seized in accordance with section 489.1 of the *Criminal Code* or as otherwise provided by law.

Seizure of
things not
specified

(5) An officer who executes a warrant may seize, in addition to the things mentioned in the warrant,

(a) anything by means of or in relation to which the officer believes on reasonable grounds that a provision of this Act has been contravened; or

(b) anything that the officer believes on reasonable grounds will afford evidence in respect of a contravention under this Act.

Execution of
search warrant

(6) A warrant shall be executed during the period between 6:00 a.m. and 9:00 p.m. unless

(a) the judge is satisfied that there are reasonable grounds for it to be executed outside of that period;

(b) the reasonable grounds are included in the information; and

(c) the warrant authorizes that it be executed outside of that period.

Operation of
computer system
and copying
equipment

(7) An officer authorized under this section to search a computer system for data may

(a) use or cause to be used any computer system at the building or place to search any data contained in or available to the computer system;

(b) use or cause to be used any equipment at the building or place to make a copy of the data and to render it in any form; and

(c) seize a copy or rendering made under paragraph (b) that may afford evidence in respect of a contravention under this Act.

Duty of person
in possession
or control

(8) Every person who is in possession or control of any building or place in respect of which a search described by subsection (7) is carried out shall, on presentation of the warrant, provide to the officer carrying out the search all assistance that is necessary to carry out the search.

Application of
section 490 of
Criminal Code

(9) Section 490 of the *Criminal Code* applies in respect of anything seized under this section.

Extended
meaning of
"judge"

(10) In this section and paragraph 262(2)(b), "judge" also means a justice who is authorized under the *Criminal Code* to issue a search warrant.

Warrant not
necessary in
exigent
circumstances

259. An officer may exercise any of the powers referred to in subsection 258(1) without a warrant if the conditions for obtaining a warrant exist but by reason of exigent circumstances it would not be practical to obtain one.

Inspections

By whom

260. (1) An officer may, at all reasonable times, for any purpose related to the administration or enforcement of this Act, inspect, audit or examine the records, processes, property or premises of a

person in order to determine whether that or any other person is in compliance with this Act.

Powers of
officer

(2) For the purposes of an inspection, audit or examination, the officer may

(a) subject to subsection (3), enter any place in which the officer reasonably believes the person keeps records or carries on any activity to which this Act applies;

(b) stop a conveyance or direct that it be moved to a place where the inspection or examination may be performed;

(c) require any individual to be present during the inspection, audit or examination and require that individual to answer all proper questions and to give to the officer all reasonable assistance;

(d) open or cause to be opened any receptacle that the officer reasonably believes contains anything to which this Act applies;

(e) take samples of anything free of charge; and

(f) seize anything by means of or in relation to which the officer reasonably believes this Act has been contravened.

Prior
authorization

(3) If any place referred to in paragraph (2)(a) is a dwelling-house, the officer may not enter that dwelling-house without the consent of the occupant, except under the authority of a warrant issued under subsection (4).

Warrant to
enter dwelling-
house

(4) A judge may issue a warrant authorizing an officer to enter a dwelling-house subject to the conditions specified in the warrant if, on *ex parte* application by the Minister, a judge is satisfied by information on oath that

(a) there are reasonable grounds to believe that the dwelling-house is a place referred to in paragraph (2)(a);

(b) entry into the dwelling-house is necessary for any purpose relating to the administration or enforcement of this Act; and

(c) entry into the dwelling-house has been, or there are reasonable grounds to believe that entry will be, refused.

Orders if entry
not authorized

(5) If the judge is not satisfied that entry into the dwelling-house is necessary for any purpose related to the administration or enforcement of this Act, the judge may, to the extent that access was or may be expected to be refused and that a record or property is or may be expected to be kept in the dwelling-house,

(a) order the occupant of the dwelling-house to provide an officer with reasonable access to any record or property that is or should be kept in the dwelling-house; and

(b) make any other order that is appropriate in the circumstances to carry out the purposes of this Act.

Definition of
"dwelling-
house"

(6) In this section, "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

(a) 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

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

Custody of
seized things

261. (1) An officer who seizes a thing under section 260 may retain custody of the thing or transfer custody of it to any person that the officer may designate.

Retention of
seized things

(2) An officer may order that a thing seized under section 260 be retained or stored at the place from where it was seized and no

person shall use, remove or dispose of the thing without the consent of the officer or other authorized person.

Copies of
records

262. (1) A person who seizes, inspects, audits, examines or is provided a record under section 260 may make, or cause to be made, one or more copies of the record.

Retention of
records seized

(2) No records that have been seized as evidence under section 260 shall be retained for a period of more than three months after the time of seizure unless, before the expiry of that period,

(a) the person from whom they were seized agrees to their further retention for a specified period;

(b) a judge is satisfied on application that, having regard to the circumstances, their further retention for a specified period is warranted and so orders; or

(c) judicial proceedings are instituted in which they may be required.

Officer must
give
notification of
seizure

263. An officer who seizes a thing under section 260 shall, without delay,

(a) report the circumstances of the seizure to the Commissioner;
and

(b) if the officer has evidence that a person may be entitled to make an application under section 278 in respect of the thing, take all reasonable measures to ensure that notification of the seizure is sent to that person at their last known address.

Return or Disposal of Things Seized

Certain things
not to be
returned

264. Despite this Act, any alcohol, specially denatured alcohol, raw leaf tobacco or tobacco product that is seized under section 260 must not be returned to the person from whom it was seized or any other person unless it was seized in error.

Return if
security
provided

265. The Minister may, subject to this or any other Act of Parliament, return anything that has been seized under section 260 to the person from whom it was seized, or to any person authorized by that person, on receipt of security with a value equal to

(a) the value of the thing at the time of its seizure as determined by the Minister; or

(b) a lesser amount satisfactory to the Minister.

Dealing with
things seized

266. (1) The Minister may sell, destroy or otherwise deal with anything seized under section 260.

Restriction

(2) Subject to the regulations, the Minister may sell

(a) seized spirits or specially denatured alcohol only to a spirits licensee;

(b) seized wine only to a wine licensee; and

(c) seized raw leaf tobacco or a seized tobacco product only to a tobacco licensee.

Payment of
compensation

(3) If a person would be entitled to the return of a thing if it were available to be returned, but it is not possible to return it, the person shall be paid

- (a) if the thing was sold, the proceeds from the sale; and
- (b) in any other case, the value of the thing at the time of its seizure as determined by the Minister.

Forfeitures

Forfeiture from
time of
contravention

267. Subject to the reviews and appeals provided for under this Act, anything by means of or in relation to which a contravention under this Act was committed is forfeit to Her Majesty from the time of the contravention.

Thing no longer
forfeit

268. A thing in respect of which security is received under section 265 ceases to be forfeit from the time the security is received and the security shall be held as forfeit instead of the thing.

Review of
forfeiture

269. The forfeiture of a thing under section 267 or any security held as forfeit instead of the thing is final and not subject to review or to be restrained, prohibited, removed, set aside or otherwise dealt with except to the extent and in the manner provided under this Act.

Review of Imposed Penalty or Seizure

Penalty imposed
or seizure made
in error

270. (1) If the Minister determines that a penalty was imposed in error under section 254 or a thing was seized in error under section 260, the Minister may

- (a) cancel the penalty and authorize the return of any amount of money paid with respect to the penalty; and
- (b) authorize the release of the thing or the return of any security received in respect of the seizure.

Non-application
if request made

(2) Subsection (1) does not apply if a request under section 271 has been made in respect of the imposition of the penalty or the seizure.

Request for
Minister's
decision

271. (1) Any person on whom a penalty is imposed under section 254 or from whom a thing is seized under section 260 may request that the Minister review the imposition of the penalty or the seizure and make a decision under section 273.

Time limit for
making request

(2) A request must be made within 90 days after

(a) the date of the service or sending of the notice of the imposed penalty; or

(b) in the case of a thing, the date on which the seizure of the thing was brought to the notice of the person from whom the thing was seized.

How request
made

(3) A request must be made in writing

(a) if the request is in respect of a penalty imposed, to the office of the Agency from which the notice of the imposed penalty is issued; or

(b) if the request is in respect of a seizure of a thing, to the officer who seized the thing.

Burden of proof

(4) The burden of proving that a request was made lies on the person claiming that it was made.

Commissioner to
provide reasons

(5) On receipt of a request, the Commissioner shall without delay provide to the person making the request written reasons for the seizure or the imposition of the penalty.

Evidence

(6) The person making a request may submit any evidence that the person wishes the Minister to consider for the purposes of making the decision within 30 days after the date on which the written reasons were sent.

Form of
evidence

(7) Evidence may be given by affidavit sworn before a commissioner for taking oaths or any other person authorized to take affidavits.

Extension of
time by
Minister

272. (1) If no request for a decision under section 271 is made within the time limited by that section, a person may make a written application to the Minister to extend the time for making a request.

Conditions -
grant of
application

(2) The Minister may extend the time for making a request under section 271 if an application under subsection (1) is made within one year after the time limit for a request and the Minister is satisfied that

(a) the applicant had a *bona fide* intention to make the request before the expiration of the time limit but was unable to do so and was unable to instruct another person to do so on the applicant's behalf;

(b) the application was made as soon as circumstances permitted it to be made; and

(c) having regard to any reasons provided by the applicant and to the circumstances of the case, it would be just and equitable to extend the time.

Notification of
decision

(3) The Minister shall notify the applicant of the Minister's decision regarding the application by registered or certified mail.

If application
granted

(4) If the Minister decides to extend the time, the request under section 271 is deemed to have been made on the day of the decision of the Minister regarding the application.

Decision final

(5) A decision of the Minister under this section is final and binding and, despite any other Act of Parliament, no appeal lies from it.

Decision of the
Minister

273. (1) As soon after the receipt of a request under section 271 as is reasonably possible, the Minister shall review the circumstances giving rise to the imposition of the penalty or the seizure and decide whether the contravention on which the penalty or the seizure is based occurred and what action is to be taken under section 274 or 275.

Notification of
decision

(2) The Minister shall notify the person who requested the decision of the decision by registered or certified mail.

Judicial review

(3) The Minister's decision is not subject to review or to be restrained, prohibited, removed, set aside or otherwise dealt with except to the extent and in the manner provided under subsection 276(1).

If no
contravention
occurred

274. (1) Subject to this or any other Act of Parliament, if the Minister decides under subsection 273(1) that the contravention on which a penalty or seizure is based did not occur, the Minister shall without delay

(a) in the case of a penalty, cancel the penalty and authorize the return of any money paid on account of it and any interest that was paid in respect of it; or

(b) in the case of a seizure, authorize the release of the seized thing or the return of any security taken in respect of it.

Interest on
money returned

(2) If any money is authorized to be returned to a person, there shall be paid to the person, in addition to the money returned, interest at the prescribed rate computed for the period beginning on the day after the money was paid and ending on the day on which the money is returned.

If
contravention
occurred -
penalty

275. (1) If the Minister decides under subsection 273(1) that the contravention on which a penalty is based did occur, the Minister may

(a) confirm the penalty;

(b) if the Minister believes that the penalty imposed is insufficient under the circumstances relating to the contravention, demand from the person any additional amount of money that the Minister considers sufficient to increase the penalty to an amount of not more than the maximum amount for which the person is liable for the contravention, and the additional amount is payable immediately; or

(c) if the Minister believes that the penalty imposed should be reduced or waived under the circumstances relating to the contravention, reduce or waive the penalty.

If
contravention
occurred -
seizure

(2) If the Minister decides under subsection 273(1) that the contravention on which a seizure is based did occur, the Minister may, subject to any terms and conditions that the Minister may determine,

(a) confirm the seizure;

(b) return the seized thing on receipt by the Minister of an amount of money equal

(i) to the value of the thing at the time of the seizure, as determined by the Minister, or

(ii) to a lesser amount satisfactory to the Minister;

(c) return any portion of any security taken in respect of the thing; or

(d) if the Minister considers that insufficient security was taken or if no security was received, demand any amount of money that the Minister considers sufficient in the circumstances, and the amount is payable immediately.

Amounts
demanded by the
Minister

(3) Any amount of money demanded under paragraph (1)(b) or (2)(d), from and after the date of the notice provided under subsection 273(2), constitutes a debt due to Her Majesty from the person who requested the decision and that person is in default unless, within 90 days after that date, the person

(a) pays the amount so demanded; or

(b) if the person appeals the decision of the Minister under section 276, gives security satisfactory to the Minister.

Interest on
penalty during
appeal period

(4) Despite subsection 170(1), if the decision of the Minister is appealed to the Federal Court under section 276, no interest is payable in respect of an amount demanded under paragraph (1)(b) or (2)(d) for any period before the day on which the appeal is resolved.

Forfeiture
ceases

(5) If the Minister returns a seized thing or security taken in respect of a seized thing under subsection (2), the thing or the security ceases to be forfeit.

Federal Court

276. (1) A person who requests a decision of the Minister under section 271 may, within 90 days after being notified of the decision, appeal the decision by way of an action in the Federal Court in which the person is the plaintiff and the Minister is the defendant.

Ordinary action

(2) The *Federal Court Act* and the rules made under it that are applicable to ordinary actions apply to actions instituted under subsection (1), except as varied by special rules made in respect of those actions.

Restoration of
things seized
pending appeal

277. If an appeal is taken by the Crown from a judgment that orders the Crown to give or return to a person anything that has been seized under section 260, the execution of the judgment shall not be suspended if the person to whom the thing is ordered given or returned gives any security to the Crown that the court that rendered the judgment considers sufficient to ensure delivery of the thing or the full value of the thing to the Crown if the judgment so appealed is reversed.

Third Party Claims

Third party may
claim interest
in seized or
forfeited thing

278. (1) On application by a person, other than a person who is entitled to make a request under section 271, who is an owner of, or who holds a security or property interest in, a thing seized under section 260 or forfeited under section 267, the Minister may declare

(a) that the applicant's interest in the thing is not affected by the seizure or forfeiture of the thing; and

(b) the nature and extent of that interest at the time of the contravention on which the seizure or forfeiture is based.

Conditions for
declaration

(2) A declaration referred to in subsection (1) shall not be made unless

(a) a request under section 271 has not been made in respect of the seizure of the thing or, if a request was made, the seizure has been confirmed by the Minister under paragraph 275(2)(a); and

(b) the Minister is satisfied that the applicant

(i) acquired in good faith the interest in the seized thing before the contravention occurred,

(ii) is innocent of any complicity and of any collusion in respect of the contravention, and

(iii) exercised all reasonable care to satisfy themselves that any person likely to have possession of the thing was not likely to use it in connection with a contravention of this Act.

Manner and time
limit for
making
application

(3) An application must be submitted in writing,

(a) in the case of a seizure, within 90 days after the date of the seizure of the thing, to the officer who made the seizure; or

(b) in any other case, within 90 days after the date on which the person became aware of the contravention on which the forfeiture is based, to the Minister.

Burden of proof

(4) The burden of proving that an application was submitted lies on the person claiming that it was submitted.

Evidence

(5) An applicant may submit any evidence that they wish the Minister to consider for the purposes of the application within 30 days after the date of the request.

Form of
evidence

(6) Evidence may be given by affidavit sworn before a commissioner for taking oaths or any other person authorized to take affidavits.

Notification of
decision

(7) The Minister shall notify the applicant of the Minister's decision regarding the application under subsection (1) by registered or certified mail.

Extension of
time by
Minister

279. (1) If no application for a declaration under section 278 is made within the time limited by that section, a person may apply in writing to the Minister to extend the time for making an application under that section.

Conditions -
grant of
application

(2) The Minister may extend the time for making an application under section 278 if an application under subsection (1) is made within one year after the time limit for the application under section 278 and the Minister is satisfied that

(a) the applicant had a *bona fide* intention to apply under section 278 before the expiration of the time limit but was unable to do so and was unable to instruct another person to do so on the applicant's behalf;

(b) the application under subsection (1) was made as soon as circumstances permitted it to be made; and

(c) having regard to any reasons provided by the applicant and to the circumstances of the case, it would be just and equitable to extend the time.

Notification of
decision

(3) The Minister shall notify the applicant of the Minister's decision regarding the application under subsection (1) by registered or certified mail.

If application
granted

(4) If the Minister decides to extend the time, the application under section 278 is deemed to have been made on the day of the decision of the Minister regarding the application under subsection (1).

Decision final

(5) A decision of the Minister under this section is final and binding and, despite any other Act of Parliament, no appeal lies from it.

Application to
court

280. (1) If the Minister decides not to make a declaration under subsection 278(1) or the applicant is not satisfied with the declaration made, the applicant may, within 90 days after the date of the decision or declaration, apply by notice in writing to a superior court of competent jurisdiction for an order under section 281.

Date of hearing

(2) The court to which an application is made under this section shall fix a day for the hearing of the application that is not less than 30 days after the date of the filing of the application.

Notice to
Commissioner

(3) An applicant shall serve notice of the application and of the hearing on the Commissioner, or an officer designated by the Commissioner for the purposes of this section, not later than 15 days after the day on which the date for the hearing of the application is fixed.

Service of
notice

(4) The service of a notice is sufficient if it is sent by registered or certified mail addressed to the Commissioner.

Order

281. An applicant under section 280 is entitled to an order declaring that their interest in a seized or forfeited thing is not affected by the seizure or forfeiture and declaring the nature and

extent of that interest at the time of the contravention on which the seizure or forfeiture is based if, on the hearing of an application made under section 280, the court is satisfied that the applicant

(a) acquired in good faith the interest in the thing before the contravention occurred;

(b) is innocent of any complicity and of any collusion in respect of the contravention; and

(c) exercised all reasonable care to satisfy themselves that any person likely to have possession of the thing was not likely to use it in connection with a contravention of this Act.

Appeal

282. An applicant or the Crown may appeal an order made under section 281 to a court having appellate jurisdiction in other cases decided by the court that made the order and the appeal shall be asserted, heard and decided according to the ordinary procedure governing appeals to the appellate court.

Delivery to applicant

283. (1) If an applicant's interest in a seized thing is established under section 278, 281 or 282, the Minister shall, on the request of the applicant, direct that

(a) the thing be given to the applicant; or

(b) an amount calculated on the basis of the interest of the applicant in the thing as established be paid to the applicant.

Limit on amount paid

(2) The total amount paid under paragraph (1)(b) in respect of a thing shall, if it was sold or otherwise disposed of under this Act, not exceed the proceeds of the sale or disposition, if any, less any costs incurred by Her Majesty in respect of the thing and, if there are no proceeds of a disposition of a thing under this Act, no payment shall be made under that paragraph in respect of the thing.

Collection

Debts to Her
Majesty

284. (1) Any duty, interest or other amount payable under this Act is a debt due to Her Majesty and is recoverable in the Federal Court or any other court of competent jurisdiction or in any other manner provided under this Act.

Limitation

(2) No proceedings for the recovery of an amount of duty, interest or other amount payable by a person under this Act shall be commenced in a court

(a) in the case of an amount that may be assessed under this Act, unless at the time the action is commenced the person has been or may be assessed for that amount; and

(b) in any other case, more than four years after the person became liable to pay the amount.

Interest on
judgments

(3) If a judgment is obtained for any duty, interest or other amount payable under this Act, including a certificate registered under section 288, the provisions of this Act by which interest is payable for failure to pay an amount apply, with any modifications that the circumstances require, to the failure to pay the judgment debt, and the interest is recoverable in like manner as the judgment debt.

Litigation
costs

(4) If an amount is payable by a person to Her Majesty because of an order, judgment or award of a court in respect of the costs of litigation relating to a matter to which this Act applies, sections 285 and 288 to 294 apply to the amount as if the amount were owing by the person on account of duty payable by the person under this Act.

Security

285. (1) The Minister may, if the Minister considers it advisable, accept security in an amount and a form satisfactory to the Minister for payment of any amount that is or may become payable under this Act.

Surrender of
excess security

(2) If a person who has furnished security, or on whose behalf security has been furnished, under this section requests in writing that the Minister surrender the security or any part of it, the Minister must surrender the security to the extent that its value exceeds the amount, at the time the request is received by the Minister, of any duty, interest or other amount for the payment of which it was furnished.

Collection
restrictions

286. (1) If a person is liable for the payment of an amount under this Act, the Minister shall not, for the purpose of collecting the amount, take any of the following actions until the end of 90 days after the date of a notice of assessment under this Act or a notice of penalty under section 254 is issued in respect of the amount:

- (a) commence legal proceedings in a court;
- (b) certify the amount under section 288;
- (c) require a person to make a payment under subsection 289(1);
- (d) require an institution or a person to make a payment under subsection 289(2);
- (e) require the retention of the amount by way of deduction or set-off under section 290;
- (f) require a person to turn over moneys under subsection 292(1);
or
- (g) give a notice, issue a certificate or make a direction under subsection 293(1).

No action after
service of
notice of
objection

(2) If a person has served a notice of objection under this Act to an assessment of an amount payable under this Act, the Minister shall not, for the purpose of collecting the amount in controversy, take any of the actions described in subsection (1) until the end of 90 days after the date of the notice to the person that the Minister has confirmed or varied the assessment.

No action after
request for
decision

(3) If a person has requested a decision of the Minister under section 271 in respect of a penalty imposed under section 254, the Minister shall not, for the purpose of collecting the penalty, take any of the actions described in subsection (1) until the end of 90 days after the date of the decision.

No action after
making appeal
to Tax Court

(4) If a person has appealed to the Tax Court from an assessment of an amount payable under this Act, the Minister shall not, for the purpose of collecting the amount in controversy, take any of the actions described in subsection (1) before the day on which a copy of the decision of the Court is mailed to the person or the day on which the person discontinues the appeal, whichever is the earlier.

No action after
making appeal
to Federal
Court

(5) If a person has appealed to the Federal Court from a decision of the Minister under section 273 in respect of a penalty imposed under section 254, the Minister shall not, for the purpose of collecting the penalty, take any of the actions described in subsection (1) before the day on which a copy of the decision of the Court is mailed to the person or the day on which the person discontinues the appeal, whichever is the earlier.

No action
pending
determination
by court

(6) If a person has agreed under subsection 204(1) that a question should be determined by the Tax Court, or if a person is served with a copy of an application made under subsection 205(1) to that Court for the determination of a question, the Minister shall not take any of the actions described in subsection (1) for the purpose of collecting that part of an amount assessed, the liability for payment of which will be affected by the determination of the question, before the day on which the question is determined by the Court.

Action after
judgment

(7) Despite any other provision in this section, if a person has served a notice of objection under this Act to an assessment or has appealed to the Tax Court from an assessment and agrees in writing with the Minister to delay proceedings on the objection or appeal, as the case may be, until judgment has been given in another action before the Tax Court, the Federal Court of Appeal or the Supreme Court of Canada in which the issue is the same or substantially the same as that raised in the objection or appeal of the person, the Minister may take any of the actions described in subsection (1) for the purpose of collecting the amount assessed, or a part of it, determined in a manner consistent with the judgment of the Court in the other action at any time after the Minister notifies the person in writing that the judgment has been given by the Court in the other action.

No restriction
on collection
of large
amounts

(8) Despite subsections (1) to (7), if, at any time, the total of all amounts that a person has been assessed under this Act and that remain unpaid exceeds \$1,000,000, the Minister may collect up to 50% of the total.

Authorization
to proceed
without delay

287. (1) Despite section 286, if, 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 in respect of a person would be jeopardized by a delay in the collection of the amount, the judge shall, on such terms as the judge considers reasonable in the circumstances, authorize the Minister to take without delay any of the actions described in subsection 286(1) with respect to the amount.

Notice of
assessment not
sent

(2) An authorization under subsection (1) in respect of an amount assessed may be granted by a judge even though a notice of assessment in respect of that amount has not been sent to the person at or before the time the application is made if the judge is satisfied that the receipt of the notice of assessment by the

person would likely further jeopardize the collection of the amount, and for the purposes of sections 284, 288 to 290, 292 and 293, the amount in respect of which an authorization is so granted is deemed to be an amount payable under this Act.

Affidavits

(3) Statements contained in an affidavit of a person filed in the context of an application under this section may be based on the belief of the person.

Service of authorization and of notice of assessment

(4) An authorization granted under this section in respect of a person shall be served by the Minister on the person within 72 hours after it is granted unless the judge orders the authorization to be served at some other time specified in the authorization. If a notice of assessment has not been sent to the person at or before the time of the application, the notice of assessment shall be served together with the authorization.

How service effected

(5) For the purposes of subsection (4), service on a person shall be effected by

(a) personal service on the person; or

(b) service in accordance with the directions, if any, of a judge.

Application to judge for direction

(6) If 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.

Review of authorization

(7) If a judge of a court has granted an authorization under this section in respect of a person, the person may, on six clear days notice to the Deputy Attorney General of Canada, apply to a judge of the court to review the authorization.

Limitation
period for
review
application

(8) An application under subsection (7) shall be made

(a) within 30 days after the authorization was served on the person in accordance with this section; or

(b) within such further time as a judge may allow, on being satisfied that the application was made as soon as practicable.

Hearing in
camera

(9) An application under subsection (7) may, on the application of the person, be heard *in camera*, if the person establishes to the satisfaction of the judge that the circumstances of the case justify *in camera* proceedings.

Disposition of
application

(10) On an application under subsection (7), the judge shall determine the question summarily and may confirm, set aside or vary the authorization and make any other order the judge considers appropriate.

Directions

(11) If 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 the judge considers appropriate.

No appeal from
review order

(12) No appeal lies from an order of a judge made under subsection (10).

Certificates

288. (1) Any duty, interest or other amount payable by a person (in this section referred to as the "debtor") under this Act, or any part of the duty, interest or amount, that has not been paid as and when required under this Act may be certified by the Minister as an amount payable by the debtor.

Registration in
court

(2) On production to the Federal Court, a certificate in respect of a debtor shall be registered in the Court and when so registered has the same effect, and all proceedings may be taken on the certificate, as if it were a judgment obtained in the Court against the debtor for a debt in the amount certified plus interest on the amount as provided under this Act to the day of payment and, for the purposes of those proceedings, the certificate is deemed to be a judgment of the Court against the debtor for a debt due to Her Majesty and enforceable as such.

Costs

(3) All reasonable costs and charges incurred or paid for the registration in the Court of a certificate or in respect of any proceedings taken to collect the amount certified are recoverable in like manner as if they had been included in the amount certified in the certificate when it was registered.

Charge on
property

(4) A document issued by the Federal Court evidencing a registered certificate in respect of a debtor, a writ of that Court issued pursuant to the certificate or any notification of the document or writ (such document, writ or notification in this section referred to as a "memorial") may be filed, registered or otherwise recorded for the purpose of creating a charge, lien or priority on, or a binding interest in, property in a province, or any interest in such property, held by the debtor, in the same manner as a document evidencing

(a) a judgment of the superior court of the province against a person for a debt owing by the person, or

(b) an amount payable or required to be remitted by a person in the province in respect of a debt owing to Her Majesty in right of the province

may be filed, registered or otherwise recorded in accordance with the law of the province to create a charge, lien or priority on, or a binding interest in, the property or interest.

Creation of
charge

(5) If a memorial has been filed, registered or otherwise recorded under subsection (4),

(a) a charge, lien or priority is created on, or a binding interest is created in, property in the province, or any interest in such property, held by the debtor, or

(b) such property or interest in the property is otherwise bound, in the same manner and to the same extent as if the memorial were a document evidencing a judgment referred to in paragraph (4)(a) or an amount referred to in paragraph (4)(b), and the charge, lien, priority or binding interest created shall be subordinate to any charge, lien, priority or binding interest in respect of which all steps necessary to make it effective against other creditors were taken before the time the memorial was filed, registered or otherwise recorded.

Proceedings in
respect of
memorial

(6) If a memorial is filed, registered or otherwise recorded in a province under subsection (4), proceedings may be taken in the province in respect of the memorial, including proceedings

(a) to enforce payment of the amount evidenced by the memorial, interest on the amount and all costs and charges paid or incurred in respect of

(i) the filing, registration or other recording of the memorial, and

(ii) proceedings taken to collect the amount,

(b) to renew or otherwise prolong the effectiveness of the filing, registration or other recording of the memorial,

(c) to cancel or withdraw the memorial wholly or in respect of any of the property or interests affected by the memorial, or

(d) to postpone the effectiveness of the filing, registration or other recording of the memorial in favour of any right, charge, lien or priority that has been or is intended to be filed, registered or otherwise recorded in respect of any property or interest affected by the memorial,

in the same manner and to the same extent as if the memorial were a document evidencing a judgment referred to in paragraph (4)(a) or an amount referred to in paragraph (4)(b), except that, if in any such proceeding or as a condition precedent to any such proceeding, any order, consent or ruling is required under the law of the province to be made or given by the superior court of the province

or by a judge or official of the court, a like order, consent or ruling may be made or given by the Federal Court or by a judge or official of the Federal Court and, when so made or given, has the same effect for the purposes of the proceeding as if it were made or given by the superior court of the province or by a judge or official of the court.

Presentation of documents

(7) If

(a) a memorial is presented for filing, registration or other recording under subsection (4), or a document relating to the memorial is presented for filing, registration or other recording for the purpose of any proceeding described in subsection (6), to any official of a property registry system of a province, or

(b) access is sought to any person, place or thing in a province to make the filing, registration or other recording,

the memorial or document shall be accepted for filing, registration or other recording or the access shall be granted, as the case may be, in the same manner and to the same extent as if the memorial or document relating to the memorial were a document evidencing a judgment referred to in paragraph (4)(a) or an amount referred to in paragraph (4)(b) for the purpose of a like proceeding, except that, if the memorial or document is issued by the Federal Court or signed or certified by a judge or official of the Court, any affidavit, declaration or other evidence required under the law of the province to be provided with or to accompany the memorial or document in the proceedings is deemed to have been provided with or to have accompanied the memorial or document as so required.

Sale, etc.

(8) Despite any law of Canada or of a province, a sheriff or other person shall not, without the written consent of the Minister, sell or otherwise dispose of any property or publish any notice or otherwise advertise in respect of any sale or other disposition of any property pursuant to any process issued or charge, lien, priority or binding interest created in any proceeding to collect an amount certified in a certificate made under subsection (1), interest on the amount or costs, but if that consent is subsequently given, any property that would have been affected by such a process, charge, lien, priority or binding interest if the Minister's consent had been given at the time the process was issued or the charge, lien, priority or binding interest was created, as the case may be, shall be bound, seized, attached, charged or otherwise affected as it would be if that

consent had been given at the time the process was issued or the charge, lien, priority or binding interest was created, as the case may be.

Completion of
notices, etc.

(9) If information required to be set out by any sheriff or other person in a minute, notice or document required to be completed for any purpose cannot, because of subsection (8), be so set out without the written consent of the Minister, the sheriff or other person shall complete the minute, notice or document to the extent possible without that information and, when that consent of the Minister is given, a further minute, notice or document setting out all the information shall be completed for the same purpose, and the sheriff or other person, having complied with this subsection, is deemed to have complied with the Act, regulation or rule requiring the information to be set out in the minute, notice or document.

Application for
an order

(10) A sheriff or other person who is unable, because of subsection (8) or (9), to comply with any law or rule of court is bound by any order made by a judge of the Federal Court, on an *ex parte* application by the Minister, for the purpose of giving effect to the proceeding, charge, lien, priority or binding interest.

Deemed security

(11) If a charge, lien, priority or binding interest created under subsection (5) by filing, registering or otherwise recording a memorial under subsection (4) is registered in accordance with subsection 87(1) of the *Bankruptcy and Insolvency Act*, it is deemed

(a) to be a claim that is secured by a security and that, subject to subsection 87(2) of that Act, ranks as a secured claim under that Act; and

(b) to also be a claim referred to in paragraph 86(2)(a) of that Act.

Details in
certificates
and memorials

(12) Despite any law of Canada or of the legislature of a province, in any certificate in respect of a debtor, any memorial evidencing a certificate or any writ or document issued for the

purpose of collecting an amount certified, it is sufficient for all purposes

(a) to set out, as the amount payable by the debtor, the total of amounts payable by the debtor without setting out the separate amounts making up that total; and

(b) to refer to the rate of interest to be charged on the separate amounts making up the amount payable in general terms as interest at the prescribed rate under this Act applicable from time to time on amounts payable to the Receiver General, without indicating the specific rates of interest to be charged on each of the separate amounts or to be charged for any period.

Garnishment

289. (1) If the Minister has knowledge or suspects that a person is, or will be within one year, liable to make a payment to another person who is liable to pay an amount under this Act (in this section referred to as a "debtor"), the Minister may, by notice in writing, require the person to pay without delay, if the money is immediately payable, and in any other case, as and when the money becomes payable, the money otherwise payable to the debtor in whole or in part to the Receiver General on account of the debtor's liability under this Act.

Garnishment of loans or advances

(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 company or other similar person (in this section referred to as the "institution") will loan 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 loan 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 notice in writing, require the institution or person, as the case may be, to pay in whole or in part to the Receiver General on account of the debtor's liability under this Act the money that would otherwise be so loaned, advanced or paid.

Effect of
receipt

(3) A receipt issued by the Minister for money paid as required under this section is a good and sufficient discharge of the original liability to the extent of the payment.

Effect of
requirement

(4) If the Minister has, under this section, required a person to pay to the Receiver General on account of the liability under this Act of a debtor money otherwise payable by the person to the debtor as interest, rent, remuneration, a dividend, an annuity or other periodic payment, the requirement applies to all such payments to be made by the person to the debtor until the liability under this Act is satisfied, and operates to require payments to the Receiver General out of each such payment of any amount that is stipulated by the Minister in a notice in writing.

Failure to
comply

(5) Every person who fails to comply with a requirement under subsection (1) or (4) is liable to pay to Her Majesty an amount equal to the amount that the person was required under that subsection to pay to the Receiver General.

Other failures
to comply

(6) Every institution or person that fails to comply with a requirement under subsection (2) with respect to money to be loaned, advanced or paid is liable to pay to Her Majesty an amount equal to the lesser of

(a) the total of money so loaned, advanced or paid, and

(b) the amount that the institution or person was required under that subsection to pay to the Receiver General.

Assessment

(7) The Minister may assess any person for any amount payable under this section by the person to the Receiver General and, if

the Minister sends a notice of assessment, sections 188 to 205 apply with any modifications that the circumstances require.

Time limit

(8) An assessment of an amount payable under this section by a person to the Receiver General shall not be made more than four years after the notice from the Minister requiring the payment was received by the person.

Effect of
payment as
required

(9) If an amount that would otherwise have been advanced, loaned or paid to or on behalf of the debtor is paid by a person to the Receiver General in accordance with a notice from the Minister issued under this section or with an assessment under subsection (7), the person is deemed for all purposes to have advanced, loaned or paid the amount to or on behalf of the debtor.

Recovery by
deduction or
set-off

290. If a person is indebted to Her Majesty under this Act, the Minister may require the retention by way of deduction or set-off of any amount that the Minister may specify out of any amount that may be or become payable to that person by Her Majesty.

Acquisition of
debtor's
property

291. For the purpose of collecting debts owed by a person to Her Majesty under this Act, the Minister may purchase or otherwise acquire any interest in the person's property that the Minister is given a right to acquire in legal proceedings or under a court order or that is offered for sale or redemption, and may dispose of any interest so acquired in any manner that the Minister considers reasonable.

Money seized
from debtor

292. (1) If the Minister has knowledge or suspects that a person is holding money that was seized by a police officer in the course of administering or enforcing the criminal law of Canada from another person who is liable to pay any duty, interest or other amount under this Act (in this section referred to as the "debtor")

and that is restorable to the debtor, the Minister may in writing require the person to turn over the money otherwise restorable to the debtor, in whole or in part, to the Receiver General on account of the debtor's liability under this Act.

Receipt of
Minister

(2) A receipt issued by the Minister for money turned over is a good and sufficient discharge of the requirement to restore the money to the debtor to the extent of the amount so turned over.

Seizure -
failure to pay
duty, etc.

293. (1) If a person fails to pay duty, interest or other amount as required under this Act, the Minister may in writing give 30 days notice to the person, addressed to their last known address, of the Minister's intention to direct that the person's things be seized and disposed of. If the person fails to make the payment before the expiry of the 30 days, the Minister may issue a certificate of the failure and direct that the person's things be seized.

Disposition

(2) Things that have been seized under subsection (1) shall be kept for 10 days at the expense and risk of the owner. If the owner does not pay the amount due together with all expenses within the 10 days, the Minister may dispose of the things in a manner the Minister considers appropriate in the circumstances.

Proceeds of
disposition

(3) Any surplus resulting from a disposition, after deduction of the amount owing and all expenses, shall be paid or returned to the owner of the things seized.

Exemptions from
seizure

(4) Anything of any person in default that would be exempt from seizure under a writ of execution issued by a superior court of the province in which the seizure is made is exempt from seizure under this section.

Person leaving
Canada or
defaulting

294. (1) If the Minister suspects that a person has left or is about to leave Canada, the Minister may, before the day otherwise fixed for payment, by notice to the person served personally or sent by registered or certified mail addressed to their last known address, demand payment of any amount for which the person is liable under this Act or would be so liable if the time for payment had arrived, and the amount shall be paid without delay despite any other provision of this Act.

Seizure

(2) If a person fails to pay an amount required under subsection (1), the Minister may direct that things of the person be seized, and subsections 293(2) to (4) apply, with any modifications that the circumstances require.

Liability of
directors

295. (1) If a corporation fails to pay any duty or interest as and when required under this Act, the directors of the corporation at the time it was required to pay the duty or interest are jointly and severally or solidarily liable, together with the corporation, to pay the duty or interest and any interest that is payable on the duty or interest under this Act.

Limitations

(2) A director of a corporation is not liable unless

(a) a certificate for the amount of the corporation's liability has been registered in the Federal Court under section 288 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 has been proved within six months after the earlier of the date of commencement of the proceedings and the date of dissolution; or

(c) the corporation has made an assignment or a receiving order has been made against it under the *Bankruptcy and Insolvency Act* and a claim for the amount of the corporation's liability has been proved within six months after the date of the assignment or receiving order.

Diligence

(3) A director of a corporation is not liable for a failure under subsection (1) if the director exercised the degree of care, diligence and skill to prevent the failure that a reasonably prudent person would have exercised in comparable circumstances.

Assessment

(4) The Minister may assess any person for any amount of duty or interest payable by the person under this section and, if the Minister sends a notice of assessment, sections 188 to 205 apply with any modifications that the circumstances require.

Time limit

(5) An assessment of any amount payable by a person who is a director of a corporation shall not be made more than two years after the person ceased to be a director of the corporation.

Amount recoverable

(6) If execution referred to in paragraph (2)(a) has issued, the amount recoverable from a director is the amount remaining unsatisfied after execution.

Preference

(7) If a director of a corporation pays an amount in respect of the corporation's liability that is proved in liquidation, dissolution or bankruptcy proceedings, the director is entitled to any preference to which Her Majesty would have been entitled had the amount not been so paid, and if a certificate that relates to the amount has been registered, the director is entitled to an assignment of the certificate to the extent of the director's payment, which assignment the Minister is empowered to make.

Contribution

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

Compliance by unincorporated bodies

296. (1) If any duty, interest or other amount is required to be paid or any other thing is required to be done under this Act by a

person (in this section referred to as the "body") that is not an individual, a corporation or a partnership, it shall be the joint and several or solidary liability and responsibility of

(a) every member of the body holding office as president, chairperson, treasurer, secretary or similar officer of the body,

(b) if there are no such officers of the body, every member of any committee having management of the affairs of the body, and

(c) if there are no such officers of the body and no such committee, every member of the body,

to pay that amount of duty, interest or other amount or to comply with the requirement, and if the amount is paid or the requirement is fulfilled by an officer of the body, a member of such a committee or a member of the body, it shall be considered as compliance with the requirement.

Assessment

(2) The Minister may assess any person for any amount for which the person is liable under this section and, if the Minister sends a notice of assessment, sections 188 to 205 apply with any modifications that the circumstances require.

Limitation

(3) An assessment of a person shall not

(a) include any amount that the body was liable to pay before the person became jointly and severally or solidarily liable;

(b) include any amount that the body became liable to pay after the person ceased to be jointly and severally or solidarily liable; or

(c) be made more than two years after the person ceased to be jointly and severally or solidarily liable unless the person was grossly negligent in the carrying out of any duty or obligation imposed on the body by or under this Act or made, or participated in, assented to or acquiesced in the making of, a false statement or omission in a return, application, form, certificate, statement, invoice or answer made by the body.

Liability re
transfers not
at arm's length

297. (1) If at any time a person transfers property, either directly or indirectly, by a trust or any other means, to

(a) their spouse or common-law partner or an individual who has since become their spouse or common-law partner,

(b) an individual who was under 18 years of age, or

(c) another person with whom the transferor was not dealing at arm's length,

the transferee and transferor are jointly and severally or solidarily liable to pay an amount equal to the lesser of

(d) the amount determined by the formula

$$A - B$$

where

A is 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 by the transferee for the transfer of the property, and

B is the amount, if any, by which the total of all amounts, if any, the transferee was assessed under subsection 160(2) of the *Income Tax Act* or subsection 325(2) of the *Excise Tax Act* in respect of the property exceeds the amount paid by the transferor in respect of the amounts so assessed, and

(e) the total of all amounts each of which is

(i) an amount that the transferor is liable to pay under this Act in respect of the fiscal month in which the property was transferred or any preceding fiscal month, or

(ii) interest for which the transferor is liable as of that time.

However, nothing in this subsection limits the liability of the transferor under any other provision of this Act.

Fair market
value of
undivided
interest

(2) For the purposes of this section, the fair market value at any time of an undivided interest in a property, expressed as a proportionate interest in the property, is, subject to subsection (5), deemed to be equal to the same proportion of the fair market value of the property at that time.

Assessment

(3) The Minister may at any time assess a transferee in respect of any amount payable by reason of this section, and, if the Minister sends a notice of assessment, sections 188 to 205 apply with any modifications that the circumstances require.

Rules
applicable

(4) If a transferor and transferee have, by reason of subsection (1), become jointly and severally or solidarily liable in respect of all or part of the liability of the transferor under this Act, the following rules apply:

(a) a payment by the transferee on account of the transferee's liability shall, to the extent of the payment, discharge the joint liability; and

(b) a payment by the transferor on account of the transferor's liability only discharges the transferee's liability to the extent that the payment operates to reduce the transferor's liability to an amount less than the amount in respect of which the transferee was, under subsection (1), made jointly and severally or solidarily liable.

Special
transfers to
spouse or
common-law
partner

(5) Despite subsection (1), if at any time an individual transfers property to their spouse or common-law partner under a decree, order or judgment of a competent tribunal or under a written separation agreement and, at that time, the individual and their spouse or common-law partner were separated and living apart as a result of a breakdown of their marriage or common-law partnership, for the purposes of paragraph (1)(d), the fair market

value at that time of the property so transferred is deemed to be nil. However, nothing in this subsection limits the liability of the individual under any other provision of this Act.

Definitions

(6) The following definitions apply in this section.

"common-law
partner"
« *conjoint de
fait* »

"common-law partner", in relation to an individual, means a person who is cohabiting with the individual in a conjugal relationship, having so cohabited for a period of at least one year.

"common-law
partnership"
« *union de fait*
»

"common-law partnership" means the relationship between two persons who are common-law partners of each other.

Evidence and Procedure

Venue

298. A prosecution for an offence under this Act may be instituted, heard and determined in the place where the offence was committed or the subject-matter of the prosecution arose, where the accused was apprehended or where the accused happens to be, or is carrying on business.

Service

299. (1) If the Minister is authorized or required to serve, issue or send a notice or other document on or to a person that

(a) is a partnership, the notice or document may be addressed to the name of the partnership;

(b) is a society, club, association, organization or other body, the notice or document may be addressed to the name of the body;
and

(c) carries on business under a name or style other than the name of the person, the notice or document may be addressed to the name or style under which the person carries on business.

Personal
service

(2) If the Minister is authorized or required to serve, issue or send a notice or other document on or to a person that carries on a business, the notice or document is deemed to have been validly served, issued or sent if it is

(a) in the case of a person that is a partnership, served personally on one of the partners or left with an adult person employed at the place of business of the partnership; or

(b) in any other case, left with an adult person employed at the place of business of the person.

Sending by mail

300. (1) For the purposes of this Act and subject to subsection (2), anything sent by registered, certified or first class mail is deemed to have been received by the person to whom it was sent on the day it was mailed.

Paying by mail

(2) A person who is required under this Act to pay an amount is deemed not to have paid it until it is received by the Receiver General.

Proof of
service by mail

301. (1) If, under this Act, provision is made for sending by mail a request for information, a notice or a demand, an affidavit of an officer of the Agency, sworn before a commissioner or other person authorized to take affidavits, is evidence of the sending and of the request, notice or demand if the affidavit sets out that

(a) the officer has knowledge of the facts in the particular case;

(b) such a request, notice or demand was sent by registered or certified mail on a specified day to a specified person and address; and

(c) the officer identifies as exhibits attached to the affidavit the post office certificate of registration of the letter or a true copy of the relevant portion of the certificate and a true copy of the request, notice or demand.

Proof of
personal
service

(2) If, under this Act, provision is made for personal service of a request for information, a notice or a demand, an affidavit of an officer of the Agency, sworn before a commissioner or other person authorized to take affidavits, is evidence of the personal service and of the request, notice or demand if the affidavit sets out that

(a) the officer has knowledge of the facts in the particular case;

(b) such a request, notice or demand was served personally on a named day on the person to whom it was directed; and

(c) the officer identifies as an exhibit attached to the affidavit a true copy of the request, notice or demand.

Proof of
failure to
comply

(3) If, under this Act, a person is required to make a return, an application, a statement, an answer or a certificate, an affidavit of an officer of the Agency, sworn before a commissioner or other person authorized to take affidavits, setting out that the officer has charge of the appropriate records and that after a careful examination and search of the records the officer has been unable to find in a given case that the return, application, statement, answer or certificate has been made by that person, is evidence that in that case the person did not make the return, application, statement, answer or certificate.

Proof of time
of compliance

(4) If, under this Act, a person is required to make a return, an application, a statement, an answer or a certificate, an affidavit of an officer of the Agency, sworn before a commissioner or other person authorized to take affidavits, setting out that the officer has charge of the appropriate records and that after careful examination of the records the officer has found that the return, application, statement, answer or certificate was filed or made on a particular day, is evidence that it was filed or made on that day.

Proof of
documents

(5) An affidavit of an officer of the Agency, sworn before a commissioner or other person authorized to take affidavits, setting out that the officer has charge of the appropriate records and that a document attached to the affidavit is a document or true copy of a document made by or on behalf of the Minister or a person exercising the powers of the Minister or by or on behalf of a person, is evidence of the nature and contents of the document.

Proof of no
appeal

(6) An affidavit of an officer of the Agency, sworn before a commissioner or other person authorized to take affidavits, setting out that the officer has charge of the appropriate records and has knowledge of the practice of the Agency and that an examination of the records shows that a notice of assessment was mailed or otherwise sent to a person on a particular day under this Act and that, after careful examination and search of the records, the officer has been unable to find that a notice of objection or of appeal from the assessment was received within the time allowed for an objection or appeal to be filed under this Act, is evidence of the statements contained in the affidavit.

Presumption

(7) If evidence is offered under this section by an affidavit from which it appears that the person making the affidavit is an officer of the Agency, it is not necessary to prove the signature of the person or that the person is such an officer, nor is it necessary to prove the signature or official character of the person before whom the affidavit was sworn.

Proof of
documents

(8) Every 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, the Commissioner or an officer authorized to exercise the powers or perform the duties of the Minister under this Act is deemed to be a document signed, made and issued by the Minister, the Commissioner or the officer, unless it has been called into question by the Minister or a person acting for the Minister or for Her Majesty.

Mailing date

(9) If a notice or demand that the Minister is required or authorized under this Act to send or mail to a person is mailed to the person, the day of mailing is deemed to be the date of the notice or demand.

Date when
assessment made

(10) If a notice of assessment has been sent by the Minister as required under this Act, the assessment is deemed to have been made on the day of mailing of the notice of assessment.

Proof of return

(11) In a prosecution for an offence under this Act, the production of a return, an application, a certificate, a statement or an answer required under this Act, purporting to have been filed or delivered by or on behalf of the person charged with the offence or to have been made or signed by or on behalf of that person, is evidence that the return, application, certificate, statement or answer was filed or delivered by or on behalf of that person or was made or signed by or on behalf of that person.

Proof of return
- print-outs

(12) For the purposes of this Act, a document presented by the Minister purporting to be a print-out of the information in respect of a person received under section 166 by the Minister shall be received as evidence and, in the absence of evidence to the contrary, is proof of the return filed by the person under that section.

Proof of return
- production of
returns, etc.

(13) In a proceeding under this Act, the production of a return, an application, a certificate, a statement or an answer required under this Act, purporting to have been filed, delivered, made or signed by or on behalf of a person, is evidence that the return, application, certificate, statement or answer was filed, delivered, made or signed by or on behalf of that person.

Evidence

(14) In a prosecution for an offence under this Act, an affidavit of an officer of the Agency, sworn before a commissioner or other

person authorized to take affidavits, setting out that the officer has charge of the appropriate records and that an examination of the records shows that an amount required under this Act to be paid to the Receiver General on account of duty, interest or other amount has not been received by the Receiver General, is evidence of the statements contained in the affidavit.

Probative force
of copy

(15) Any copy of an original record made under section 262 that is purported to be certified by the Minister or an officer to be a copy of the original record is evidence of the nature and content of the original record and has the same probative force as the original record would have if it were proven in the ordinary way.

Certificate of
analysis

302. An analyst who has analysed or examined a thing or a sample of it under this Act may issue a certificate or report setting out the results of the analysis or examination.

Certificate or
report of
analyst as
proof

303. (1) Subject to subsections (2) and (3), a certificate or report purporting to be signed by an analyst stating that the analyst has analysed or examined anything to which this Act applies and stating the results of the analysis or examination is admissible in evidence in a prosecution for an offence under this Act without proof of the signature or official character of the person appearing to have signed the certificate or report.

Notice

(2) The certificate or report may not be received in evidence unless the party intending to produce it has, before the trial, given the party against whom it is intended to be produced reasonable notice of that intention together with a copy of the certificate or report.

Attendance of
analyst

(3) The party against whom the certificate or report is produced may, with leave of the court, require the attendance of the analyst for the purpose of cross-examination.

PART 7

REGULATIONS

Regulations –
Governor in
Council

304. (1) The Governor in Council may make regulations

(a) respecting any requirements and conditions that must be met by a person to be issued or to hold a licence or a registration;

(b) respecting the activities that a licensee or registrant may carry on and the premises where those activities may be carried on;

(c) respecting the types of security that are acceptable for the purposes of paragraph 23(3)(b) and the manner by which the amount of the security is to be determined but that amount must not be less than \$5,000;

(d) respecting the duration, amendment, suspension, renewal, cancellation or reinstatement of licences and registrations;

(e) prescribing facilities, equipment and personnel that must be provided by a licensee or registrant at the premises specified by the Minister under subsection 23(3);

(f) respecting the information to be provided on tobacco products and packaged alcohol and containers of tobacco products and packaged alcohol;

(g) designating certain classes of goods as ships' stores for use on board a conveyance of a prescribed class, including a class based on

(i) the physical attributes, functions or legal descriptions of conveyances,

(ii) areas within which conveyances voyage,

(iii) requirements, or limitations, related to voyages of conveyances, or

(iv) any combination of the bases mentioned in subparagraphs (i) to (iii);

(h) limiting the quantity of goods referred to in paragraph (g) that may be used as described in that paragraph during any prescribed period or periods;

(i) respecting the entry and removal of tobacco products or alcohol from an excise warehouse or a special excise warehouse;

(j) prescribing the fees to be paid for the examination or re-examination of instruments under section 148 and for any other service or anything provided by the Minister in relation to that section;

(k) prescribing the fees or the manner of determining any fees to be paid for a licence or registration;

(l) requiring any class of persons to make returns respecting any class of information required in connection with the administration or enforcement of this Act;

(m) requiring any person to provide the Minister with the person's Social Insurance Number;

(n) respecting the sale under section 266 of alcohol, tobacco products, raw leaf tobacco or specially denatured alcohol seized under section 260;

(o) prescribing any matter or thing that by this Act is to be or may be prescribed; and

(p) generally to carry out the purposes and provisions of this Act.

Effect

(2) A regulation made under this Act has effect from the day it is published in the *Canada Gazette* or at any later time that may be specified in the regulation, unless it provides otherwise and

(a) has a relieving effect only;

(b) corrects an ambiguous or deficient enactment that was not in accordance with the objects of this Act;

(c) is consequential on an amendment to this Act that is applicable before the day on which the regulation is published in the *Canada Gazette*; or

(d) gives effect to a budgetary or other public announcement, in which case the regulation shall not, unless paragraph (a), (b) or

(c) applies, have effect before the day on which the announcement was made.

PART 8

TRANSITIONAL PROVISIONS AND CONSEQUENTIAL, RELATED AND
COORDINATING AMENDMENTS

Transitional Provisions

Meaning of
"implementation
date"

305. In sections 306 to 320, "implementation date" means the day on which Parts 3 and 4 come into force.

Transitional
treatment of
duties on
packaged
spirits

306. The following rules apply to packaged spirits on which a duty, at a rate determined by the application of section 1 of Part I of the schedule to the *Excise Act*, was imposed under that Act or levied under the *Customs Tariff* but that had not become payable before the implementation date:

(a) as of that day, the duty is relieved;

(b) as of that day, the *Excise Act* ceases to apply in respect of the spirits;

(c) in the case of imported packaged spirits that have not been released under the *Customs Act*, this Act, the *Customs Act* and the *Customs Tariff* apply in respect of them as though they were imported on that day; and

(d) in the case of any other packaged spirits, this Act applies in respect of them as though

(i) they were produced and packaged in Canada on that day by the person having possession of them immediately before that day and the person were permitted under this Act to produce and package them, and

(ii) if the spirits are in the possession of a duty free shop or an accredited representative or delivered as ships' stores

in accordance with the *Ships' Stores Regulations*, they had been entered into an excise warehouse and then removed from the warehouse in accordance with paragraph 147(1)(a) on that day.

Transitional
treatment of
duties on bulk
spirits

307. (1) The following rules apply to bulk spirits on which a duty, at a rate determined by the application of section 1 of Part I of the schedule to the *Excise Act*, was imposed under that Act or levied under the *Customs Tariff* but that had not become payable before the implementation date:

(a) as of that day, the duty is relieved;

(b) as of that day, the *Excise Act* ceases to apply in respect of the spirits;

(c) in the case of imported bulk spirits that have not been released under the *Customs Act*, this Act, the *Customs Act* and the *Customs Tariff* apply in respect of them as though they were imported on that day; and

(d) in the case of any other bulk spirits, this Act applies in respect of them as though they were produced in Canada on that day by the person having possession of them immediately before that day.

Transitional
treatment of
bulk spirits
imported for
bottling or
blending

(2) The following rules apply to bulk spirits on which a duty, at a rate determined by the application of section 1 of Part I of the schedule to the *Excise Act*, was levied under the *Customs Tariff* and remitted under the *Distilled Spirits for Bottling in Bond Remission Order* or the *Imported Spirits for Blending Remission Order* before the implementation date:

(a) as of that day, the duty imposed on the spirits under subsection 135(1) of the *Excise Act* when they were entered into a distillery is relieved;

(b) as of that day, the *Excise Act* ceases to apply in respect of the spirits; and

(c) this Act applies in respect of them as though they were produced in Canada on that day by the person having possession of them immediately before that day.

Transitional
treatment of
excise taxes on
wine

308. The following rules apply to wine on which tax was imposed under section 27 of the *Excise Tax Act* but had not become payable before the implementation date:

(a) as of that day, the tax is relieved;

(b) as of that day, Parts III, VI, and VII of the *Excise Tax Act* cease to apply in respect of the wine;

(c) in the case of imported wine that has not been released under the *Customs Act*, this Act, the *Customs Act* and the *Customs Tariff* apply in respect of the wine as though it were imported on that day;

(d) in the case of bulk wine to which paragraph (c) does not apply, this Act applies in respect of it as though it were produced in Canada on that day

(i) if the wine is located in a ferment-on-premises facility or at the residence of an individual, by the individual who owned the wine immediately before that day, or

(ii) in any other case, by the person having possession of it immediately before that day; and

(e) in the case of wine to which neither paragraph (c) nor (d) apply, this Act applies in respect of it as though

(i) it were produced and packaged in Canada on that day by the person having possession of it immediately before that day and the person were permitted under this Act to produce and package it, and

(ii) in the case of wine in the possession of a duty free shop or an accredited representative or delivered as ships' stores in accordance with the *Ships' Stores Regulations*, it had been entered into an excise warehouse and then removed from the warehouse in accordance with paragraph 147(1)(a) on that day.

Transitional
treatment of
packaged wine
in inventory of
small
manufacturers

309. (1) If tax under Part IV of the *Excise Tax Act* is not payable in respect of packaged wine because it was produced by a person who is exempt from payment of excise tax under the *Small Manufacturers or Producers Exemption Regulations*, subsection 135(1) does not apply to the wine if it was packaged before the implementation date.

Determination
of sales for
transitional
purposes

(2) For the period beginning on the implementation date and ending on the day that is one year after that day, the words "products subject to duty under subsection (1), or would have been so subject to duty in the absence of this subsection," in paragraph 135(2)(b) shall be read as "goods referred to in paragraph 2(1)(a) of the *Small Manufacturers or Producers Exemption Regulations*".

Application of
Act to tax-paid
packaged wine

310. (1) If packaged wine on which tax imposed under section 27 of the *Excise Tax Act* became payable before the implementation date is entered into the excise warehouse of an excise warehouse licensee on or before the end of six months after that day, this Act applies in respect of the wine as though it were produced and packaged in Canada by the licensee and the licensee were permitted under this Act to produce and package it on the day it is entered into the warehouse.

Refund of
excise tax paid
on packaged
wine

(2) If the tax imposed under section 27 of the *Excise Tax Act* in respect of the wine entered into the warehouse has been paid, the licensee may apply to the Minister for a refund of the tax.

Limitation

(3) No refund shall be paid under this section unless the application for the refund is filed with the Minister in the prescribed form and manner within one year after the implementation date.

Application of
Act to tax-paid
bulk wine

311. (1) If bulk wine on which tax imposed under section 27 of the *Excise Tax Act* became payable before the implementation date is entered into the specified premises of a licensed user on that day, this Act applies in respect of the wine as though it were produced in Canada on that day by the user and the user were permitted to produce the wine.

Refund of
excise tax paid
on bulk wine

(2) If the tax imposed under section 27 of the *Excise Tax Act* in respect of the wine entered into the specified premises of a licensed user has been paid, the user may apply to the Minister for a refund of the tax.

Limitation

(3) No refund shall be paid under this section unless the application for the refund is filed with the Minister in the prescribed form and manner within one year after the implementation date.

Definitions

312. (1) The definitions in this subsection apply in this section.

"bonded
manufacturer"
« *fabricant
entrepotitaire*
»

"bonded manufacturer" means a person who holds, before the implementation date, a licence under subsection 182(1) of the *Excise Act*.

"licensed
pharmacist"
« *pharmacien
titulaire de
licence* »

"licensed pharmacist" means a person who holds, before the implementation date, a licence under subsection 136(2) of the *Excise Act*.

Application of
Act to spirits
in possession
of bonded
manufacturer or
licensed
pharmacist

(2) If, on the implementation date, a bonded manufacturer or a licensed pharmacist possesses, in accordance with their licence, spirits that were produced before that day, the following rules apply:

(a) as of that day, the *Excise Act* ceases to apply in respect of the spirits; and

(b) this Act applies in respect of them as though

(i) in the case of bulk spirits, the spirits were produced in Canada on that day by the manufacturer or the pharmacist and, if they are a licensed user, they were permitted to produce the spirits, or

(ii) in the case of packaged spirits, the spirits were produced and packaged in Canada on that day by the manufacturer or the pharmacist and they were permitted to produce and package the spirits.

Refund of duty
paid by bonded
manufacturer or
licensed
pharmacist

(3) If, on the implementation date, a bonded manufacturer or licensed pharmacist possesses spirits on which duty at a rate determined by the application of subsection 1(2) or (3) of Part I of the schedule to the *Excise Act* was paid, the manufacturer or pharmacist may apply to the Minister for a refund of the duty.

Limitation

(4) No refund shall be paid under this section unless the application for the refund is filed with the Minister in the prescribed form and manner within one year after the implementation date.

Application of
Act to spirits
to be used for
scientific
purposes

313. If a person described by any of paragraphs 135(2)(a) to (d) of the *Excise Act* possesses, on the implementation date, spirits in respect of which a drawback under subsection 135(2) of that Act is granted at any time, the following rules apply:

(a) as of that day, the *Excise Act* ceases to apply in respect of the spirits;

(b) this Act applies in respect of them as though

(i) in the case of bulk spirits, the spirits were produced in Canada on that day by the person and, if the person is a registered user, the person were permitted to produce the spirits, or

(ii) in the case of packaged spirits,

(A) the spirits were produced and packaged in Canada on that day by the person,

(B) the person were permitted to produce and package the spirits, and

(C) if the person is a registered user, the spirits were, on that day, entered into an excise warehouse and then removed from the warehouse in accordance with subparagraph 147(1)(a)(iii); and

(c) if the spirits are contained in a special container and the person is a registered user

(i) the person shall, despite subsection 78(1), mark the container on that day, and

(ii) the container is deemed to have been entered into an excise warehouse and then removed from the warehouse in accordance with paragraph 147(2)(a) on that day.

Application of
Act to alcohol
in bottle-your-
own premises

314. The following rules apply to alcohol contained in a special container located on a person's bottle-your-own premises on the implementation date:

(a) the person shall, despite subsections 78(1) and 83(1), mark the container on that day;

(b) in the case of spirits, this Act applies in respect of them as though the duty, at a rate determined by the application of section 1 of Part I of the schedule to the *Excise Act*, that had become payable before that day in respect of them were imposed and, if the duty is paid, paid under this Act; and

(c) in the case of wine,

(i) for the purposes of subsection 135(1), section 82 does not apply to the marking of the container under paragraph (a), and

(ii) this Act applies in respect of the wine as though the tax under section 27 of the *Excise Tax Act* that had become payable before that day in respect of it were a duty that was imposed and, if the tax is paid, paid under this Act.

Removal of
alcohol from
customs bonded
warehouse

315. (1) If packaged alcohol is located in a customs bonded warehouse on the implementation date,

(a) the alcohol shall be removed from the warehouse; and

(b) any duty on the alcohol that is imposed under this Act or levied under section 21.2 of the *Customs Tariff* as a result of the operation of section 306 or 308 is payable on that day unless the alcohol is without delay entered into an excise warehouse.

Exception

(2) Subsection (1) does not apply if the alcohol in the customs bonded warehouse is to be

(a) exported in accordance with this Act; or

(b) delivered

(i) to an accredited representative for their personal or official use,

(ii) to a duty free shop for sale in accordance with the *Customs Act*,

(iii) as ships' stores in accordance with the *Ships' Stores Regulations*, or

(iv) to an air carrier that is licensed under section 69 or 73 of the *Canada Transportation Act* to operate an international air service.

Transitional
treatment of
Canadian
manufactured
tobacco
products

316. (1) The following rules apply to a tobacco product manufactured in Canada before the implementation date:

(a) if tax on the product imposed under section 23 of the *Excise Tax Act* had not become payable before that day,

(i) the tax is relieved,

(ii) if duty on the product imposed under the *Excise Act* had not become payable before that day, the duty is relieved, and

(iii) this Act applies in respect of the product as though it were manufactured in Canada on that day by the manufacturer to the same extent that the product was manufactured immediately before that day;

(b) if the product was stamped or marked under the *Excise Act*, the product is deemed to be stamped or marked, as the case may be, under this Act; and

(c) the *Excise Act* and Parts III, VI and VII of the *Excise Tax Act* cease to apply in respect of the product.

Refund of duty
paid

(2) If duty imposed under the *Excise Act* on a tobacco product manufactured in Canada before the implementation date had become

payable before that day but tax under section 23 of the *Excise Tax Act* had not become payable before that day, the manufacturer of the product may apply to the Minister for a refund of the duty.

Limitation

(3) No refund shall be paid under this section unless the application for the refund is filed with the Minister in the prescribed form and manner within one year after the implementation date.

Transitional
treatment of
imported
tobacco
products

317. The following rules apply to an imported tobacco product:

(a) if duty levied under section 21 of the *Customs Tariff* and tax imposed under section 23 of the *Excise Tax Act* on the product had not become payable before the implementation date,

(i) the duty and tax are relieved, and

(ii) this Act and the *Customs Act* apply in respect of the product as though it were imported into Canada on that day by the importer;

(b) if the product was stamped or marked under the *Excise Act*, the product is deemed to be stamped or marked, as the case may be, under this Act; and

(c) the *Excise Act* and Parts III, VI and VII of the *Excise Tax Act* cease to apply in respect of the product.

Transitional
treatment of
imported raw
leaf tobacco

318. If, on the implementation date, a person possesses raw leaf tobacco that was imported before that day, this Act applies as though the person imported the tobacco on that day.

Removal of
cigars from
customs bonded
warehouse

319. If cigars manufactured in Canada are located in a customs bonded warehouse on the implementation date, they shall be removed from the warehouse and entered into an excise warehouse on that day.

Removal of
tobacco
products from
bonding
warehouse of
manufacturer

320. (1) If a tobacco product manufactured in Canada is, on the implementation date, located in a bonding warehouse of a person who is licensed under subsection 196(1) of the *Excise Act*, the product shall be removed from the warehouse and entered into an excise warehouse on that day.

Removal of
tobacco
products from
bonding
warehouse of
authorized
distributor

(2) If a tobacco product manufactured in Canada is, on the implementation date, located in a bonding warehouse of a person who is licensed under paragraph 50(1)(c) of the *Excise Act*, the product shall, on that day, be removed from the warehouse and

(a) entered into the person's special excise warehouse, if the person is a special excise warehouse licensee and the product is one that the person is permitted under this Act to distribute; or

(b) returned to the excise warehouse of the tobacco licensee who manufactured the product.

Consequential and Related Amendments

2000, c. 14

Budget Implementation Act, 2000

321. (1) The definition "tobacco product" in subsection 23(1) of the *Budget Implementation Act, 2000* is replaced by the following:

"tobacco
product"
« *produit du
tabac* »

"tobacco product" has the meaning assigned by section 2 of the *Excise Act, 2001*.

(2) Paragraph (c) of the definition "alcoholic beverage" in subsection 23(1) of the Act is replaced by the following:

(c) wine, within the meaning assigned by section 2 of the *Excise Act, 2001*;

1999, c. 17

Canada Customs and Revenue Agency Act

322. Paragraph (a) of the definition "program legislation" in section 2 of the *Canada Customs and Revenue Agency Act* is replaced by the following:

(a) that the Governor in Council or Parliament authorizes the Minister, the Agency, the Commissioner or an employee of the Agency to administer or enforce, including the *Customs Act*, the *Customs Tariff*, the *Excise Act*, the *Excise Act, 2001*, the *Excise Tax Act*, the *Income Tax Act* and the *Special Import Measures Act*; or

323. Section 7 of the Act is replaced the following:

Designation of
officers

7. The Minister may designate any person, or person within a class of persons, as an officer as defined in subsection 2(1) of the *Customs Act*, section 2 of the *Excise Act* or section 2 of the

Excise Act, 2001 to exercise any powers or perform any duties and functions of an officer under those Acts that the Minister may specify.

R.S., c. C-46

Criminal Code

R.S., c. 1 (2nd
Supp.), s.
213(2) (Sch.
II, s.
3(1))(F), s.
213(4) (Sch.
IV, s. 1)(E)

324. Paragraph (d) of the definition "peace officer" in section 2 of the *Criminal Code* is replaced by the following:

(d) an officer or a person having the powers of a customs or excise officer when performing any duty in the administration of the *Customs Act*, the *Excise Act* or the *Excise Act, 2001*,

R.S., c. 1 (2nd
Supp.), s.
213(3) (Sch.
III, s. 1)

325. Subsection 78(2) of the Act is replaced by the following:

Definition of
"civil
aircraft"

(2) For the purposes of this section, "civil aircraft" means all aircraft other than aircraft operated by the Canadian Forces, a police force in Canada or persons engaged in the administration or enforcement of the *Customs Act*, the *Excise Act* or the *Excise Act, 2001*.

1993, c. 25,
par. 94(b)

326. The reference to "section 126.1 (possession of property obtained by excise offences), 126.2 (laundering proceeds of excise offences), 158 (unlawful distillation of spirits) or 163 (unlawful selling of spirits) or subsection 233(1) (unlawful packaging or stamping) or 240(1) (unlawful possession or sale of manufactured tobacco or cigars) of the *Excise Act*" in the definition "offence" in section 183 of the Act is replaced by a reference to "section

214 (unlawful production, sale, etc., of tobacco or alcohol), 216 (unlawful possession of tobacco product), 218 (unlawful possession, sale, etc., of alcohol), 219 (falsifying or destroying records), 230 (possession of property obtained by excise offences) or 231 (laundering proceeds of excise offences) of the *Excise Act, 2001*".

1999, c. 5, s.
52

327. Paragraph (b.1) of the definition "enterprise crime offence" in section 462.3 of the Act is replaced by the following:

(b.1) an offence against section 214, 216, 218, 230 or 231 of the *Excise Act, 2001*, section 153, 159, 163.1 or 163.2 of the *Customs Act* or subsection 52.1(9) of the *Competition Act*, or

R.S., c. 1 (2nd
Supp.)

Customs Act

1993, c. 25, s.
68

328. (1) The definitions "cigar" and "manufactured tobacco" in subsection 2(1) of the *Customs Act* are repealed.

1993, c. 25, s.
68; 1997, c.
36, s. 147(1)

(2) The definitions "duties" and "tobacco product" in subsection 2(1) of the Act are replaced by the following:

"duties"
« *droits* »

"duties" means any duties or taxes levied or imposed on imported goods under the *Customs Tariff*, the *Excise Act, 2001*, the *Excise Tax Act*, the *Special Import Measures Act* or any other Act of Parliament, but, for the purposes of subsection 3(1), paragraphs 59(3)(b) and 65(1)(b), sections 69 and 73 and subsections 74(1), 75(2) and 76(1), does not include taxes imposed under Part IX of the *Excise Tax Act*;

"tobacco
product"
« *produit du
tabac* »

"tobacco product" has the same meaning as in section 2 of the
Excise Act, 2001;

1995, c. 41, s.
1(2)

**(3) Paragraph (a) of the definition "designated goods" in
subsection 2(1) of the Act is repealed.**

**(4) The definition "designated goods" in subsection 2(1) of the
Act is amended by adding the following after paragraph (i):**

(i.1) spirits,

**(5) Subsection 2(1) of the Act is amended by adding the following
in alphabetical order:**

"raw leaf
tobacco"
« *tabac en
feuilles* »

"raw leaf tobacco" has the same meaning as in section 2 of the
Excise Act, 2001;

"specially
denatured
alcohol"
« *alcool
spécialement
dénaturé* »

"specially denatured alcohol" has the same meaning as in section 2
of the *Excise Act, 2001*;

"spirits"
« *spiritueux* »

"spirits" has the same meaning as in section 2 of the *Excise Act,
2001*;

"spirits
licensee"
« titulaire de
licence de
spiritueux »

"spirits licensee" has the same meaning as in section 2 of the
Excise Act, 2001;

"tobacco
licensee"
« titulaire de
licence de
tabac »

"tobacco licensee" has the same meaning as in section 2 of the
Excise Act, 2001;

"wine"
« vin »

"wine" has the same meaning as in section 2 of the *Excise Act,*
2001;

"wine licensee"
« titulaire de
licence de vin
»

"wine licensee" has the same meaning as in section 2 of the *Excise*
Act, 2001.

1995, c. 41, s.
1(3)

(6) The definitions "alcohol", "ethyl alcohol" and "spirits" and "wine" in subsection 2(1.1) of the Act are repealed.

329. Subsection 3(1) of the Act is replaced by the following:

Duties binding
on Her Majesty

3. (1) All duties or taxes levied on imported goods under the *Customs Tariff*, the *Excise Act, 2001*, the *Excise Tax Act*, the *Special Import Measures Act* or any other law relating to customs

are binding on Her Majesty in right of Canada or a province in respect of any goods imported by or on behalf of Her Majesty.

2001, c. 16, s.
2(1)

330. Paragraph 24(1)(c) of the Act is replaced by the following:

(c) as a duty free shop for the sale of goods free of certain duties or taxes levied on goods under the *Customs Tariff*, the *Excise Act*, the *Excise Act, 2001*, the *Excise Tax Act*, the *Special Import Measures Act* or any other law relating to customs, to persons who are about to leave Canada

1993, c. 25, s.
71

331. Subsection 26(2) of the Act is replaced by the following:

Definition

(2) In subsection (1), "duties" means duties or taxes levied under the *Customs Tariff*, the *Excise Act*, the *Excise Act, 2001*, the *Excise Tax Act*, the *Special Import Measures Act* or any other law relating to customs.

1995, c. 39, s.
168

332. (1) The portion of subsection 28(1) of the Act before paragraph (a) is replaced by the following:

Liability of
operator

28. (1) The operator of a sufferance warehouse, bonded warehouse or duty free shop is liable for all duties or taxes levied under the *Customs Tariff*, the *Excise Act*, the *Excise Act, 2001*, the *Excise Tax Act*, the *Special Import Measures Act* or any other law relating to customs on goods that have been received in the warehouse or duty free shop unless the operator proves that the goods

1993, c. 25, s.
72(1)

(2) Subsections 28(1.1) and (1.2) of the Act are repealed.

(3) The portion of subsection 28(2) of the Act before paragraph (a) is replaced by the following:

Rates

(2) The rates of duties or taxes payable on goods under subsection (1) shall

1993, c. 25, s.
72(2)

(4) Subsection 28(3) of the Act is replaced by the following:

Definition of
"duties" not to
apply

(3) The definition "duties" in subsection 2(1) does not apply for the purposes of subsections (1) and (2).

1997, c. 36, s.
152

333. Subsection 32.2(8) of the Act is replaced by the following:

Duties

(8) If a declaration of tariff classification is rendered incorrect by a failure referred to in subsection (6), for the purposes of paragraph (2)(b), duties do not include duties or taxes levied under the *Excise Act, 2001*, the *Excise Tax Act* or the *Special Import Measures Act*.

1992, c. 28, s.
6(1)

334. Section 33 of the Act is replaced by the following:

Release prior
to payment of
duties

33. (1) In prescribed circumstances, goods may be released prior to the payment of duties levied on them.

Payment of
duties

(2) If goods are released under this section, the person who accounted for the goods under subsection 32(2) or (3) shall pay the duties levied on them within the prescribed time.

Meaning of
duties

(3) In subsection (2), "duties" does not include the duties levied under

(a) subsection 21.1(1) of the *Customs Tariff*, if they are paid and collected in accordance with subsection 21.1(2) of that Act; or

(b) subsections 21.2(1) and (2) of the *Customs Tariff*, if they are paid and collected in accordance with subsection 21.2(3) of that Act.

335. Section 44 of the Act is replaced by the following:

Ad valorem
rates of duty

44. If duties, other than duties or taxes levied under the *Excise Act, 2001* or the *Excise Tax Act*, are imposed on goods at a percentage rate, such duties shall be calculated by applying the rate to a value determined in accordance with sections 45 to 55.

336. Clause 48(5)(b)(ii)(B) of the Act is replaced by the following:

(B) any duties and taxes paid or payable by reason of the importation of the goods or sale of the goods in Canada, including, without limiting the generality of the foregoing, any duties or taxes levied on the goods under the *Customs Tariff*, the *Excise Act, 2001*, the *Excise Tax Act*, the *Special Import Measures Act* or any other law relating to customs; and

1997, c. 36, s.
175(3)

337. Subsection 74(1.2) of the Act is replaced by the following:

Duties

(1.2) The duties that may be refunded under paragraph (1)(f) do not include duties or taxes levied under the *Excise Act, 2001*, the *Excise Tax Act* or the *Special Import Measures Act*.

338. Section 117 of the Act is renumbered as subsection 117(1) and is amended by adding the following:

No return of
certain goods

(2) Despite subsection (1), if spirits, wine, specially denatured alcohol, raw leaf tobacco or tobacco products are seized under this Act, they shall not be returned to the person from whom they were seized or any other person unless they were seized in error.

339. Section 119.1 of the Act is amended by adding the following after subsection (1):

Restriction

(1.1) Subject to the regulations, the sale under subsection (1) of

(a) spirits or specially denatured alcohol may only be to a spirits licensee;

(b) wine may only be to a wine licensee; and

(c) raw leaf tobacco or a tobacco product may only be to a tobacco licensee.

340. The portion of subsection 142(1) of the Act before paragraph (a) is replaced by the following:

Disposal of
things
abandoned or
forfeit

142. (1) Unless the thing is spirits, specially denatured alcohol, wine, raw leaf tobacco or a tobacco product, anything that has been abandoned to Her Majesty in right of Canada under this Act and anything the forfeiture of which is final under this Act shall

341. The Act is amended by adding the following after section 142:

Dealing with
abandoned or
forfeited
alcohol, etc.

142.1 (1) If spirits, specially denatured alcohol, wine, raw leaf tobacco or a tobacco product is abandoned or finally forfeited under this Act, the Minister may sell, destroy or otherwise deal with it.

Restriction

- (2) Subject to the regulations, the sale under subsection (1) of
- (a) spirits or specially denatured alcohol may only be to a spirits licensee;
 - (b) wine may only be to a wine licensee; and
 - (c) raw leaf tobacco or a tobacco product may only be to a tobacco licensee.

1993, c. 25, s.
89

342. Paragraph 163.1(1)(a) of the Act is replaced by the following:

- (a) the commission of an offence contrary to section 153 or under section 159, in relation to spirits, wine or tobacco products, or under section 163.2; or

1993, c. 25, s.
89

343. Paragraph 163.2(1)(a) of the Act is replaced by the following:

- (a) the commission of an offence contrary to section 153 or under section 159, in relation to spirits, wine or tobacco products; or

1993, c. 25, s.
89

344. Subsection 163.3(1) of the Act is replaced by the following:

Part XII.2 of
Criminal Code
applicable

163.3 (1) Sections 462.3 and 462.32 to 462.5 of the *Criminal Code* apply, with any modifications that the circumstances require, in respect of proceedings for an offence contrary to section 153 or under section 159, in relation to spirits, wine or tobacco products, or under section 163.1 or 163.2.

R.S., c. C-53

Customs and Excise Offshore Application Act

R.S., c. 1 (2nd
Supp.), s.
213(3) (Sch.
III, s. 2)

345. The portion of the definition "federal customs laws" in subsection 2(1) of the *Customs and Excise Offshore Application Act* after paragraph (c) is replaced by the following:

that relate to customs or excise, whether those Acts, regulations or rules come into force before or after June 30, 1983 and, for greater certainty but without restricting the generality of the foregoing, includes the following Acts, namely, the *Customs Act*, the *Customs Tariff*, the *Excise Act*, the *Excise Act, 2001*, the *Excise Tax Act*, the *Export and Import Permits Act*, the *Importation of Intoxicating Liquors Act* and the *Special Import Measures Act*;

1997, c. 36

Customs Tariff

2001, c. 16, s.
3(1)

346. Section 21 of the *Customs Tariff* is replaced by the following:

Definitions

21. The definitions in this section apply in sections 21.1 to 21.3.

"beer" or "malt
liquor"
« *bière* » ou «
liqueur de malt
»

"beer" or "malt liquor" means beer or malt liquor, within the meaning of section 4 of the *Excise Act*, of tariff item No. 2202.90.10, heading No. 22.03 or tariff item No. 2206.00.80 or 2206.00.91, that is classified under that heading or tariff item or with the container in which it is imported.

"bulk"
« en vrac »

"bulk" has the same meaning as in section 2 of the *Excise Act, 2001*.

"excise
warehouse"
« entrepôt
d'accise »

"excise warehouse" has the same meaning as in section 2 of the *Excise Act, 2001*.

"excise
warehouse
licensee"
« exploitant
agrée
d'entrepôt
d'accise »

"excise warehouse licensee" has the same meaning as in section 2 of the *Excise Act, 2001*.

"licensed user"
« utilisateur
agrée »

"licensed user" has the same meaning as in section 2 of the *Excise Act, 2001*.

"packaged"
« emballé »

"packaged" has the same meaning as in section 2 of the *Excise Act, 2001*.

"specified
premises"
« local
déterminé »

"specified premises" has the same meaning as in section 2 of the *Excise Act, 2001*.

"spirits"
« spiritueux »

"spirits" means spirits, as defined in section 2 of the *Excise Act, 2001*,

(a) of an alcoholic strength by volume exceeding 22.9%, of tariff item No. 2204.10.90, 2204.21.32, 2204.21.49, 2204.29.32, 2204.29.49, 2204.30.90, 2205.10.30, 2205.90.30, 2206.00.19, 2206.00.22, 2206.00.39, 2206.00.49, 2206.00.72 or 2206.00.93, that are classified under that tariff item or with the container in which they are imported; or

(b) of heading No. 22.07 or 22.08, other than of tariff item No. 2207.20.11, 2207.20.12, 2207.20.90 or 2208.90.30, that are classified under that heading or with the container in which they are imported.

"wine"
« vin »

"wine" means wine, as defined in section 2 of the *Excise Act, 2001*, of heading No. 22.04, 22.05 or 22.06, other than of tariff item No. 2204.10.90, 2204.21.32, 2204.21.49, 2204.29.32, 2204.29.49, 2204.30.90, 2205.10.30, 2205.90.30, 2206.00.19, 2206.00.22, 2206.00.39, 2206.00.49, 2206.00.72, 2206.00.80, 2206.00.91 or 2206.00.93, that is classified under that heading or with the container in which it is imported.

Additional duty
on bulk spirits

21.1 (1) In addition to any other duties imposed under this Act or any other Act of Parliament relating to customs, there is levied on bulk spirits, at the time they are imported, an additional duty equal to the duty that would be imposed on the spirits under section 122 of the *Excise Act, 2001* if the spirits had been produced in Canada.

Duty payable
under *Excise Act, 2001*

(2) The duty levied on bulk spirits shall be paid and collected under the *Excise Act, 2001*, and interest and penalties shall be imposed, calculated, paid and collected under that Act, as if the duty were duty imposed on the spirits under that Act, and, for those purposes, that Act applies with any modifications that the circumstances require.

Limitation

(3) Despite subsection (2) and the *Excise Act, 2001*, the person who is liable for duty imposed under subsection (1) in respect of bulk spirits that have not been released under the *Customs Act* is the person who is liable to pay duties under the *Customs Act*.

Additional duty
on packaged
spirits

21.2 (1) In addition to any other duties imposed under this Act or any other Act of Parliament relating to customs, there is levied on packaged spirits, at the time they are imported, and paid in accordance with the *Customs Act*, an additional duty equal to the duty that would be imposed on them under section 122 or 123 of the *Excise Act, 2001* if they had been produced and packaged in Canada.

Additional duty
on packaged
wine

(2) In addition to any other duties imposed under this Act or any other Act of Parliament relating to customs, there is levied on packaged wine, at the time it is imported, and paid in accordance with the *Customs Act*, an additional duty equal to the duty that would be imposed on it under section 135 of the *Excise Act, 2001* if it had been packaged in Canada.

Goods entered
into warehouse
or premises

(3) If, immediately after being released under the *Customs Act*, packaged spirits or wine is entered into the excise warehouse of the excise warehouse licensee or the specified premises of the licensed user who imported the spirits or wine, the duty levied on the spirits or wine under subsection (1) or (2) shall be paid and collected under the *Excise Act, 2001*. Interest and penalties shall be imposed, calculated, paid and collected under the *Excise Act, 2001* as if the duty were imposed under that Act, and, for those purposes, that Act applies with any modifications that the circumstances require.

Additional duty
on beer

21.3 In addition to any other duties imposed under this Act or any other Act of Parliament relating to customs, there is levied on beer or malt liquor, at the time it is imported, and paid in

accordance with the *Customs Act*, an additional duty equal to the duty that would be levied on it under section 170 of the *Excise Act* if it had been manufactured or produced in Canada.

347. The definition "duties" in section 80 of the Act is replaced by the following:

"duties"
« *droits* »

"duties", other than for the purposes of section 106, means duties or taxes levied or imposed on imported goods under Part 2, the *Excise Act, 2001*, the *Excise Tax Act*, the *Special Import Measures Act* or any other Act of Parliament relating to customs, but for the purposes of sections 89 and 113 does not include the goods and services tax.

2001, c. 16, s.
4(1)

348. Paragraph 83(a) of the Act is replaced by the following:

(a) in the case of goods that would have been classified under tariff item No. 9804.10.00 or 9804.20.00, the value for duty of the goods shall be reduced by an amount equal to that maximum specified value and, in the case of alcoholic beverages and tobacco, the quantity of those goods shall, for the purposes of assessing duties other than a duty under section 54 of the *Excise Act, 2001*, be reduced by the quantity of alcoholic beverages and tobacco up to the maximum quantities specified in tariff item No. 9804.10.00 or 9804.20.00, as the case may be;

349. Subsection 89(2) of the Act is replaced by the following:

Exception for
tobacco
products or
designated
goods

(2) Relief of the duties or taxes levied or imposed under sections 21.1 to 21.3, the *Excise Act, 2001* or the *Excise Tax Act* may not be granted under subsection (1) on tobacco products or designated goods.

2001, c. 16, s.
5(1)

350. Subsection 92(3) of the Act is replaced by the following:

Non-application
to Canadian
manufactured
tobacco

(3) This section does not apply to any duty imposed under the *Excise Act, 2001* in respect of manufactured tobacco that is manufactured in Canada.

351. Section 94 of the Act is replaced by the following:

Definition of
"customs
duties"

94. (1) In sections 95 and 96, "customs duties" means customs duties imposed under Part 2, other than

(a) additional customs duties levied under sections 21.1 to 21.3;

(b) surtaxes imposed under section 53, 55, 60, 63, 68 or 78; or

(c) temporary duties imposed under any of sections 69 to 76.

For greater
certainty

(2) For greater certainty, in sections 95 and 96, "customs duties" does not include any duties or taxes levied or imposed on imported goods under the *Excise Act, 2001*, the *Excise Tax Act* or the *Special Import Measures Act*.

352. Subparagraph 99(a)(iii) of the Act is replaced by the following:

(iii) the circumstances in which, and the classes of goods in respect of which, relief of duties levied under sections 21.1 to 21.3 or under the *Special Import Measures Act*, a surtax imposed under section 53, 55, 60, 63, 68 or 78, a temporary duty imposed under any of sections 69 to 76, a tax levied under the *Excise Tax Act* or a duty imposed under the *Excise Act, 2001* may not be granted,

353. Subsection 106(1) of the Act is replaced by the following:

Temporary
relief of
certain duties
and taxes

106. (1) If an application for relief is made in the prescribed circumstances by a person of a prescribed class and in the prescribed form and manner, accompanied by prescribed documents and by security of a prescribed nature in an amount fixed by the Minister of National Revenue, relief shall be granted from the payment of the whole or the prescribed portion, as the case may be, of any duty imposed under sections 21.1 to 21.3 or the *Excise Act, 2001* or of any excise taxes that, but for this section, would be payable in respect of prescribed goods that are imported and subsequently exported after being used in Canada only for a prescribed purpose.

354. (1) Subsection 113(2) of the Act is replaced by the following:

No refund or
drawback in
respect of
tobacco
products

(2) No refund or drawback of the duties imposed on tobacco products under the *Excise Act, 2001* shall be granted under subsection (1), except if a refund of the whole or the portion of the duties is required to be granted under Division 3.

(2) Paragraph 113(4)(a) of the Act is replaced by the following:

(a) the circumstances in which, and the classes of goods in respect of which, a refund or drawback of duties levied under sections 21.1 to 21.3 or the *Special Import Measures Act*, a surtax levied under section 53, 55, 60, 63, 68 or 78, a temporary duty levied under any of sections 69 to 76, a tax levied under the *Excise Tax Act* or a duty levied under the *Excise Act, 2001* may not be granted under subsection (1);

(3) Subsection 113(5) of the Act is replaced by the following:

Designated
goods

(5) Despite the exception in subsection 89(2), a refund or drawback of duties or taxes levied or imposed under sections 21.1 to 21.3, the *Excise Act, 2001* or the *Excise Tax Act* shall be granted under paragraph (1)(a) on designated goods.

355. Tariff item Nos. 2204.10.00, 2204.21.40, 2204.29.40, 2204.30.00, 2206.00.30, 2206.00.40, 2206.00.91, 2206.00.92 and 2208.90.91 in the List of Tariff Provisions set out in the schedule to the Act are repealed.

356. The Description of Goods of tariff item No. 2206.00.11 in the List of Tariff Provisions set out in the schedule to the Act is amended by replacing the reference to "Sparkling" with a reference to "Sparkling, of an alcoholic strength by volume not exceeding 22.9% vol".

357. The Description of Goods of tariff item No. 2207.20.11 in the List of Tariff Provisions set out in the schedule to the Act is replaced by the following:

- - - - Specially denatured alcohol, within the meaning of the *Excise Act, 2001*

358. The Description of Goods of tariff item No. 2208.90.98 in the List of Tariff Provisions set out in the schedule to the Act is replaced by the following:

- - - - Other, packaged, of an alcoholic strength by volume not exceeding 7%

359. The Description of Goods of tariff item No. 2208.90.99 in the List of Tariff Provisions set out in the schedule to the Act is replaced by the following:

- - - - Other

360. Note 4 to Chapter 98 of the List of Tariff Provisions set out in the schedule to the Act is replaced by the following:

4. For the purpose of this Chapter, "duties" means duties or taxes levied or imposed on imported goods under Part 2 of this Act, the *Excise Act, 2001* (other than section 54), the *Excise Tax Act*, the *Special Import Measures Act* or any other Act of Parliament relating to customs.

361. The Description of Goods of heading No. 98.26 in the List of Tariff Provisions set out in the schedule to the Act is amended by replacing the reference to "sections 21 and 22 of this Act" with a reference to "sections 21.1 to 22 of this Act".

362. The List of Tariff Provisions set out in the schedule to the Act is amended by adding, in numerical order, the tariff provisions set out in Schedule 7 to this Act.

R.S., c. E-14

Excise Act

363. The *Excise Act* is amended by adding the following after section 1:

APPLICATION

Non-application
of Act

1.1 (1) Despite anything in this Act, on the coming into force of Parts 3 and 4 of the *Excise Act, 2001*, this Act ceases to apply in respect of

(a) the manufacture of any goods or substance other than beer, malt liquor and any product manufactured in accordance with subsection 169(2); and

(b) the handling of, or the dealing with, anything that is or relates to any goods or substance other than beer, malt liquor and any product manufactured in accordance with subsection 169(2), to the extent that the *Excise Act, 2001* applies to that handling or dealing.

Meaning of
"beer" and
"malt liquor"

(2) In subsection (1), "beer" and "malt liquor" have the meaning assigned by section 4.

364. The definition " "beer" or "malt liquor" " in section 4 of the Act is replaced by the following:

"beer" or "malt
liquor"
« *bière* » ou
« *liqueur de
malt* »

"beer" or "malt liquor" means all fermented liquor brewed in whole or in part from malt, grain or any saccharine matter without any process of distillation, but does not include wine as defined in section 2 of the *Excise Act, 2001*;

365. Section 176 of the Act is amended by adding the following after subsection (2):

Exception

(3) Subsection (1) does not apply to a person who is licensed as a spirits licensee under section 14 of the *Excise Act, 2001* and who produces beer solely for the purpose of distilling the beer.

R.S., c. E-15

Excise Tax Act

1993, c. 25, s.
54; 1994, c.
29, s. 1(1)

366. The definitions "accredited representative", "cigar", "cigarette", "manufactured tobacco" and "tobacco stick" in subsection 2(1) of the *Excise Tax Act* are repealed.

2001, c. 16, s.
17(1)

367. (1) Subsection 23(1) of the Act is replaced by the following:

Tax on various
articles at
schedule rates

23. (1) Subject to subsections (6) to (8), whenever goods mentioned in Schedule I are imported or are manufactured or produced in Canada and delivered to a purchaser of those goods, there shall be imposed, levied and collected, in addition to any other duty or tax that may be payable under this or any other law, an excise tax in respect of the goods at the applicable rate set out in the applicable section of that Schedule, computed, if that rate is specified as a percentage, on the duty paid value or the sale price, as the case may be.

R.S., c. 15
(1st Supp.), s.
12(1)

(2) Subsection 23(3.1) of the Act is replaced by the following:

Deemed sale

(3.1) For the purposes of this Part, a person who, under a contract for labour, manufactures or produces goods mentioned in Schedule I from any article or material supplied by another person, other than a manufacturer licensed for the purposes of this Part,

for delivery to that other person is deemed to have sold the goods, at a sale price equal to the charge made under the contract in respect of the goods, at the time they are delivered to that other person.

2001, c. 16, s.
17(2)

(3) Subsection 23(5) of the Act is repealed.

2001, c. 15, s.
2(1)

(4) Subsection 23(7) of the Act is replaced by the following:

When tax not
payable

(7) The tax imposed under subsection (1) is not payable in the case of

(a) goods that are purchased or imported by a manufacturer licensed for the purposes of this Part and that are to be incorporated into and form a constituent or component part of an article or product that is subject to excise tax under this Act, if the tax on the article or product has not yet been levied under this section; or

(b) the sale of a new motor vehicle designed for highway use, or a chassis for such a vehicle, to a person described in paragraph (h) of the definition "manufacturer or producer" in subsection 2(1) who is a manufacturer licensed for the purposes of this Part.

1990, c. 45, s.
5(1)

(5) The portion of subsection 23(8) of the Act before paragraph (a) is replaced by the following:

Tax not payable

(8) The tax imposed under subsection (1) is not payable in the case of

1993, c. 25, s.
55(3); 1995, c.
41, s. 113;
2001, c. 16, s.
17(4)

(6) Subsections 23(8.1) to (8.3) of the Act are repealed.

1993, c. 25, s.
55(4)

(7) Subsections 23(9.2) and (9.3) of the Act are repealed.

R.S., c. 12
(4th Supp.), s.
12(3)

(8) The portion of subsection 23(10) of the Act before paragraph (a) is replaced by the following:

Appropriation
by manufacturer
or producer

(10) If goods of any class mentioned in Schedule I that were manufactured or produced in Canada are appropriated by the manufacturer or producer for their own use, for the purposes of this Part,

1993, c. 25, s.
56; 1994, c.
29, s. 5(1);
1997, c. 26, s.
59(1); 2001, c.
16, ss. 18(1),
21(1)

368. Sections 23.1 to 23.3 of the Act are repealed.

369. Section 24 of the Act is replaced by the following:

Security that
true returns
rendered

24. For the purposes of this Part, the Minister may require every manufacturer or producer to give security that they will render true returns of their sales as required by section 78 or by any regulations made under it and pay any tax imposed by this Act on the sales. The security shall be in an amount of not more than two

hundred and fifty thousand dollars and not less than one thousand dollars and shall be by bond of a guarantee company authorized to do business in Canada, acceptable to the Government of Canada, or by deposit of Government of Canada bonds.

R.S., c. 1 (2nd
Supp.), s. 189,
c. 7 (2nd
Supp.), s.
11(1); 1990, c.
45, s. 7(1);
1991, c. 42, s.
1; 1993, c. 25,
s. 57; 2000, c.
30, s. 9(F)

370. Parts IV and V of the Act are repealed.

R.S., c. 12
(4th Supp.), s.
14(1)

371. Subparagraph 48(4)(a)(ii) of the Act is replaced by the following:

(ii) for the purposes of Part III, goods described in paragraph 23(7)(a); and

372. Subsection 50(9) of the Act is repealed.

1990, c. 45, s.
8(1)

373. Subsection 56(3) of the Act is replaced by the following:

Tax on
cancellation

(3) On the cancellation under subsection (1) of the licence granted to any licensed wholesaler, or if the licence is cancelled at the request of the licensee, or if any such licence expires and is not renewed by the licensee, all taxes imposed by this Act are forthwith payable on all goods then in the possession of the licensee that have been purchased free of tax by virtue of the licence, which taxes shall be paid at the rate in force when the licence is cancelled or expires and is not renewed and shall be computed in accordance with paragraph 50(1)(c) and Part III.

R.S., c. 12
(4th Supp.), s.
22(1)

374. Subsection 64(1) of the Act is replaced by the following:

Application for
licence

64. (1) Every person who is required under Part III to pay taxes shall, from time to time as required under the regulations, apply for a licence in respect of that Part.

1993, c. 25, s.
59; 2000, c.
30, s. 11(1)

375. Sections 66 and 66.1 of the Act are replaced by the following:

Exemption on
exported goods

66. The tax imposed under this Act is not payable if evidence satisfactory to the Minister is produced to establish

(a) that the goods in respect of which it is imposed have been exported from Canada by the manufacturer, producer or licensed wholesaler by whom the tax would otherwise be payable in accordance with any regulations made under this Act that are applicable to the goods; or

(b) that the goods in respect of which it is imposed have been sold by the operator of a duty free shop and have been exported from Canada by the purchaser of the goods, in accordance with the regulations made under the *Customs Act*.

376. The portion of section 67 of the Act before paragraph (a) is replaced by the following:

Taxes on goods
imported by
Crown

67. The tax imposed under Part III is applicable

2000, c. 30, s.
12(1)

377. Subsection 68.1(1) of the Act is renumbered as section 68.1 and subsection 68.1(2) of the Act is repealed.

1993, c. 25, s.
61; 2001, c.
16, s. 28(1)

378. Sections 68.17 to 68.172 of the Act are replaced by the following:

Payment where
use as ships'
stores

68.17 If tax under Part III has been paid in respect of any goods and a manufacturer, producer, wholesaler, jobber or other dealer has sold the goods for use as ships' stores, an amount equal to the amount of that tax shall, subject to this Part, be paid to that dealer if that dealer applies for it within two years after that sale of the goods.

R.S., c. 7 (2nd
Supp.), s.
34(1); 2001, c.
16, s. 29(1)

379. Subsections 68.18(1) to (3.1) of the Act are replaced by the following:

Payment where
goods in
inventory

68.18 (1) If tax under Part III has been paid in respect of any goods and a person holds the goods in an unused condition in inventory on the day a licence is granted to that person under section 54 or 64 and could thereafter have obtained the goods exempt from tax under subsection 23(7), an amount equal to the amount of that tax shall, subject to this Part, be paid to that person if that person applies for it within two years after the licence was granted.

Payment where
goods in
inventory

(2) If tax under Part III has been paid in respect of any goods and a person holds the goods in an unused condition in inventory on the day a licence is granted to that person under section 55 and could thereafter have obtained the goods exempt from tax under subsection 23(6), (7) or (8), an amount equal to the lesser of the amount of that tax and the amount of tax under Part III that would be payable if the goods were acquired in a taxable transaction by that person on that day shall, subject to this Part, be paid to that person if that person applies for it within two years after the licence was granted.

Exception

(3) No amount equal to the amount of tax under Part III shall be paid under subsection (2) to a person in respect of any goods that are not subject to tax under that Part on the day a licence is granted to that person under section 55.

1991, c. 42, s.
3

380. The portion of subsection 68.19(1) of the Act before paragraph (a) is replaced by the following:

Payment where
use by province

68.19 (1) If tax under Part III has been paid in respect of any goods and Her Majesty in right of a province has purchased or imported the goods for any purpose other than

1993, c. 25, s.
62(1)

381. (1) The portion of subsection 70(1) of the Act before paragraph (a) is replaced by the following:

Drawback on
certain goods

70. (1) On application, the Minister may, under regulations of the Governor in Council, grant a drawback of the tax imposed under Part III and paid on or in respect of

1995, c. 41, s.
114

(2) Subsection 70(2.1) of the Act is replaced by the following:

Drawback on
imported goods

(2.1) On application, the Minister may, under section 100 of the *Customs Tariff*, grant a drawback of the tax imposed under Part III and paid on or in respect of goods imported into Canada.

1993, c. 25, s.
62(2)

(3) Subsection 70(5) of the Act is repealed.

2001, c. 16, s.
32(1)

382. (1) Subsections 78(1) and (2) of the Act are replaced by the following:

Monthly returns

78. (1) Every person who is required to pay tax under Part III shall make each month a return in the prescribed form containing prescribed information of all amounts that became payable by the person on account of that tax in the preceding month.

Nil returns

(2) Every person who holds a licence granted under or in respect of Part III and whose tax payable under that Part in the preceding month is nil shall make a return as required under subsection (1) reporting that fact.

R.S., c. 12
(4th Supp.), s.
31(1); 2001, c.
16, s. 32(2)

(2) Paragraphs 78(3)(b) and (c) of the Act are replaced by the following:

(b) authorize any person to make a return in respect of any period longer than one month but not longer than six months, if the tax payable by that person under Part III for the last preceding calendar year did not exceed four thousand eight hundred dollars; or

(c) authorize any person whose activities that give rise to tax payable by the person under Part III are predominantly limited to a seasonal period of operation to make a return in respect of any period longer than one month but not longer than six months, if the tax payable by that person under that Part for the equivalent period in the last preceding calendar year did not exceed an average of four hundred dollars per month throughout that equivalent period.

R.S., c. 12
(4th Supp.), s.
32(1)

383. Subsection 79(1.1) of the Act is replaced by the following:

Minimum penalty
and interest

(1.1) No penalty or interest is payable under subsection (1) if the person liable to pay the tax pays all amounts of tax payable by them under Part III and, at the time of the payment, the total penalty and interest payable in respect of those amounts of tax is less than ten dollars.

R.S., c. 12
(4th Supp.), s.
33(1)

384. (1) Clause 79.1(1)(a)(i)(A) of the Act is replaced by the following:

(A) the tax payable under Part III, other than tax payable in accordance with the *Customs Act*, by that person in that month, and

R.S., c. 12
(4th Supp.), s.
33(1)

(2) Clause 79.1(1)(a)(ii)(A) of the Act is replaced by the following:

(A) the tax payable under Part III, other than tax payable in accordance with the *Customs Act*, by that person in that accounting period, and

R.S., c. 12
(4th Supp.), s.
33(1)

(3) Clause 79.1(1)(a)(iii)(A) of the Act is replaced by the following:

(A) the tax payable under Part III, other than tax payable in accordance with the *Customs Act*, by that person in that period, and

R.S., c. 12
(4th Supp.), s.
33(1); 1999, c.
31, par.
247(b)(F)

(4) Subparagraphs 79.1(1)(b)(i) and (ii) of the Act are replaced by the following:

(i) the aggregate amount of tax payable under Part III, other than tax payable in accordance with the *Customs Act*, by that person in the last preceding calendar year ending at least ninety days, or ninety-one days if that time falls in a leap year, before that time exceeded twelve million dollars, or

(ii) the person

(A) was, at any time in the last preceding calendar year ending at least ninety days, or ninety-one days if that time falls in a leap year, before that time, a member of a group of associated corporations (within the meaning of section 256 of the *Income Tax Act*) and the aggregate amount of tax payable under Part III, other than tax payable in accordance with the *Customs Act*, by the group in that year exceeded twelve million dollars, and

(B) is not, at that time, authorized to make a return in accordance with a regulation made under paragraph 78(3)(b) or (c).

R.S., c. 12
(4th Supp.), s.
33(1)

(5) Subsection 79.1(6) of the Act is replaced by the following:

Minimum penalty
and interest

(6) No penalty or interest is payable under subsection (4) or (5) if the large taxpayer or other person liable to pay the instalment pays all amounts of tax payable by the taxpayer or other person under Part III and, at the time of the payment, the total penalty and interest payable in respect of the instalment is less than five dollars and in respect of those amounts of tax is less than ten dollars.

1990, c. 45, s.
11(1)

385. Subsection 80(1) of the Act is replaced by the following:

Report by
licence holders

80. (1) Every person holding a licence in respect of Part III shall submit to the Minister each year, within six months after the end of that person's fiscal year, a report in the prescribed form containing details of that person's sales, taxes paid under this Act and deductions under subsection 69(2) in the fiscal year and any other prescribed information.

2001, c. 16, s.
39(1)

386. Subsection 100(5) of the Act is repealed.

1990, c. 45, s.
12(1)

387. The definition "excisable goods" in subsection 123(1) of the Act is replaced by the following:

"excisable
goods"
« *produit*
soumis à
l'accise »

"excisable goods" means beer or malt liquor (within the meaning assigned by section 4 of the *Excise Act*) and spirits, wine and tobacco products (within the meaning assigned by section 2 of the *Excise Act, 2001*);

1996, c. 23, s.
170

388. Subparagraph 238.1(2)(c)(iii) of the Act is replaced by the following:

(iii) all amounts required under this Act (other than this Part), the *Customs Act*, the *Customs Tariff*, the *Excise Act*, the *Excise Act, 2001*, the *Income Tax Act*, sections 21 and 33 of the *Canada Pension Plan* and section 82 and Part VII of the *Employment Insurance Act* to be remitted or paid before that time by the registrant have been remitted or paid, and

1993, c. 27, s.
107(1); 1997,
c. 10, s. 58(1)

389. Paragraph 252(1)(b) of the Act is repealed.

1994, c. 29, s.
14(1); 1997, c.
26, s. 74(1);
2001, c. 16,
ss. 40(1), (2),
41(1)

390. Schedule II to the Act is repealed.

1990, c. 45, s.
18

391. Section 3 of Part V of Schedule VI to the Act is replaced by the following:

3. A supply of an excisable good if the recipient exports the good without the payment of duty in accordance with the *Excise Act* or the *Excise Act, 2001*.

2001, c. 16, s.
42(1)

392. Section 1.1 of Schedule VII to the Act is replaced by the following:

1.1 For the purposes of section 1, "duty" does not include a special duty imposed under section 54 of the *Excise Act, 2001*.

R.S., c. E-18

Export Act

R.S., c. 1 (2nd
Supp.), s.
213(3) (Sch.
III, s. 5)

393. Paragraph 6(1)(a) of the *Export Act* is replaced by the following:

(a) no intoxicating liquor held in accordance with the *Customs Act*, the *Excise Act* or the *Excise Act, 2001* shall be released or removed from any warehouse or other building or place in which the liquor is stored in any case in which the liquor proposed to be removed is destined for delivery in any country into which the importation of the liquor is prohibited by law;

R.S., c. I-3

Importation of Intoxicating Liquors Act

394. Section 2 of the *Importation of Intoxicating Liquors Act* is amended by adding the following in alphabetical order:

"beer"
« *bière* »

"beer" has the same meaning as in section 4 of the *Excise Act*;

"bulk"
« *en vrac* »

"bulk" has the same meaning as in section 2 of the *Excise Act, 2001*;

"denature"
« *dénaturation* »

"denature" has the same meaning as in section 2 of the *Excise Act, 2001*;

"excise
warehouse"
« *entrepôt
d'accise* »

"excise warehouse" has the same meaning as in section 2 of the
Excise Act, 2001;

"licensed
distiller"
« *distillateur
agrée* »

"licensed distiller" means a person who holds a spirits licence
under section 14 of the *Excise Act, 2001*;

"packaged"
« *emballé* »

"packaged" has the same meaning as in section 2 of the *Excise Act,
2001*;

"spirits"
« *spiritueux* »

"spirits" has the same meaning as in section 2 of the *Excise Act,
2001*;

"wine"
« *vin* »

"wine" has the same meaning as in section 2 of the *Excise Act,
2001*.

1993, c. 44, s.
160(1)

**395. (1) Subsection 3(1.1) of the Act is replaced by the
following:**

Suspension of
paragraph
(2)(e)

(1.1) The operation of paragraph (2)(e) is suspended during the
period in which paragraph (2)(c) is in force.

1997, c. 36, s.
211; 1999, c.
17, s. 163

(2) Paragraphs 3(2)(a) to (c) of the Act are replaced by the following:

(a) the carriage or transportation of intoxicating liquor into and through a province by the producer of the liquor or by a common carrier, if, during the time that the intoxicating liquor is being so carried or transported, its container is not opened or broken or any of the liquor drunk or used;

(b) the importation of intoxicating liquor into a province by any person who is a licensed distiller or who is duly licensed by the Government of Canada to carry on the business or trade of a brewer if the liquor

(i) is imported solely for the purpose of being used for blending with or flavouring the products of the business or trade of a distiller or brewer carried on by the person in the province, and

(ii) is kept while in the province

(A) in the case of spirits or wine, in accordance with the *Excise Act, 2001* and the laws of the province, and

(B) in the case of beer, by the person in a place or warehouse that conforms in all respects to the requirements of the law governing those places or warehouses;

(c) the importation of bulk spirits into a province from a NAFTA country by a licensed distiller for the purpose of being packaged by the distiller, if the spirits

(i) are entitled to the United States Tariff, the Mexico Tariff or the Mexico-United States Tariff in the List of Tariff Provisions set out in the schedule to the *Customs Tariff*, and

(ii) are kept while in the province in accordance with the *Excise Act, 2001* and the laws of the province;

(d) the importation of bulk spirits into a province from Chile by a licensed distiller for the purpose of being packaged by the distiller, if the spirits

(i) are entitled to the benefit of the Chile Tariff in the List of Tariff Provisions set out in the schedule to the *Customs Tariff*, and

(ii) are kept while in the province in accordance with the *Excise Act, 2001* and the laws of the province;

(e) the importation of bulk spirits into a province from the United States by a licensed distiller for the purpose of being packaged by the distiller, if the spirits

(i) are entitled to the United States Tariff in the List of Tariff Provisions set out in the schedule to the *Customs Tariff*, and

(ii) are kept while in the province in accordance with the *Excise Act, 2001* and the laws of the province; or

(f) the transfer by a licensed distiller of any spirits produced or packaged in accordance with the *Excise Act, 2001* that is permitted by any Act or regulation or by special permit of the Canada Customs and Revenue Agency, if the spirits

(i) in the case of packaged spirits, are kept in an excise warehouse of a licensed distiller and in accordance with the laws of the province in which they are kept, and

(ii) in the case of bulk spirits, are kept in accordance with the *Excise Act, 2001* and the laws of the province in which they are kept.

1997, c. 14, s.
81(2)

(3) Subsection 3(3) of the Act is repealed.

1992, c. 17

Special Economic Measures Act

396. Subsection 9(1) of the *Special Economic Measures Act* is replaced by the following:

Peace officers
for the
purposes of
this Act

9. (1) A person having the powers of an officer under the *Customs Act*, the *Excise Act* or the *Excise Act, 2001* is deemed to be a peace officer for the purposes of this Act and sections 487 to 490, 491.1 and 491.2 of the *Criminal Code*.

R.S., c. T-2

Tax Court of Canada Act

1990, c. 45, s.
55

397. Subsection 2.2(2) of the *Tax Court of Canada Act* is replaced by the following:

Definition of
"amount in
dispute"

(2) For the purposes of this Act, the "amount in dispute" in an appeal means

(a) in the case of an appeal under the *Excise Act, 2001*,

(i) the amount of duty, refund or relief that is in issue in the appeal,

(ii) any interest under that Act that is in issue in the appeal, and

(iii) any amount of duty, refund or relief under that Act that is likely to be affected by the appeal in any other appeal, assessment or proposed assessment of the person who has brought the appeal; and

(b) in the case of an appeal under Part IX of the *Excise Tax Act*,

(i) the amount of tax, net tax and rebate, within the meaning of that Part, that is in issue in the appeal,

(ii) any interest or penalty under that Part that is in issue in the appeal, and

(iii) any amount of tax, net tax or rebate, within the meaning of that Part, that is likely to be affected by the appeal in any other appeal, assessment or proposed assessment of the person who has brought the appeal.

1996, c. 23, s.
188

398. (1) Subsection 12(1) of the Act is replaced by the following:

Jurisdiction

12. (1) The Court has exclusive original jurisdiction to hear and determine references and appeals to the Court on matters arising under the *Canada Pension Plan*, the *Cultural Property Export and Import Act*, the *Employment Insurance Act*, the *Excise Act, 2001*, Part IX of the *Excise Tax Act*, the *Income Tax Act*, the *Old Age Security Act* and the *Petroleum and Gas Revenue Tax Act*, where references or appeals to the Court are provided for in those Acts.

1990, c. 45, s.
57(2); 1998, c.
19, s. 290

(2) Subsections 12(3) and (4) of the Act are replaced by the following:

Further
jurisdiction

(3) The Court has exclusive original jurisdiction to hear and determine questions referred to it under section 173 or 174 of the *Income Tax Act*, section 204 or 205 of the *Excise Act, 2001* or section 310 or 311 of the *Excise Tax Act*.

Extensions of
time

(4) The Court has exclusive original jurisdiction to hear and determine applications for extensions of time under section 166.2 or 167 of the *Income Tax Act*, subsection 103(1) of the *Employment Insurance Act*, section 197 or 199 of the *Excise Act, 2001*, section 304 or 305 of the *Excise Tax Act*, subsection 28(1) of the *Canada Pension Plan* or section 33.2 of the *Cultural Property Export and Import Act*.

1990, c. 45, s.
58

399. Subsection 18.18(2) of the Act is replaced by the following:

Calculation of
time limits

(2) For the purpose of calculating a time limit for the purposes of section 18.3003 or 18.3005, the following periods shall be excluded:

(a) the period beginning on December 21 in any year and ending on January 7 of the next year; and

(b) the period during which proceedings are stayed in accordance with subsection 219(3) of the *Excise Act, 2001* or subsection 327(4) of the *Excise Tax Act*.

2000, c. 30, s.
178

400. Subsection 18.29(3) of the Act is replaced by the following:

Extensions of
time

(3) The provisions referred to in subsection (1) also apply, with any modifications that the circumstances require, in respect of applications for extensions of time under section 166.2 or 167 of the *Income Tax Act*, section 197 or 199 of the *Excise Act, 2001*, section 304 or 305 of the *Excise Tax Act*, subsection 103(1) of the *Employment Insurance Act*, subsection 28(1) of the *Canada Pension Plan* or section 33.2 of the *Cultural Property Export and Import Act*.

1998, c. 19, s.
296

401. Section 18.3001 of the Act is replaced by the following:

Application –
Excise Act,
2001 and *Excise*
Tax Act

18.3001 Subject to section 18.3002, this section and sections 18.3003 to 18.301 apply, with any modifications that the circumstances require, to an appeal under

(a) the *Excise Act, 2001* if

(i) a person has so elected in the notice of appeal for an appeal under that Act or at any later time that may be provided in the rules of Court, and

(ii) the amount in dispute does not exceed \$25,000; and

(b) Part IX of the *Excise Tax Act* if a person has so elected in the notice of appeal for an appeal under that Act or at any later time that may be provided in the rules of Court.

1990, c. 45, s.
61

402. Subsection 18.3002(3) of the Act is replaced by the following:

Costs

(3) The Court shall, on making an order under subsection (1), order that all reasonable and proper costs of the person who has brought the appeal be borne by Her Majesty in right of Canada where

(a) in the case of an appeal under the *Excise Act, 2001*, the total of sales by the person for the prior calendar year did not exceed \$1,000,000; and

(b) in the case of an appeal under Part IX of the *Excise Tax Act*, the amount in dispute does not exceed \$7,000 and the aggregate of supplies for the prior fiscal year of the person did not exceed \$1,000,000.

1990, c. 45, s.
61

403. Subsection 18.3007(1) of the Act is replaced by the following:

Costs

18.3007 (1) The Court may, if the circumstances so warrant, make no order as to costs or order that the person who brought the appeal be awarded costs, notwithstanding that under the rules of Court costs would be adjudged to Her Majesty in right of Canada, or make an order that person be awarded costs, notwithstanding that under the rules of Court no order as to costs would be made, if

(a) an order has been made under subsection 18.3002(1) in respect of the appeal;

(b) the appeal is not an appeal referred to in subsection 18.3002(3); and

(c) in the case of an appeal

(i) under the *Excise Act, 2001*, the amount in dispute in the appeal does not exceed \$50,000 and the aggregate of sales by the person for the prior calendar year did not exceed \$6,000,000, or

(ii) under Part IX of the *Excise Tax Act*, the amount in dispute in the appeal does not exceed \$50,000 and the aggregate of supplies for the prior fiscal year of the person did not exceed \$6,000,000.

1990, c. 45, s.
61

404. Paragraphs 18.3008(a) and (b) of the Act are replaced by the following:

(a) in the case of an appeal under the *Excise Act, 2001*, the amount in dispute does not exceed \$25,000 and the aggregate of sales by the person for the prior calendar year did not exceed \$1,000,000; and

(b) in the case of an appeal under Part IX of the *Excise Tax Act*, the amount in dispute does not exceed \$7,000 and the aggregate of supplies for the prior fiscal year of the person did not exceed \$1,000,000.

1998, c. 19, s.
298

405. Subsection 18.3009(1) of the Act is replaced by the following:

Costs – appeal
under *Excise
Act, 2001* or
Excise Tax Act

18.3009 (1) If an appeal referred to in section 18.3001 is allowed, the Court shall reimburse to the person who brought the appeal the filing fee paid by that person under paragraph 18.15(3)(b). The Court may, in accordance with the rules of Court, award costs to that person if the judgement reduces the amount in dispute by more than one half and

(a) in the case of an appeal under the *Excise Act, 2001*

(i) the amount in dispute does not exceed \$25,000, and

(ii) the total of sales by the person for the prior calendar year did not exceed \$1,000,000; and

(b) in the case of an appeal under Part IX of the *Excise Tax Act*,

(i) the amount in dispute does not exceed \$7,000, and

(ii) the aggregate of supplies for the prior fiscal year of the person did not exceed \$1,000,000.

1990, c. 45, s.
62

406. Subsection 18.31(2) of the Act is replaced by the following:

Determination
of a question

(2) If it is agreed under section 204 of the *Excise Act, 2001* or section 310 of the *Excise Tax Act* that a question should be determined by the Court, sections 17.1, 17.2 and 17.4 to 17.8 apply, with any modifications that the circumstances require, in respect of the determination of the question.

1990, c. 45, s.
63

407. Subsection 18.32(2) of the Act is replaced by the following:

Provisions
applicable to
determination
of a question

(2) If an application has been made under section 205 of the *Excise Act, 2001* or section 311 of the *Excise Tax Act* for the determination of a question, the application or determination of the question shall, subject to section 18.33, be determined in accordance with sections 17.1, 17.2 and 17.4 to 17.8, with any modifications that the circumstances require.

Coordinating Amendments

An Act to amend the Customs Act and to make related amendments to
other Acts

2001, c. 25

408. (1) In this section, "other Act" means the Act entitled *An Act to amend the Customs Act and to make related amendments to other Acts*, being chapter 25 of the Statutes of Canada, 2001.

Amendment to
Customs Act

(2) On the later of the coming into force of subsection 19(1) of the other Act and subsection 332(1) of this Act, the portion of

subsection 28(1) of the *Customs Act* before paragraph (a) is replaced by the following:

Liability of
operator

28. (1) The operator of a sufferance warehouse, bonded warehouse or duty free shop is liable for all duties or taxes levied under the *Customs Tariff*, the *Excise Act*, the *Excise Act, 2001*, the *Excise Tax Act*, the *Special Import Measures Act* or any other law relating to customs on goods that have been received in the warehouse or duty free shop unless the operator proves that the goods

Amendment to
other Act

(3) If subsection 332(2) of this Act comes into force before subsection 19(2) of the other Act, then that subsection 19(2) is repealed on the day on which that subsection 332(2) comes into force.

Amendment to
other Act

(4) If subsection 332(2) of this Act and subsection 19(2) of the other Act come into force on the same day, then that subsection 332(2) is deemed to have come into force before that subsection 19(2) and subsection (3) applies.

Amendment to
Customs Act

(5) On the later of the coming into force of section 58 of the other Act and section 297 of this Act, the description of B in paragraph 97.29(1)(a) of the *Customs Act* is replaced by the following:

B is the amount, if any, by which the amount assessed the transferee under subsection 297(3) of the *Excise Act, 2001*, subsection 325(2) of the *Excise Tax Act* and subsection 160(2) of the *Income Tax Act* in respect of the property exceeds the amount paid by the transferor in respect of the amount so assessed, and

Amendment to
*Tax Court of
Canada Act*

(6) On the later of the coming into force of section 100 of the other Act and section 397 of this Act, subsection 2.2(2) of the *Tax Court of Canada Act* is replaced by the following:

Definition of
"amount in
dispute"

(2) For the purposes of this Act, the "amount in dispute" in an appeal means

(a) in the case of an appeal under Part V.1 of the *Customs Act*, the total of all amounts assessed by the Minister of National Revenue under section 97.44 of that Act;

(b) in the case of an appeal under the *Excise Act, 2001*,

(i) the amount of duty, refund or relief that is in issue in the appeal,

(ii) any interest under that Act that is in issue in the appeal, and

(iii) any amount of duty, refund or relief under that Act, that is likely to be affected by the appeal in any other appeal, assessment or proposed assessment of the person who has brought the appeal; and

(c) in the case of an appeal under Part IX of the *Excise Tax Act*,

(i) the amount of tax, net tax and rebate, within the meaning of that Part, that is in issue in the appeal,

(ii) any interest or penalty under that Part that is in issue in the appeal, and

(iii) any amount of tax, net tax or rebate, within the meaning of that Part, that is likely to be affected by the appeal in any other appeal, assessment or proposed assessment of the person who has brought the appeal.

Amendment to
*Tax Court of
Canada Act*

(7) On the later of the coming into force of subsection 101(1) of the other Act and subsection 398(1) of this Act, subsection 12(1) of the *Tax Court of Canada Act* is replaced by the following:

Jurisdiction

12. (1) The Court has exclusive original jurisdiction to hear and determine references and appeals to the Court on matters arising under the *Canada Pension Plan*, the *Cultural Property Export and Import Act*, Part V.1 of the *Customs Act*, the *Employment Insurance Act*, the *Excise Act, 2001*, Part IX of the *Excise Tax Act*, the *Income Tax Act*, the *Old Age Security Act* and the *Petroleum and Gas Revenue Tax Act*, where references or appeals to the Court are provided for in those Acts.

Amendment to
*Tax Court of
Canada Act*

(8) On the later of the coming into force of subsection 101(2) of the other Act and subsection 398(2) of this Act, subsections 12(3) and (4) of the *Tax Court of Canada Act* are replaced by the following:

Further
jurisdiction

(3) The Court has exclusive original jurisdiction to hear and determine questions referred to it under section 97.58 of the *Customs Act*, section 204 or 205 of the *Excise Act, 2001*, section 310 or 311 of the *Excise Tax Act* or section 173 or 174 of the *Income Tax Act*.

Extensions of
time

(4) The Court has exclusive original jurisdiction to hear and determine applications for extensions of time under subsection 28(1) of the *Canada Pension Plan*, section 33.2 of the *Cultural Property Export and Import Act*, section 97.52 or 97.53 of the *Customs Act*, subsection 103(1) of the *Employment Insurance Act*, section 197 or 199 of the *Excise Act, 2001*, section 304 or 305 of the *Excise Tax Act* or section 166.2 or 167 of the *Income Tax Act*.

Amendment to
*Tax Court of
Canada Act*

(9) On the later of the coming into force of section 102 of the other Act and section 399 of this Act, subsection 18.18(2) of the *Tax Court of Canada Act* is replaced by the following:

Calculation of
time limits

(2) For the purpose of calculating a time limit for the purposes of section 18.3003 or 18.3005, the following periods shall be excluded:

(a) the period beginning on December 21 in any year and ending on January 7 of the next year; and

(b) the period during which proceedings are stayed in accordance with subsection 106(3) of the *Customs Act*, subsection 219(3) of the *Excise Act, 2001* or subsection 327(4) of the *Excise Tax Act*.

Amendment to
*Tax Court of
Canada Act*

(10) On the later of the coming into force of section 103 of the other Act and section 400 of this Act, subsection 18.29(3) of the *Tax Court of Canada Act* is replaced by the following:

Extensions of
time

(3) The provisions referred to in subsection (1) also apply, with any modifications that the circumstances require, in respect of applications for extensions of time under subsection 28(1) of the *Canada Pension Plan*, section 33.2 of the *Cultural Property Export and Import Act*, section 97.51 or 97.52 of the *Customs Act*, subsection 103(1) of the *Employment Insurance Act*, section 197 or 199 of the *Excise Act, 2001*, section 304 or 305 of the *Excise Tax Act* or section 166.2 or 167 of the *Income Tax Act*.

Amendment to
*Tax Court of
Canada Act*

(11) On the later of the coming into force of section 104 of the other Act and section 401 of this Act, section 18.3001 of the *Tax Court of Canada Act* is replaced by the following:

Application -
Customs Act,
Excise Act,
2001 and Excise
Tax Act

18.3001 Subject to section 18.3002, this section and sections 18.3003 to 18.301 apply, with any modifications that the circumstances require, to an appeal under

(a) the *Excise Act, 2001* if

(i) a person has so elected in the notice of appeal for an appeal under that Act or at such later time as may be provided in the rules of Court, and

(ii) the amount in dispute does not exceed \$25,000; and

(b) Part V.1 of the *Customs Act* or Part IX of the *Excise Tax Act* if a person has so elected in the notice of appeal for an appeal under that Act or at such later time as may be provided in the rules of Court.

Amendment to
Tax Court of
Canada Act

(12) On the later of the coming into force of section 105 of the other Act and section 402 of this Act, subsection 18.3002(3) of the *Tax Court of Canada Act* is replaced by the following:

Costs

(3) The Court shall, on making an order under subsection (1), order that all reasonable and proper costs of the person who has brought the appeal be borne by Her Majesty in right of Canada where

(a) in the case of an appeal under Part V.1 of the *Customs Act*, the amount in dispute does not exceed \$10,000;

(b) in the case of an appeal under the *Excise Act, 2001*, the total of sales by the person for the prior calendar year did not exceed \$1,000,000; and

(c) in the case of an appeal under Part IX of the *Excise Tax Act*, the amount in dispute does not exceed \$7,000 and the aggregate of supplies for the prior fiscal year of the person did not exceed \$1,000,000.

Amendment to
*Tax Court of
Canada Act*

(13) On the later of the coming into force of section 107 of the other Act and section 403 of this Act, subparagraphs 18.3007(1)(c)(i) and (ii) of the *Tax Court of Canada Act* are replaced by the following:

(i) under Part V.1 of the *Customs Act*, the amount in dispute does not exceed \$50,000,

(ii) under the *Excise Act, 2001*, the amount in dispute in the appeal does not exceed \$50,000 and the aggregate of sales by the person for the prior calendar year did not exceed \$6,000,000, or

(iii) under Part IX of the *Excise Tax Act*, the amount in dispute in the appeal does not exceed \$50,000 and the aggregate of supplies for the prior fiscal year of the person did not exceed \$6,000,000.

Amendment to
*Tax Court of
Canada Act*

(14) On the later of the coming into force of section 108 of the other Act and section 404 of this Act, paragraphs 18.3008(a) and (b) of the *Tax Court of Canada Act* are replaced by the following:

(a) in the case of an appeal under Part V.1 of the *Customs Act*, the amount in dispute does not exceed \$10,000;

(b) in the case of an appeal under the *Excise Act, 2001*, the amount in dispute does not exceed \$25,000 and the aggregate of sales by the person for the prior calendar year did not exceed \$1,000,000; and

(c) in the case of an appeal under Part IX of the *Excise Tax Act*, the amount in dispute does not exceed \$7,000 and the aggregate of supplies for the prior fiscal year of the person did not exceed \$1,000,000.

Amendment to
*Tax Court of
Canada Act*

(15) On the later of the coming into force of section 109 of the other Act and section 405 of this Act, subsection 18.3009(1) of the *Tax Court of Canada Act* is replaced by the following:

Costs – appeal
under *Customs*
Act, Excise
Act, 2001 or
Excise Tax Act

18.3009 (1) If an appeal referred to in section 18.3001 is allowed, the Court shall reimburse to the person who brought the appeal the filing fee paid by that person under paragraph 18.15(3)(b). The Court may, in accordance with the rules of Court, award costs to that person if the judgement reduces the amount in dispute by more than one half and

(a) in the case of an appeal under Part V.1 of the *Customs Act*, the amount in dispute does not exceed \$10,000;

(b) in the case of an appeal under the *Excise Act, 2001*

(i) the amount in dispute does not exceed \$25,000, and

(ii) the total of sales by the person for the prior calendar year did not exceed \$1,000,000; or

(c) in the case of an appeal under Part IX of the *Excise Tax Act*,

(i) the amount in dispute does not exceed \$7,000, and

(ii) the aggregate of supplies for the prior fiscal year of the person did not exceed \$1,000,000.

Amendment to
Tax Court of
Canada Act

(16) On the later of the coming into force of section 110 of the other Act and section 406 of this Act, subsection 18.31(2) of the *Tax Court of Canada Act* is replaced by the following:

Determination
of a question

(2) If it is agreed under section 97.58 of the *Customs Act*, section 204 of the *Excise Act, 2001* or section 310 of the *Excise Tax Act* that a question should be determined by the Court, sections 17.1, 17.2 and 17.4 to 17.8 apply, with any modifications that the circumstances require, in respect of the determination of the question.

Bill C-24

Condition -
Bill C-24

409. (1) Subsections (2) to (9) apply if Bill C-24, introduced in the 1st Session of the 37th Parliament and entitled *An Act to amend the Criminal Code (organized crime and law enforcement) and to make consequential amendments to other Acts* (referred to in this section as the "other Act"), receives royal assent.

Amendment to
Criminal Code

(2) If section 4 of the other Act comes into force before section 326 of this Act, then, on the later of the day on which that section 4 comes into force and the day on which this Act is assented to,

(a) that section 326 is repealed; and

(b) paragraph (g) of the definition "offence" in section 183 of the *Criminal Code*, as enacted by that section 4, is replaced by the following:

(g) any of the following provisions of the *Excise Act, 2001*, namely,

(i) section 214 (unlawful production, sale, etc., of tobacco or alcohol),

(ii) section 216 (unlawful possession of tobacco product),

(iii) section 218 (unlawful possession, sale, etc., of alcohol),

(iv) section 219 (falsifying or destroying records),

(v) section 230 (possession of property obtained by excise offences), or

(vi) section 231 (laundering proceeds of excise offences),

Amendment to
Criminal Code

(3) If section 4 of the other Act and section 326 of this Act come into force on the same day, then that section 4 is deemed to have come into force before that section 326 and subsection (2) applies.

Amendment to
Criminal Code

(4) If section 4 of the other Act comes into force after section 326 of this Act, then, on the coming into force of that section 4, paragraph (g) of the definition "offence" in section 183 of the *Criminal Code*, as enacted by that section 4, is replaced by the following:

(g) any of the following provisions of the *Excise Act, 2001*, namely,

(i) section 214 (unlawful production, sale, etc., of tobacco or alcohol),

(ii) section 216 (unlawful possession of tobacco product),

(iii) section 218 (unlawful possession, sale, etc., of alcohol),

(iv) section 219 (falsifying or destroying records),

(v) section 230 (possession of property obtained by excise offences), or

(vi) section 231 (laundering proceeds of excise offences),

Amendment to
Criminal Code

(5) If section 327 of this Act comes into force before subsection 12(2) of the other Act and Bill C-36, introduced in the 1st Session of the 37th Parliament and entitled the *Anti-terrorism Act*, receives royal assent, then, on the later of the coming into force of section 33 of the *Anti-terrorism Act* and that section 327, paragraph (b.1) of the definition "enterprise crime offence" in section 462.3 of the *Criminal Code* is replaced by the following:

(b.1) an offence against section 214, 216, 218, 230 or 231 of the *Excise Act, 2001*, section 153, 159, 163.1 or 163.2 of the *Customs Act*, subsection 52.1(9) of the *Competition Act* or subsection 4(1), (2), (3) or (4), or section 6, or subsection 13(1), 14(1), 16(1) or (2), 17(1), 18(1), 19(1), 20(1), 21(1) or 22(1) or section 23 of the *Security of Information Act*, or

Repeal of
amendment in
this Act to
Criminal Code

(6) If section 327 of this Act comes into force after subsection 12(2) of the other Act, then, on the later of the day on which that subsection 12(2) comes into force and the day on which this Act is assented to, that section 327 is repealed.

Repeal of
amendment in
this Act to
Criminal Code

(7) If section 327 of this Act and subsection 12(2) of the other Act come into force on the same day, then that section 327 is deemed to have come into force after that subsection 12(2) and subsection (6) applies.

Repeal of
amendments in
this Act to
Customs Act

(8) If section 62 of the other Act comes into force before sections 342 to 344 of this Act, then, on the later of the day on which that section 62 comes into force and the day on which this Act is assented to, those sections 342 to 344 are repealed.

Repeal of
amendments in
this Act to
Customs Act

(9) If section 62 of the other Act and sections 342 to 344 of this Act come into force on the same day, then that section 62 of the other Act is deemed to have come into force before those sections 342 to 344 and subsection (8) applies.

Bill C-30

Amendment to
this Act

410. If Bill C-30, introduced in the 1st Session of the 37th Parliament and entitled the *Courts Administration Service Act* (referred to in this section as the "other Act"), receives royal assent, then

(a) on the later of the coming into force of section 14 of the other Act and subsection 205(6) of this Act, subsection 205(6) of this Act is replaced by the following:

Appeal

(6) If a question set out in an application is determined by the Tax Court, the Minister or any of the persons who have been served with a copy of the application and who are named in an order of the Court under subsection (4) may, in accordance with the provisions of this Act, the *Tax Court of Canada Act* or the *Federal Courts Act*, as they relate to appeals from or applications for judicial review of decisions of the Tax Court, appeal from the determination.

(b) on the later of the coming into force of section 14 of the other Act and subsection 276(2) of this Act, subsection 276(2) of this Act is replaced by the following:

Ordinary action

(2) The *Federal Courts Act* and the rules made under it that are applicable to ordinary actions apply to actions instituted under subsection (1), except as varied by special rules made in respect of those actions.

Bill C-32

Condition -
Bill C-32

411. (1) Subsections (2) to (8) apply if Bill C-32, introduced in the 1st Session of the 37th Parliament and entitled the *Canada-Costa Rica Free Trade Agreement Implementation Act* (referred to in this section as the "other Act"), receives royal assent.

Amendment to
Customs Tariff

(2) On the later of the coming into force of section 42 of the other Act and section 351 of this Act, subsection 94(1) of the *Customs Tariff* is replaced by the following:

Definition of
"customs
duties"

94. (1) In sections 95 and 96, "customs duties" means customs duties imposed under Part 2, other than

(a) additional customs duties levied under sections 21.1 to 21.3;

(b) surtaxes imposed under section 53, 55, 60, 63, 68 or 78; or

(c) temporary duties imposed under any of sections 69 to 76.1.

Amendment to
Customs Tariff

(3) On the later of the coming into force of section 43 of the other Act and section 352 of this Act, subparagraph 99(a)(iii) of the *Customs Tariff* is replaced by the following:

(iii) the circumstances in which, and the classes of goods in respect of which, relief of duties levied under sections 21.1 to 21.3 or under the *Special Import Measures Act*, a surtax imposed under section 53, 55, 60, 63, 68 or 78, a temporary duty imposed under any of sections 69 to 76.1, a tax levied under the *Excise Tax Act* or a duty imposed under the *Excise Act, 2001* may not be granted,

Amendment to
Customs Tariff

(4) On the later of the coming into force of section 44 of the other Act and subsection 354(2) of this Act, paragraph 113(4)(a) of the *Customs Tariff* is replaced by the following:

(a) the circumstances in which, and the classes of goods in respect of which, a refund or drawback of duties levied under sections 21.1 to 21.3 or the *Special Import Measures Act*, a surtax levied under section 53, 55, 60, 63, 68 or 78, a temporary duty levied under any of sections 69 to 76.1, a tax levied under the *Excise Tax Act* or a duty levied under the *Excise Act, 2001* may not be granted under subsection (1);

Amendments to
Customs Tariff

(5) On the later of the coming into force of section 46 of the other Act and section 362 of this Act, each of the tariff provisions that were, under that section 362, added to the List of Tariff Provisions set out in the schedule to the *Customs Tariff* are amended by

(a) adding in the column "Preferential Tariff / Initial Rate", below the reference to "CIAT", a reference to "CRT: Free"; and

(b) adding in the column "Preferential Tariff / Final Rate", below the reference to "CIAT", a reference to "CRT: Free (A)".

Amendments in
respect of
*Importation of
Intoxicating
Liquors Act*

(6) If section 395 of this Act comes into force before section 53 of the other Act, then

(a) on the later of the day on which that section 395 comes into force and the day on which the other Act is assented to, that section 53 is repealed; and

(b) on the coming into force of section 37 of the other Act,

(i) subsection 3(1.1) of the *Importation of Intoxicating Liquors Act* is replaced by the following:

Suspension of
paragraph
(2)(f)

(1.1) The operation of paragraph (2)(f) is suspended during the period in which paragraph (2)(c) is in force.

(ii) paragraphs 3(2)(e) and (f) of the *Importation of Intoxicating Liquors Act* are replaced by the following:

(e) the importation of bulk spirits into a province from Costa Rica by a licensed distiller for the purpose of being packaged by the distiller, if the spirits

(i) are entitled to the benefit of the Costa Rica Tariff referred to in section 49.1 of the *Customs Tariff*, and

(ii) are kept while in the province in accordance with the *Excise Act, 2001* and the laws of the province;

(f) the importation of bulk spirits into a province from the United States by a licensed distiller for the purpose of being packaged by the distiller, if the spirits

(i) are entitled to the United States Tariff in the List of Tariff Provisions set out in the schedule to the *Customs Tariff*, and

(ii) are kept while in the province in accordance with the *Excise Act, 2001* and the laws of the province; and

(g) the transfer by a licensed distiller of any spirits produced or packaged in accordance with the *Excise Act, 2001* that is permitted by any Act or regulation or by special permit of the Canada Customs and Revenue Agency, if the spirits

(i) in the case of packaged spirits, are kept in an excise warehouse of a licensed distiller and in accordance with the laws of the province in which they are kept, and

(ii) in the case of bulk spirits, are kept in accordance with the *Excise Act, 2001* and the laws of the province in which they are kept.

Amendments to
*Importation of
Intoxicating
Liquors Act*

(7) If section 395 of this Act comes into force after section 53 of the other Act, then, on the coming into force of section 395 of this Act,

(a) subsection 3(1.1) of the *Importation of Intoxicating Liquors Act* is replaced by the following:

Suspension of
paragraph
(2)(f)

(1.1) The operation of paragraph (2)(f) is suspended during the period in which paragraph (2)(c) is in force.

(b) the portion of subsection 3(2) of the *Importation of Intoxicating Liquors Act* after paragraph (b) is replaced by the following:

(c) the importation of bulk spirits into a province from a NAFTA country by a licensed distiller for the purpose of being packaged by the distiller, if the spirits

(i) are entitled to the United States Tariff, the Mexico Tariff or the Mexico-United States Tariff in the List of Tariff Provisions set out in the schedule to the *Customs Tariff*, and

(ii) are kept while in the province in accordance with the *Excise Act, 2001* and the laws of the province;

(d) the importation of bulk spirits into a province from Chile by a licensed distiller for the purpose of being packaged by the distiller, if the spirits

(i) are entitled to the benefit of the Chile Tariff in the List of Tariff Provisions set out in the schedule to the *Customs Tariff*, and

(ii) are kept while in the province in accordance with the *Excise Act, 2001* and the laws of the province;

(e) the importation of bulk spirits into a province from Costa Rica by a licensed distiller for the purpose of being packaged by the distiller, if the spirits

(i) are entitled to the benefit of the Costa Rica Tariff referred to in section 49.1 of the *Customs Tariff*, and

(ii) are kept while in the province in accordance with the *Excise Act, 2001* and the laws of the province;

(f) the importation of bulk spirits into a province from the United States by a licensed distiller for the purpose of being packaged by the distiller, if the spirits

(i) are entitled to the United States Tariff in the List of Tariff Provisions set out in the schedule to the *Customs Tariff*, and

(ii) are kept while in the province in accordance with the *Excise Act, 2001* and the laws of the province; and

(g) the transfer by a licensed distiller of any spirits produced or packaged in accordance with the *Excise Act, 2001* that is permitted by any Act or regulation or by special permit of the Canada Customs and Revenue Agency, if the spirits

(i) in the case of packaged spirits, are kept in an excise warehouse of a licensed distiller and in accordance with the laws of the province in which they are kept, and

(ii) in the case of bulk spirits, are kept in accordance with the *Excise Act, 2001* and the laws of the province in which they are kept.

(c) subsection 3(3) of the *Importation of Intoxicating Liquors Act* is repealed.

Amendments to
*Importation of
Intoxicating
Liquors Act*

(8) If section 395 of this Act and section 53 of the other Act come into force on the same day, then that section 395 is deemed to have come into force after that section 53 and subsection (7) applies.

PART 9

AMENDMENTS RELATED TO EXCISE TAX ON TOBACCO PRODUCTS

1997, c. 36

Customs Tariff

2001, c. 16, s.
3(1)

412. Paragraphs 21(2)(a) to (c) of the *Customs Tariff* are replaced by the following:

- (a) \$0.0575 per cigarette, in the case of cigarettes;
- (b) \$0.0425 per stick, in the case of tobacco sticks; and
- (c) \$0.0375 per gram, in the case of manufactured tobacco other than cigarettes and tobacco sticks.

R.S., c. E-15

Excise Tax Act

1994, c. 29, s.
1(1); 1999, c.
17, s.
145(2)(E)

413. The definitions "black stock", "black stock cigarettes" and "Indian" in subsection 2(1) of the *Excise Tax Act* are repealed.

2001, c. 16, s.
18(1)

414. Paragraphs 23.11(2)(a) to (c) of the Act are replaced by the following:

- (a) \$0.03 per cigarette, in the case of cigarettes;
- (b) \$0.02415 per stick, in the case of tobacco sticks; and
- (c) \$19.15 per kilogram, in the case of manufactured tobacco other than cigarettes and tobacco sticks.

2001, c. 16, s.
18(1)

415. Paragraphs 23.12(1)(a) to (c) of the Act are replaced by the following:

- (a) \$0.0575 per cigarette, in the case of cigarettes;
- (b) \$0.0425 per stick, in the case of tobacco sticks; and
- (c) \$0.0375 per gram, in the case of manufactured tobacco other than cigarettes and tobacco sticks.

2001, c. 16, s.
18(1)

416. (1) Paragraphs 23.13(1)(a) to (c) of the Act are replaced by the following:

- (a) \$0.0575 per cigarette, in the case of cigarettes;
- (b) \$0.0425 per stick, in the case of tobacco sticks; and
- (c) \$37.50 per kilogram, in the case of manufactured tobacco other than cigarettes and tobacco sticks.

2001, c. 16, s.
18(1)

(2) Paragraph 23.13(2)(a) of the Act is replaced by the following:

- (a) \$0.1025 per cigarette, in the case of cigarettes;

2001, c. 16, s.
18(1)

(3) Paragraph 23.13(2)(c) of the Act is replaced by the following:

- (c) \$56.65 per kilogram, in the case of manufactured tobacco other than cigarettes and tobacco sticks.

1994, c. 29, s.
6(1); 2000, c.
30, ss. 5(3),
(4); 2001, c.
16, ss. 22(1),
23(1), 25(1),
(2)

417. Sections 23.31 to 23.35 of the Act are repealed.

2000, c. 30, s.
16(1); 2001, c.
16, ss. 34(1),
35(1), 37(1)

418. Sections 97.1 to 97.4 of the Act are repealed.

1994, c. 29, s.
14(1); 1997, c.
26, s. 74(1);
2001, c. 16,
ss. 40(1), (2),
41(1)

419. Sections 1 to 3 of Schedule II to the Act are replaced by the following:

1. Cigarettes: \$0.17138 for each five cigarettes or fraction of five cigarettes contained in any package.

2. Tobacco sticks: \$0.02715 per stick.

3. Manufactured tobacco other than cigarettes and tobacco sticks: \$23.148 per kilogram.

Interest

420. For the purposes of applying the provisions of the *Customs Tariff* and the *Excise Tax Act* that provide for the payment of, or the liability to pay, interest in respect of any amount, the amount shall be determined and interest shall be computed on it as though this Part had been assented to on November 2, 2001.

Coming into
force

421. Sections 412 to 420 are deemed to have come into force on November 2, 2001.

PART 10

AMENDMENTS RELATED TO SHIPS' STORES

1986, c. 1

Customs Act

422. (1) Paragraph 164(1)(c) of the *Customs Act*, chapter 1 of the Statutes of Canada, 1986, is replaced by the following:

(c) designating certain classes of goods as ships' stores for use on board a conveyance of a prescribed class, including a class based on

(i) the physical attributes, functions or legal descriptions of conveyances,

(ii) areas within which conveyances voyage,

(iii) requirements, or limitations, related to voyages of conveyances, or

(iv) any combination of the bases mentioned in subparagraphs (i) to (iii);

(c.1) limiting the quantity of goods referred to in paragraph (c) that may be used as described in that paragraph during any prescribed period or periods;

(2) Subsection (1) is deemed to have come into force on November 10, 1986.

R.S., c. 41
(3rd Supp.)

Customs Tariff

1995, c. 41, s.
55(1)

423. (1) Paragraph 95(1)(g) of the *Customs Tariff*, as enacted by subsection 55(1) of chapter 41 of the Statutes of Canada, 1995, is replaced by the following:

(g) designating certain classes of goods as ships' stores for use on board a conveyance of a prescribed class, including a class based on

(i) the physical attributes, functions or legal descriptions of conveyances,

(ii) areas within which conveyances voyage,

(iii) requirements, or limitations, related to voyages of conveyances, or

(iv) any combination of the bases mentioned in subparagraphs (i) to (iii);

(g.1) limiting the quantity of goods referred to in paragraph (g) that may be used as described in that paragraph during any prescribed period or periods;

(2) Subsection (1) is deemed to have come into force on January 1, 1996.

1997, c. 36

Customs Tariff

424. (1) Paragraph 99(g) of the *Customs Tariff* is replaced by the following:

(g) designating certain classes of goods as ships' stores for use on board a conveyance of a prescribed class, including a class based on

(i) the physical attributes, functions or legal descriptions of conveyances,

(ii) areas within which conveyances voyage,

(iii) requirements, or limitations, related to voyages of conveyances, or

(iv) any combination of the bases mentioned in subparagraphs (i) to (iii);

(g.1) limiting the quantity of goods referred to in paragraph (g) that may be used as described in that paragraph during any prescribed period or periods;

(2) A regulation, or any provision of a regulation, made before January 1, 2004 under paragraph 99(g) or (g.1) of the *Customs Tariff*, as enacted by subsection (1), may, if it so provides, be retroactive and have effect for any period before it is made that begins on or after June 1, 2002.

(3) Subsection (1) is deemed to have come into force on January 1, 1998.

R.S., c. E-14

Excise Act

Replacement of
"approvisionnement
ents de navire"
with
"provisions de
bord"

425. The French version of the *Excise Act* is amended by replacing the words "approvisionnements de navire" with the words "provisions de bord" in the following provisions, with any grammatical modifications that the circumstances require:

- (a) paragraph 52.1(e);
- (b) subparagraph 58(2)(a)(i);
- (c) clauses 58.1(6)(a)(i)(C) and (E);
- (d) paragraph 173(3)(a);
- (e) subparagraph 202(3)(c)(iii);
- (f) section 216;
- (g) clauses 239.1(2)(a)(i.1)(B) and (iii)(A) and (B) and subparagraph 239.1(2)(b)(vi); and
- (h) paragraph 240(2)(f) and subparagraphs 240(3)(a.1)(ii) and (c)(i) and (ii).

R.S.C. 1970, c.
E-13

Excise Tax Act

1986, c. 9, s.
21(3)

426. (1) Subsection 35(2.3) of the *Excise Tax Act*, as enacted by subsection 21(3) of chapter 9 of the Statutes of Canada, 1986, is replaced by the following:

Regulations

(2.3) The Governor in Council may make regulations

(a) designating certain classes of goods as ships' stores for use on board a conveyance of a prescribed class, including a class based on

(i) the physical attributes, functions or legal descriptions of conveyances,

(ii) areas within which conveyances voyage,

(iii) requirements, or limitations, related to voyages of conveyances, or

(iv) any combination of the bases mentioned in subparagraphs (i) to (iii); and

(b) limiting the quantity of goods referred to in paragraph (a) that may be used as described in that paragraph during any prescribed period or periods.

(2) Subsection (1) is deemed to have come into force on November 10, 1986.

R.S., c. E-15

Excise Tax Act

R.S., c. 7 (2nd
Supp.), s.
21(3); 1993, c.
25, s. 58

427. (1) Subsection 59(3.2) of the *Excise Tax Act* is replaced by the following:

Regulations

(3.2) The Governor in Council may make regulations

(a) designating certain classes of goods as ships' stores for use on board a conveyance of a prescribed class, including a class based on

(i) the physical attributes, functions or legal descriptions of conveyances,

(ii) areas within which conveyances voyage,

(iii) requirements, or limitations, related to voyages of conveyances, or

(iv) any combination of the bases mentioned in subparagraphs (i) to (iii); and

(b) limiting the quantity of goods referred to in paragraph (a) that may be used as described in that paragraph during any prescribed period or periods.

(2) A regulation, or any provision of a regulation, made before January 1, 2004 under paragraph 59(3.2)(a) or (b) of the *Excise Tax Act*, as enacted by subsection (1), may, if it so provides, be retroactive and have effect for any period before it is made that begins on or after June 1, 2002.

(3) Subsection (1) is deemed to have come into force on December 12, 1988.

428. The Act is amended by adding the following after section 68.4:

Definitions

68.5 (1) The definitions in this subsection apply in this section.

"eligible ship"
« *navire*
admissible »

"eligible ship" means a ship that is a tug, ferry or passenger ship engaged in trade on an inland voyage and that

(a) is not proceeding outside Canada other than to

(i) a part that lies within the United States of any lake or river a part of which is included in the inland waters of Canada, or

(ii) Lake Michigan; and

(b) is not engaged in international trade.

"inland voyage"
« *voyage en*
eaux internes »

"inland voyage" means a voyage (other than a minor waters voyage)

(a) on the inland waters of Canada, together with those parts that lie within the United States of any lake or river included in the inland waters of Canada; or

(b) on Lake Michigan.

"inland waters
of Canada"
« *eaux internes*
du Canada »

"inland waters of Canada" means all the rivers, lakes and other navigable fresh waters within Canada, and includes the St. Lawrence River as far seaward as a straight line drawn

(a) from Cap des Rosiers to West Point Anticosti Island; and

(b) from Anticosti Island to the north shore of the St. Lawrence River along the meridian of longitude sixty-three degrees west.

"minor waters
of Canada"
« *eaux*
secondaires du
Canada »

"minor waters of Canada" means all inland waters of Canada (other than Lake Ontario, Lake Erie, Lake Huron including Georgian Bay, Lake Superior and the St. Lawrence River east of a line drawn from Father Point to Point Orient) and includes all bays, inlets and harbours of or on those lakes or Georgian Bay.

"minor waters
voyage"
« *voyage en*
eaux
secondaires »

"minor waters voyage" means a voyage within the minor waters of Canada together with those parts that lie within the United States of any lake or river included in the minor waters of Canada.

"rebate period"
« *période de*
remise »

"rebate period" means the period

(a) that begins on June 1, 2002 and that ends on December 31, 2002;

(b) that begins on January 1, 2003 and that ends on December 31, 2003; or

(c) that begins on January 1, 2004 and that ends on December 31, 2004.

Rebate in
respect of fuel
for eligible
ship

(2) If a person purchases or intends to purchase fuel that is, or is to be, used by the person to operate or maintain an eligible ship during a rebate period, subject to this Part, the Minister shall, on application by the person, pay to the person a rebate for the period determined in accordance with subsection (3).

Determination
of rebate

(3) The amount of the rebate payable to a person under subsection (2) for a rebate period is equal to

(a) if the amount applied for is based on an estimate, acceptable to the Minister and made within any period specified by the Minister, of the quantity of fuel that is, or is to be, purchased after May 2002 by the person and is, or is to be, used by the person to operate or maintain an eligible ship during the rebate period, the total amount of tax under Part III that would be imposed on that fuel; or

(b) in any other case, the total amount of tax under Part III imposed on fuel that is purchased by the person after May 2002 and is used by the person to operate or maintain an eligible ship during the rebate period.

One application
per period

(4) A person shall not file more than one application (other than an application referred to in paragraph (8)(b)) under this section for any rebate period.

Reconciliation
report

(5) If a person is paid a rebate for a rebate period based on an estimate referred to in paragraph (3)(a), the person shall, not later than 60 days after the end of the period, file with the Minister in prescribed manner a reconciliation report in prescribed form that indicates

(a) the amount of the rebate paid to the person; and

(b) the amount of tax under Part III imposed on the fuel purchased by the person after May 2002 and used by the person to operate or maintain an eligible ship during the rebate period.

Extension for
filing

(6) The Minister may at any time, in writing, extend the time required by subsection (5) for filing a reconciliation report.

Effect of
extension for
filing

(7) If the Minister has, under subsection (6), extended the time required by subsection (5) for filing a reconciliation report

(a) the report shall be filed within the time so extended;

(b) any amount of excess rebate that is required to be paid within the time otherwise required by subsection (9) shall be paid within the time so extended; and

(c) any interest or penalty payable under this section shall be calculated on the basis that the person has until the expiry of the period so extended to file the reconciliation report.

Additional
amount payable
to rebate
recipient

(8) If a person files a reconciliation report for a rebate period and the amount referred to in paragraph (5)(b) exceeds the amount referred to in paragraph (5)(a) in respect of the period

(a) the Minister shall pay to the person an amount equal to that excess amount; and

(b) the filing of the reconciliation report is deemed to be an application to the Minister for payment of that excess amount.

Liability for
excess rebate
and interest up
to due date of
reconciliation

(9) If the rebate paid to a person for a rebate period is determined on the basis of an estimate referred to in paragraph (3)(a) and the amount paid exceeds the amount referred to in paragraph (5)(b) in respect of the period, the person shall pay to the Receiver General

(a) on or before the day on or before which the reconciliation report for the rebate period is required to be filed, an amount (in this section referred to as the "excess rebate") equal to that excess amount; and

(b) interest at the prescribed rate, in respect of each month or fraction of a month in the period that begins on the first day following the day on which the rebate is paid to the person and that ends on the earlier of the day the total of the excess rebate and all interest under this paragraph is paid and the day on or before which the reconciliation report is required to be filed, calculated on the total of the amount of the excess rebate that has not been paid to the Receiver General, and of the amount of interest that is outstanding, in the month or fraction of a month.

Deemed tax
liability

(10) The portion of the total of the excess rebate payable by a person in respect of a rebate period, and of the interest payable by the person under paragraph (9)(b), that is outstanding at the end of the day on or before which the reconciliation report for the period is required to be filed is deemed to be an amount of tax payable under this Act that is required to be, and that has not been, paid by the person on or before that day.

Interest and
penalty on
deemed tax

(11) A person who is in default in paying an amount of tax referred to in subsection (10) shall pay to the Receiver General interest at the prescribed rate, and penalty of one-half of one percent, in respect of each month or fraction of a month in the

period that begins on the first day following the day on or before which the reconciliation report is required to be filed and that ends on the day the total of that tax is paid, calculated on the total of the tax, penalty and interest outstanding in that month or fraction of a month.

Time for paying
interest and
penalty

(12) Any interest under paragraph (9)(b) or subsection (11) and any penalty under that subsection shall be paid not later than the last day of the month in respect of which the interest or penalty was calculated.

Interest and
penalty under
ten dollars

(13) No interest under paragraph (9)(b) or subsection (11) and no penalty under that subsection is required to be paid if the person who would otherwise be liable to pay the interest or the penalty pays all taxes under this section payable by the person and, on the payment, the total interest and penalty otherwise payable by the person under those provisions is less than ten dollars.

Restriction

(14) The Minister shall not, at a particular time, pay an amount to a person under this section unless the person has

(a) filed with the Minister all reconciliation reports for rebate periods ending before that time for which a rebate was paid to the person that was based on an estimate referred to in paragraph (3)(a); and

(b) paid all excess rebates in respect of rebate periods ending before that time and all interest and penalty under this section that have accrued to that time.

Limitation
period

(15) An application may not be made under subsection (2) after December 31, 2006.

Replacement of
"approvisionnement
de navire"
with
"provisions de
bord"

429. The French version of the Act is amended by replacing the words "approvisionnement de navire" with the words "provisions de bord", with any grammatical changes that the circumstances require, in the following provisions:

- (a) paragraph 23.11(1)(c);
- (b) subsection 68.17(1); and
- (c) paragraph 70(1)(b).

SOR/86-878

Ships' Stores Regulations

Valid and
effective from
November 10,
1986

430. The *Ships' Stores Regulations* made by Order in Council P.C. 1986-1856 of August 13, 1986 and registered as SOR/86-878, as amended, are deemed to have been validly made and everything done under, and all consequences flowing from, those Regulations since November 10, 1986 are deemed effective as if those Regulations were so made.

SOR/96-40

Ships' Stores Regulations

Valid and
effective from
January 1, 1996

431. The *Ships' Stores Regulations* made by Order in Council P.C. 1995-2248 of December 28, 1995, and registered as SOR/96-40, are deemed to have been validly made and everything done under, and all consequences flowing from, those Regulations since January 1, 1996 are deemed effective as if those Regulations were so made.

SOR/78-376

Ships Suppliers Drawback Regulations

432. The *Ships Suppliers Drawback Regulations* are repealed.

PART 11

COMING INTO FORCE

Coming into
force

433. The provisions of this Act, other than sections 1 and 408 to 432, come into force on a day or days to be fixed by order of the Governor in Council.

SCHEDULE 1
(Section 42)

RATES OF DUTY ON TOBACCO PRODUCTS

1. Cigarettes:

(a) \$0.287375 for each five cigarettes or fraction of five cigarettes contained in any package, if the cigarettes are black stock

(i) for delivery by the tobacco licensee who manufactured them to a duty free shop or customs bonded warehouse,

(ii) for delivery by the tobacco licensee who manufactured them to a person for use as ships' stores in accordance with the *Ships' Stores Regulations*, or

(iii) for export by the tobacco licensee who manufactured them for delivery to a foreign duty free shop or as foreign ships' stores; and

(b) \$0.308755 for each five cigarettes or fraction of five cigarettes contained in any package, in any other case.

2. Tobacco sticks:

(a) \$0.042483 per stick, if the tobacco sticks are black stock

(i) for delivery by the tobacco licensee who manufactured them to a duty free shop or customs bonded warehouse,

(ii) for delivery by the tobacco licensee who manufactured them to a person for use as ships' stores in accordance with the *Ships' Stores Regulations*, or

(iii) for export by the tobacco licensee who manufactured them for delivery to a foreign duty free shop or as foreign ships' stores; and

(b) \$0.045483 per stick, in any other case.

3. Manufactured tobacco other than cigarettes and tobacco sticks:

(a) \$37.483 per kilogram, if the manufactured tobacco is black stock

(i) for delivery by the tobacco licensee who manufactured it to a duty free shop or customs bonded warehouse,

(ii) for delivery by the tobacco licensee who manufactured it to a person for use as ships' stores in accordance with the *Ships' Stores Regulations*, or

(iii) for export by the tobacco licensee who manufactured it for delivery to a foreign duty free shop or as foreign ships' stores; and

(b) \$41.481 per kilogram, in any other case.

4. Cigars: \$14.786 per 1,000 cigars.

5. Raw leaf tobacco: \$1.572 per kilogram.

SCHEDULE 2
(*Section 43*)

ADDITIONAL DUTY ON CIGARS

Cigars:

The greater of

(a) \$0.03947 per cigar, and

(b) 50%, computed on

(i) the sale price, in the case of cigars manufactured in Canada, or

(ii) the duty-paid value, in the case of imported cigars.

SCHEDULE 3
(Sections 53, 54 and 56)

RATES OF SPECIAL DUTIES ON CERTAIN MANUFACTURED TOBACCO

1. Special duty on imported manufactured tobacco:

- (a) \$0.0575 per cigarette, in the case of cigarettes;
- (b) \$0.0425 per stick, in the case of tobacco sticks; and
- (c) \$0.0375 per gram, in the case of manufactured tobacco other than cigarettes or tobacco sticks.

2. Special duty on traveller's tobacco:

- (a) \$0.0575 per cigarette, in the case of cigarettes;
- (b) \$0.0425 per stick, in the case of tobacco sticks; and
- (c) \$0.0375 per gram, in the case of manufactured tobacco other than cigarettes or tobacco sticks.

3. Special duty on unstamped tobacco products:

- (a) \$0.0575 per cigarette, in the case of cigarettes;
- (b) \$0.0425 per stick, in the case of tobacco sticks; and
- (c) \$37.50 per kilogram, in the case of tobacco products other than cigarettes or tobacco sticks.

4. Special duty on stamped tobacco products:

- (a) \$0.068224 per cigarette, in the case of cigarettes;
- (b) \$0.0345 per stick, in the case of tobacco sticks; and
- (c) \$33.502 per kilogram, in the case of tobacco products other than cigarettes or tobacco sticks.

SCHEDULE 4
(Sections 122 and 123)

RATES OF DUTY ON SPIRITS

1. Spirits: \$11.066 per litre of absolute ethyl alcohol contained in the spirits.

2. Spirits containing not more than 7% absolute ethyl alcohol by volume: \$0.2459 per litre of spirits.

SCHEDULE 5
(*Section 133*)

RATE OF SPECIAL DUTY ON SPIRITS

Special duty on spirits:

\$0.12 per litre of absolute ethyl alcohol contained in the spirits.

SCHEDULE 6
(Sections 134 and 135)

RATES OF DUTY ON WINE

Wine:

(a) in the case of wine that contains not more than 1.2% of absolute ethyl alcohol by volume, \$0.0205 per litre;

(b) in the case of wine that contains more than 1.2% of absolute ethyl alcohol by volume but not more than 7% of absolute ethyl alcohol by volume, \$0.2459 per litre; and

(c) in the case of wine that contains more than 7% of absolute ethyl alcohol by volume, \$0.5122 per litre.

SCHEDULE 7



ANNEXE 7

SCHEDULE 7
(Section 362 and Subsection 411(5))

ADDITIONS TO THE LIST OF TARIFF PROVISIONS

Tariff Item	Description of Goods	Most-Favoured-Nation Tariff		Preferential Tariff	
		Initial Rate	Final Rate	Initial Rate	Final Rate
2204.10	-Sparkling wine				
2204.10.10	---Of an alcoholic strength by volume not exceeding 22.9% vol	37.4¢/litre	37.4¢/litre (A)	UST: Free MT: Free MUST: N/A CT: 37.4¢/litre CIAT: N/A GPT: N/A LDCT: Free CCCT: Free AUT: N/A NZT: N/A	UST: Free (A) MT: Free (A) MUST: N/A CT: Free (L) CIAT: N/A GPT: N/A LDCT: Free (A) CCCT: Free (A) AUT: N/A NZT: N/A
2204.10.90	---Other	37.4¢/litre	37.4¢/litre (A)	UST: Free MT: Free MUST: N/A CT: 37.4¢/litre CIAT: N/A GPT: N/A LDCT: Free CCCT: Free AUT: N/A NZT: N/A	UST: Free (A) MT: Free (A) MUST: N/A CT: Free (L) CIAT: N/A GPT: N/A LDCT: Free (A) CCCT: Free (A) AUT: N/A NZT: N/A
	---Grape must with fermentation prevented or arrested by the addition of alcohol:				
2204.21.41	----Of alcoholic strength by volume not exceeding 22.9% vol	\$1.10/litre plus 15%	\$1.10/litre plus 15% (A)	UST: Free MT: Free MUST: N/A CT: Free CIAT: N/A GPT: N/A LDCT: Free CCCT: Free AUT: N/A NZT: N/A	UST: Free (A) MT: Free (A) MUST: N/A CT: Free (A) CIAT: N/A GPT: N/A LDCT: Free (A) CCCT: Free (A) AUT: N/A NZT: N/A
2204.21.49	----Other	\$1.10/litre plus 15%	\$1.10/litre plus 15% (A)	UST: Free MT: Free MUST: N/A CT: Free CIAT: N/A GPT: N/A LDCT: Free CCCT: Free AUT: N/A NZT: N/A	UST: Free (A) MT: Free (A) MUST: N/A CT: Free (A) CIAT: N/A GPT: N/A LDCT: Free (A) CCCT: Free (A) AUT: N/A NZT: N/A

Tariff Item	Description of Goods	Most-Favoured-Nation Tariff		Preferential Tariff	
		Initial Rate	Final Rate	Initial Rate	Final Rate
	---Grape must with fermentation prevented or arrested by the addition of alcohol:				
2204.29.41	---Of an alcoholic strength by volume not exceeding 22.9% vol	\$1.41/litre plus 19%	\$1.41/litre plus 19% (A)	UST: Free MT: Free MUST: N/A CT: Free CIAT: N/A GPT: N/A LDCT: Free CCCT: Free AUT: N/A NZT: N/A	UST: Free (A) MT: Free (A) MUST: N/A CT: Free (A) CIAT: N/A GPT: N/A LDCT: Free (A) CCCT: Free (A) AUT: N/A NZT: N/A
2204.29.49	----Other	\$1.41/litre plus 19%	\$1.41/litre plus 19% (A)	UST: Free MT: Free MUST: N/A CT: Free CIAT: N/A GPT: N/A LDCT: Free CCCT: Free AUT: N/A NZT: N/A	UST: Free (A) MT: Free (A) MUST: N/A CT: Free (A) CIAT: N/A GPT: N/A LDCT: Free (A) CCCT: Free (A) AUT: N/A NZT: N/A
2204.30	-Other grape must				
2204.30.10	---Of an alcoholic strength by volume not exceeding 22.9% vol	\$1.41/litre plus 19%	\$1.41/litre plus 19% (A)	UST: Free MT: Free MUST: N/A CT: Free CIAT: N/A GPT: N/A LDCT: Free CCCT: Free AUT: N/A NZT: N/A	UST: Free (A) MT: Free (A) MUST: N/A CT: Free (A) CIAT: N/A GPT: N/A LDCT: Free (A) CCCT: Free (A) AUT: N/A NZT: N/A
2204.30.90	---Other	\$1.41/litre plus 19%	\$1.41/litre plus 19% (A)	UST: Free MT: Free MUST: N/A CT: Free CIAT: N/A GPT: N/A LDCT: Free CCCT: Free AUT: N/A NZT: N/A	UST: Free (A) MT: Free (A) MUST: N/A CT: Free (A) CIAT: N/A GPT: N/A LDCT: Free (A) CCCT: Free (A) AUT: N/A NZT: N/A
2206.00.12	----Other sparkling	28.16¢/litre	28.16¢/litre (A)	UST: Free MT: Free MUST: N/A CT: Free CIAT: N/A GPT: N/A LDCT: Free CCCT: Free AUT: N/A NZT: N/A	UST: Free (A) MT: Free (A) MUST: N/A CT: Free (A) CIAT: N/A GPT: N/A LDCT: Free (A) CCCT: Free (A) AUT: N/A NZT: N/A

Tariff Item	Description of Goods	Most-Favoured-Nation Tariff		Preferential Tariff	
		Initial Rate	Final Rate	Initial Rate	Final Rate
2206.00.18	---Other cider, of an alcoholic strength by volume not exceeding 22.9% vol	3%	3% (A)	UST: Free MT: Free MUST: N/A CT: Free CIAT: N/A GPT: N/A LDCT: Free CCCT: Free AUT: N/A NZT: N/A	UST: Free (A) MT: Free (A) MUST: N/A CT: Free (A) CIAT: N/A GPT: N/A LDCT: Free (A) CCCT: Free (A) AUT: N/A NZT: N/A
	---Perry, sparkling:				
2206.00.31	----Of an alcoholic strength by volume not exceeding 22.9% vol	21.12¢/litre	21.12¢/litre (A)	UST: Free MT: Free MUST: N/A CT: Free CIAT: N/A GPT: N/A LDCT: Free CCCT: Free AUT: N/A NZT: N/A	UST: Free (A) MT: Free (A) MUST: N/A CT: Free (A) CIAT: N/A GPT: N/A LDCT: Free (A) CCCT: Free (A) AUT: N/A NZT: N/A
2206.00.39	----Other	21.12¢/litre	21.12¢/litre (A)	UST: Free MT: Free MUST: N/A CT: Free CIAT: N/A GPT: N/A LDCT: Free CCCT: Free AUT: N/A NZT: N/A	UST: Free (A) MT: Free (A) MUST: N/A CT: Free (A) CIAT: N/A GPT: N/A LDCT: Free (A) CCCT: Free (A) AUT: N/A NZT: N/A
	---Other wine, sparkling:				
2206.00.41	----Of an alcoholic strength by volume not exceeding 22.9% vol	28.16¢/litre	28.16¢/litre (A)	UST: Free MT: Free MUST: N/A CT: Free CIAT: N/A GPT: N/A LDCT: Free CCCT: Free AUT: N/A NZT: N/A	UST: Free (A) MT: Free (A) MUST: N/A CT: Free (A) CIAT: N/A GPT: N/A LDCT: Free (A) CCCT: Free (A) AUT: N/A NZT: N/A

Tariff Item	Description of Goods	Most-Favoured-Nation Tariff		Preferential Tariff	
		Initial Rate	Final Rate	Initial Rate	Final Rate
2206.00.49	---Other	28.16¢/litre	28.16¢/ litre (A)	UST: Free MT: Free MUST: N/A CT: Free CIAT: N/A GPT: N/A LDCT: Free CCCT: Free AUT: N/A NZT: N/A	UST: Free (A) MT: Free (A) MUST: N/A CT: Free (A) CIAT: N/A GPT: N/A LDCT: Free (A) CCCT: Free (A) AUT: N/A NZT: N/A
	---Other:				
2206.00.91	---Mead	12.28¢/litre of absolute ethyl alcohol	12.28¢/litre of absolute ethyl alcohol (A)	UST: Free MT: Free MUST: N/A CT: Free CIAT: N/A GPT: Free LDCT: Free CCCT: Free AUT: N/A NZT: N/A	UST: Free (A) MT: Free (A) MUST: N/A CT: Free (A) CIAT: N/A GPT: Free (A) LDCT: Free (A) CCCT: Free (A) AUT: N/A NZT: N/A
2206.00.92	---Other, of an alcoholic strength by volume not exceeding 22.9% vol	12.28¢/litre of absolute ethyl alcohol	12.28¢/litre of absolute ethyl alcohol (A)	UST: Free MT: Free MUST: N/A CT: Free CIAT: N/A GPT: Free LDCT: Free CCCT: Free AUT: N/A NZT: N/A	UST: Free (A) MT: Free (A) MUST: N/A CT: Free (A) CIAT: N/A GPT: Free (A) LDCT: Free (A) CCCT: Free (A) AUT: N/A NZT: N/A
2206.00.93	---Other, of an alcoholic strength by volume exceeding 22.9% vol	12.28¢/litre of absolute ethyl alcohol	12.28¢/litre of absolute ethyl alcohol (A)	UST: Free MT: Free MUST: N/A CT: Free CIAT: N/A GPT: Free LDCT: Free CCCT: Free AUT: N/A NZT: N/A	UST: Free (A) MT: Free (A) MUST: N/A CT: Free (A) CIAT: N/A GPT: Free (A) LDCT: Free (A) CCCT: Free (A) AUT: N/A NZT: N/A
2207.20.12	---Denatured alcohol, within the meaning of the <i>Excise Act, 2001</i>	4.92¢/litre of absolute ethyl alcohol	4.92¢/litre of absolute ethyl alcohol (A)	UST: Free MT: Free MUST: N/A CT: Free CIAT: N/A GPT: N/A LDCT: Free CCCT: Free AUT: N/A NZT: N/A	UST: Free (A) MT: Free (A) MUST: N/A CT: Free (A) CIAT: N/A GPT: N/A LDCT: Free (A) CCCT: Free (A) AUT: N/A NZT: N/A

Tariff Item	Description of Goods	Most-Favoured-Nation Tariff		Preferential Tariff	
		Initial Rate	Final Rate	Initial Rate	Final Rate
	---Spirituos fruit juices of an alcoholic strength by volume not exceeding 14.3% vol:				
2208.90.41	----Packaged, of an alcoholic strength by volume not exceeding 7% vol	35.2¢/litre	35.2¢/litre (A)	UST: Free MT: Free MUST: N/A CT: Free CIAT: Free GPT: Free LDCT: Free CCCT: Free AUT: N/A NZT: N/A	UST: Free (A) MT: Free (A) MUST: N/A CT: Free (A) CIAT: Free (A) GPT: Free (A) LDCT: Free (A) CCCT: Free (A) AUT: N/A NZT: N/A
2208.90.49	----Other	35.2¢/litre	35.2¢/litre (A)	UST: Free MT: Free MUST: N/A CT: Free CIAT: Free GPT: Free LDCT: Free CCCT: Free AUT: N/A NZT: N/A	UST: Free (A) MT: Free (A) MUST: N/A CT: Free (A) CIAT: Free (A) GPT: Free (A) LDCT: Free (A) CCCT: Free (A) AUT: N/A NZT: N/A