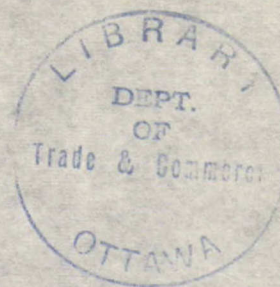


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1964 Pt.5

MAR 13 1964

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DOING BUSINESS IN CANADA

TAXATION - SALES, EXCISE, COMMODITY

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F O R E W O R D

The information in this text deals with the incidence of sales, excise and commodity taxes. Every effort has been made to accurately reflect the legislation in force at the time of preparing the material. It is believed that the text will prove to be a useful guide.

It should be appreciated, however, that many of the laws contain a considerable amount of detail. Since the text does not do more than refer to basic principles it is suggested that an enquirer should consult with relevant authorities or solicitors of his choice or both when seeking precise and detailed advice on a given problem at a specific time.

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Date of Revision: February, 1964.



TAXATION IN CANADA - SALES, EXCISE, COMMODITYFederal Sales Tax

A consumption or sales tax of 11% is imposed by the Federal Government on the sale price of all goods manufactured or produced in Canada (with certain exceptions), payable by the manufacturer or producer when the goods are delivered to the purchaser. Imported goods (with certain exceptions) are also subject to the sales tax, payable on the Customs duty-paid-value at the time of entry for consumption in Canada.

The list of items exempted from sales tax includes practically all foodstuffs, materials consumed or expended in a manufacturing process and certain implements used in agriculture and in the primary industries of fishing, mining, lumbering and oil production. Materials used in the construction of schools, universities and similar educational institutions and public libraries are also exempt, but the exemption is in the form of a refund equal to the tax paid.

Building materials and machinery and equipment used in manufacturing or production are subject to federal sales tax as follows:

- (a) Effective June 14th, 1963 - 4%
- (b) Effective April 1st, 1964 - 8%
- (c) Effective January 1st, 1965 - 11%

Manufacturers or producers (including remanufacturers or rebuilders) of goods subject to federal sales tax are required to obtain a manufacturer's sales tax license. Licensed manufacturers are permitted to purchase or import articles and materials for further manufacture free of sales tax, provided they quote their licence number and certify that the articles or materials are to be used or incorporated into the manufacture or production of taxable products.

The sales tax is one of single incidence; it applies only on sales by a final manufacturer. For example, a licensed tanner, after having purchased hides free of sales tax, may sell the leather without tax to a licensed shoe manufacturer who accounts for and remits the sales tax at the rate of 11% on his sale price of the finished shoes.

A wholesaler or jobber may apply for a wholesaler's sales tax licence provided he complies with certain conditions regarding volume of tax-exempt sales. Applicants obtaining wholesaler's sales tax licences must furnish security as required by the Excise Tax Act. Licensed wholesalers must purchase or import all goods intended for resale without sales tax under licence number and certificate of resale. They account for sales tax payable at time of delivery of the goods resold.

Wholesalers, licensed for sales tax purposes, dealing in goods subject to both sales and excise taxes, will purchase or import the goods without sales tax under licence number and relevant certificate, but must pay the excise tax at time of purchase or on importation of such excisable goods. Wholesalers' sales tax licences cannot be used to obtain excisable goods without payment of excise tax.

Sales tax licences are obtained from the District Director, Excise Tax Collections, in the area in which manufacturers or wholesalers propose to operate.

Every licensed manufacturer, producer or wholesaler is required, each month to remit to the Department of National Revenue the amount of sales tax properly payable on all taxable sales. Payment is made to the District Director, Excise Tax Collections, in the area in which the firm is operating, accompanied by a return showing the amount of taxable sales for the last preceding month. The books and records of each licensee are subject to audit by government auditors. Default in payment of the tax within the time prescribed subjects the licensee, in addition to the amount of the default, to a penalty of  $\frac{2}{3}$  of 1% of the amount in default, for each month or fraction of a month during which the default continues.

The competitive position of any one manufacturer, whether domestic or foreign, is not affected by the imposition of federal sales tax. He is on the same footing as those firms with which he competes since the tax, where exigible, is applied on all such products being sold in Canada, without reference to origin.

There is one point that might be noted, however, of particular interest to the foreign manufacturer who proposes to establish a manufacturing operation in Canada and in so doing arranges for an exclusive distributorship, or, takes his distributor into partnership with him. The phrase "manufacturer or producer" is deemed to include any person, firm or corporation that owns, holds, claims or uses any patent, proprietary, sales or other right to goods being manufactured, whether by them, in their name or for or on their behalf by others whether such person, firm or corporation sells, distributes, consigns or otherwise disposes of the goods or not". Under such circumstances, where the distributor takes a financial position in a newly-established manufacturing operation in Canada, the sales tax would be levied on the price at which he sells to his normal outlets. As against a situation of this nature, another manufacturer could sell to a distributor dealing with him at arm's length and the tax would be applied on the manufacturer's sales price, a price that does not include the distributor's mark-up; as a consequence, such manufacturer would move his product to the retail level at a lower price than the competitor working through a distributor having a vested interest in the product that he sells.

#### FEDERAL EXCISE TAX

Excise taxes, in addition to the sales tax, are imposed on certain specified goods, whether manufactured or produced in Canada or imported into Canada. The list of excisable items includes cosmetics, matches, cigarettes, tobacco, etc. Complete detail can be found in the Excise Tax Act, copy of which is available from the Queen's Printer, Ottawa, at a cost of 25 cents.

In the interest of protecting revenues derived from the application of excise taxes, the Federal Department of National Revenue requires that all persons or firms manufacturing or producing goods subject to an excise tax must operate under a manufacturer's excise tax licence. The licence is obtainable from the District Director, Excise Tax Collections, in the area in which the company or individual proposes to operate.

Manufacturers licensed for excise tax purposes may purchase or import free from excise tax, excisable goods that are to be incorporated into and form a constituent or component part of an article or product that is subject to an excise tax, provided they quote their excise tax licence number and relevant certificate. The procedure for filing returns and paying excise tax is similar to that for sales tax.

As sales and excise taxes are remitted by licensed manufacturers and sales tax remitted by licensed wholesalers who pay excise tax at the time of purchase or importation, retailers are not concerned with filing sales and/or excise tax returns nor with remitting taxes to the Department of National Revenue unless, of course, they become liable as manufacturers or producers of taxable goods. However, retailers and other unlicensed purchasers are the parties from whom the manufacturer or licensed wholesaler collects the taxes. Unlicensed purchasers or importers pay sales and excise-taxes at the time goods are purchased or are cleared through Customs, unless of course, the goods are imported in bond, in which case the taxes are paid at the time goods are taken out of bond for consumption.

When goods on which duties and/or taxes have been paid are used or directly consumed in, wrought into, or attached to any article manufactured or produced in Canada and exported, a drawback of 99% of the duties and/or taxes may be allowed. When goods of domestic manufacture are exported from Canada the excise and sales taxes which might have otherwise been payable are not imposed on direct shipment by the manufacturer or producer.

Where any doubt exists concerning status under the Excise Tax Act, inquiries should be addressed to -

Deputy Minister,  
Department of National Revenue,  
Customs and Excise,  
Ottawa, Canada.

PROVINCIAL SALES TAX

Eight provinces levy a direct sales tax on goods sold, used or consumed within the province. New Brunswick and Ontario have a 3% tax; British Columbia, Newfoundland, Saskatchewan and Nova Scotia have a 5% tax; Prince Edward Island and Quebec have a 4% levy, but in Quebec, individual municipalities can be allowed a further 2%.

All eight provincial levies are strictly retail sales taxes imposed in respect of the consumption of goods. Retail sales are defined as sales to consumers or users for purposes of consumption or use, not for resale. Each of the eight require vendors to obtain licences or registration certificates.

The word "vendor" includes all retailers as well as manufacturers and wholesalers making retail sales. In actual practice, these latter firms are required to register even though they are not selling at retail, in order to purchase without tax those materials that they buy for resale; having registered, they are then in a position to quote licence or certificate number which provides them with a means of claiming exemption.

All vendors are required to file periodic returns and remit the appropriate amounts to the taxing authority. Returns are required on a monthly basis except in Saskatchewan where a quarterly basis is used. In some of the other provinces, a quarterly basis is followed in a few special cases.

Retailers are required to keep adequate records to show taxable and non-taxable sales, purchases, goods taken from stock for personal use, and tax collected.



The major groups of exemption from provincial sales taxes are as follows: (1) Food - although the definition of food in each province varies slightly. (2) Farm implements, machinery and related items; farm livestock, feed, seed and fertilizer. (3) Major fuels - the degree of exemption varies from province to province. (4) Goods purchased for purposes of further processing, fabrication, or manufacture prior to sale. (5) Goods purchased wholesale to be resold in unchanged form. (6) Industrial machinery - only in certain provinces, if the machinery is used directly in manufacturing or processing goods for sale.

The foregoing is only an outline of the major exemptions to provincial sales taxes, and, in view of the numerous exceptions and qualifications involved, details on this subject should be obtained from the provincial authorities.

Licensed vendors are permitted to deduct a small percentage from the amount due to the taxing authority, to cover their administrative costs in collecting the tax.

#### MUNICIPAL SALES TAX

In Quebec, municipalities may be authorized by the provincial government to levy a municipal sales tax of up to 2%. Some of the larger centres which apply such taxes are Montreal, Quebec, Sorel, Thetford Mines, Black Lake, Valleyfield, Three Rivers, Rimouski, Joliette, Beauharnois. In these cities, the total rate is 6%, i.e. 2% municipal and 4% provincial.

These taxes are not separately administered; they are identical in scope with the provincial levy and are collected by the province through a single return. A vendor in taking out a licence under the provincial sales tax levy automatically becomes licensed for municipal sales tax purposes. The amount of the municipal levy is returned to the localities minus a collection fee.

ALCOHOLIC BEVERAGES AND PRODUCTS

Alcohol, alcoholic beverages, and alcoholic products, are, with only minor exceptions, subject to excise duty under the Federal Excise Act. Manufacturing members of the trade must hold a licence. Copies of the Excise Act may be obtained from the Queen's Printer, Ottawa, at a cost of fifty cents each.

Applications for licence under the Federal Excise Act are filed with the Regional Director of Excise Duty. These Regional Directors are located at Montreal (having jurisdiction over Quebec and the Maritime Provinces), Toronto (having jurisdiction over Ontario) and Vancouver (having jurisdiction from Port Arthur to British Columbia inclusive). It is important to note that applicants must be financially able to fulfill the obligations they incur as licensees. In all cases a bond must be filed with the Department of National Revenue in such sums as may be designated, in addition to the payment of the requisite licence fee.

Under the Federal Excise Act the annual licence fee for the production and/or bottling of distilled spirits, including the manufacture of industrial and denatured alcohol is \$250; for the production of beer, ale, etc., \$50. With regard to chemical stills, there is an annual fee of \$2 for the importation, manufacture, possession and use of units exceeding three gallons; bona fide public hospitals are exempted. Chemical stills not exceeding three gallons capacity are required to be registered with the District Surveyor of Excise Duty; no fee is charged. District Surveyors are located at Saint John, New Brunswick, Quebec City, Montreal, Toronto, Kitchener, Calgary and Vancouver.

Persons using spirits at a reduced rate of federal excise duty in the manufacture of pharmaceutical preparations and flavouring extracts, vinegar, perfume and toilet products, domestic wine when fortified with wine spirits, toilet preparations or cosmetic subject to Excise Tax, and certain chemical products, are required to pay an annual fee of \$50 for each licence they obtain.

Liquor Control Acts have been framed in all provinces. There is considerable variation in detail but the salient feature of all is the establishment of a provincial monopoly on the retail sale of alcoholic beverages. All sales are taxed heavily.

Each province has established a Board or Commission, responsible for the administration of its Liquor Control Act. Each Act requires that all brewers and distillers producing and selling within the province must obtain a provincial licence.

All retail outlets must be provincially licensed. There is considerable variation in the regulations with regard to the type of outlet through which alcoholic beverages may be sold at retail as well as in connection with the equipment, accommodation, etc., of businesses which can apply for licence.

In New Brunswick and Prince Edward Island, alcoholic beverages are sold through government liquor stores only. There are no other retail outlets. In the other provinces alcoholic beverages are sold through government liquor stores and a licence may be obtained by such other outlets as cocktail lounges, restaurants, canteens, clubs and hotels. In Manitoba and Ontario beer may also be sold through brewers' retail stores, and in Quebec through grocery stores. Ontario permits local wine producers to sell at retail under certain restrictions.

It should be noted that restaurants and hotels, in their provision of food and drink, are also required to be licensed under regulations concerned with public health. All provinces have a licensing requirement and supervision is maintained through a system of inspection. The definition of a hotel is usually considered to include any building used mainly for the purpose of catering to the sleeping needs of the public, including tourist cabins, overnight cabins and motels. In the Province of Quebec, control extends to boarding houses as well. In the other provinces, such premises are normally regulated by municipal authorities.

Provincial licensing requirements extend also to manufacturers of vinegar, perfumes, pharmaceuticals, patent or proprietary medicines and essences. Such manufacturers must have special permission to have and use distilled spirits in their production operations. These licences or permissions are over and above the licences required by the Federal Department of National Revenue.

#### TOBACCO AND TOBACCO PRODUCTS

Tobacco and tobacco products are subject to excise duty under the Federal Excise Act. Copy of the Excise Act is available from the Queen's Printer, Ottawa, at a cost of fifty cents.

Manufacturers of cigars and/or tobacco products (including cigarettes and snuff) must obtain an annual licence under the Federal Excise Act from the Regional Director of Excise Duty in whose district their business is carried on. The fee is \$50 for permission to operate either as a cigar manufacturer or as a tobacco products manufacturer. Bond must be filed with the Department of National Revenue in each case. Persons dealing in, preparing, packing or stemming Canadian raw leaf tobacco or employing others to do so on their behalf must also be licensed and file bond. The fee is \$50 annually.

New Brunswick, Prince Edward Island, Manitoba and Quebec levy taxes on specified tobacco products. Vendors are required to be licensed or registered in order that returns and remittances may be properly controlled. In New Brunswick, certain well-established retail accounts are permitted to buy tobacco products without tax, although they themselves are then charged with collection at the time of retail sale. Other retail outlets in the province pay the tax at the time of purchase from suppliers, as in the Province of Quebec, where the tax is collected and remitted by manufacturers, processors or wholesalers. Nova Scotia levies a tax on all tobacco products in any form. Vendors are required to be licensed, and the tax is collected from the original purchasers whether they be wholesalers or those retailers buying directly from tobacco companies.



All of the larger municipalities require vendors to hold a licence before selling tobacco products at retail. There is usually a differential in the fee dependent on whether the vendor is concerned solely with tobacco or with various types of manufactured tobacco products.

Some of the provinces have prohibited the use of vending machines for the sale of cigarettes since the merchant is not in a position to check the age of the purchaser, - (nearly all provinces have specified minimum age). In other instances, cigarette vending machines can be used only where a licence has been obtained from municipal authorities.

#### BONDED MANUFACTURERS AND BONDED WAREHOUSES

Applications for a licence to manufacture in bond under the Federal Excise Act must be made to the Regional Director of Excise Duty in whose region the business is to be carried on. The licence fee is \$50. In addition, a guarantee bond must be furnished to the Department of National Revenue in such sums as may be designated.

A bonded manufacturer may receive into his premises all spirits and other articles commonly used in the manufacture of his goods, without payment of excise charges otherwise exigible. Products manufactured in bond may not be removed from the premises until a permit for such removal has been obtained from the local Collector.

Any portion of the premises of a bonded manufacturer may be designated as a bonded warehouse, with no extra charge being payable. A bonded warehouse is any warehouse in which goods subject to customs and excise may be stored or deposited without payment of duty.

Where permission to operate a bonded warehouse is requested by other than a licensed manufacturer of goods subject to excise, there would be an annual charge of \$50 plus the requirement that the applicant file bond with the Department of National Revenue.

AMUSEMENT OR ENTERTAINMENT TAX

All provinces, excepting Saskatchewan, Alberta and British Columbia levy an amusement or entertainment tax. The owner or operator of each place of amusement is required to be licensed.

Taxation authorities exercise control through the supply of consecutively numbered tickets recorded at the time they are issued, and checked against periodic returns made by the operator. In Manitoba, an operator arranges for his own supply, and in Nova Scotia, a theatre operator can do likewise, in some instances. In the Province of Quebec, the tickets are distributed by municipal authorities who retain one-half of the tax collected.

Apart from licensing in the interests of protecting revenues, there are also business licences to be obtained. These other licences come under the purview of local authorities. It may be generally stated that all larger municipalities have taken full advantage of such source of revenue. Municipal licensing by-laws usually make particular reference to theatres, public halls, circuses and travelling shows, roller-skating rinks, billiard and bowling alleys, etc. Where no specific reference is made, the place of entertainment is usually caught under a blanket licensing requirement.

Alberta, New Brunswick, Nova Scotia, Ontario and Saskatchewan have enacted legislation having specific reference to the control and operation of theatres; other provinces have referred to the operation of such places of amusement in a general licensing statute. Such legislation extends to the field of regulation for protection and control rather than for the purpose of raising revenues.

Every owner, lessee, licensee or manager of a theatre or film exchange, every person owning, managing or having control of a motion picture projector, and every projectionist, is usually required to obtain an annual licence.

All provinces levy a tax, or taxes, on gasoline, diesel or other motive fuels. The level of tax ranges from 10¢ per gallon of gasoline in Alberta to 27¢ per gallon of diesel fuel in Nova Scotia. In levying these taxes special consideration is extended in the form of tax exemption or refund of tax for "off-highway" or stationary industrial usage.

In order to protect their revenues from these taxes, all provinces require that parties handling gasoline be licensed. Licences are required by importers, refiners, distributors, jobbers, wholesalers, retailers and agents, in order to offer for sale and sell gasoline, kerosene or distillate.

As a further measure of control, most provinces require that a permit be obtained to place, erect, or alter any gasoline pump in whole or in part.

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