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DOING BUSINESS IN CANADA

TAXATION-
SALES, EXCISE,
COMMODITY

DOING BUSINESS IN CANADA

TAXATION - SALES, EXCISE, COMMODITY

Prepared by
DEPARTMENT OF INDUSTRY
OTTAWA

F O R E W O R D

The information in this booklet deals with the incidence of sales, excise and commodity taxes. It is intended as a guide in this field of taxation and, as such, refers only to the basic principles involved.

Every effort has been made to accurately reflect the legislation in force at the time of preparing the material. However, since the law contains a considerable amount of detail, it is suggested that an enquirer consult with relevant authorities or solicitors of his choice or both when seeking precise and detailed advice on a given problem.

While the Department of Industry is prepared to assist manufacturers requiring guidance on these matters, specific information can be obtained from any one of the district sales tax offices of the Department of National Revenue located throughout the country. Head office of the Department of National Revenue is in Ottawa.

Other publications available from the series "Doing Business in Canada" are:

The Canadian Environment

Forms of Business Organization

Canadian Customs Duties

Taxation - Income, Business, Property

Labour Legislation

Construction and Equipment Standards

Federal Incentives to Industry

Patents, Copyrights and Trade Marks

Tariff Preferences for Canadian Goods Abroad

TAXATION - SALES, EXCISE, COMMODITY

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TAXATION - SALES, EXCISE, COMMODITYFederal Sales Tax

A consumption or sales tax is imposed by the federal government, with certain exceptions, on the sale price of goods manufactured or produced in Canada, payable by the manufacturer or producer when the goods are delivered to the purchaser. Effective January 1, 1967, the full rate of tax is 12%. 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.

Items exempted from sales tax include practically all foodstuffs, materials consumed or expended in a manufacturing process and certain implements used in agriculture and in the primary industry of fishing. 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 amount of tax paid.

Since January 1, 1965, building materials and production machinery and apparatus for which Schedule III of the Excise Tax Act provided sales tax exemption prior to June 14, 1963, have been subject to a rate of 11% federal sales tax (the full rate prior to January 1, 1967). The building materials listed in Schedule III were not included in the 1% increase in the federal sales tax effective January 1, 1967, and therefore continue to be taxable at the 11% rate. Likewise, machinery and apparatus used directly in the manufacture or production of goods were not included in the increase. In addition, effective April 1, 1967, the rate of tax on such machinery and apparatus shall be reduced to 6% and on April 1, 1968, it shall be reduced to zero.

Effective March 30, 1966, sales tax exemption is provided on all of the following when for use by manufacturers or producers directly in the manufacture or production of goods:

- (a) dies, jigs, fixtures and moulds,
- (b) patterns for dies, jigs, fixtures and moulds, and
- (c) tools for use in or attachment to production machinery that are for working materials by turning, milling, grinding, polishing, drilling, punching, boring, shaping, shearing, pressing or planing.

Manufacturers or producers (including remanufacturers and 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 license number and certify that the articles or materials are to be used in, wrought into, or attached to, taxable goods for sale.

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 term "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. In another situation, a manufacturer could sell to a distributor dealing with him at arm's length and the tax would be applied on the manufacturer's selling price, a price that does not include the distributor's mark-up. In this case, the manufacturer would move his product to the retail level at a lower price than could a competitor working through a distributor having a vested interest in the product that he sells.

FEDERAL EXCISE TAX

Excise tax, in addition to the sales tax, is 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 details can be found in the Excise Tax Act, a copy of which may be purchased from the Queen's Printer, Ottawa.

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 license. The license 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 license 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 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 then exported, a drawback of 99% of the duties and/or taxes paid may be allowed. When goods of domestic

manufacture are exported from Canada on direct shipment by the manufacturer or producer, the excise and sales taxes which might have otherwise been payable are not imposed.

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 as follows:

Saskatchewan	4%
Newfoundland, Prince Edward Island, Nova Scotia, Ontario and British Columbia	5%
New Brunswick and Quebec	6%

(A 5% sales tax is proposed for
Manitoba effective June 1, 1967)

In Quebec, part of the revenue from sales tax is remitted to municipalities.

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 provinces requires vendors to obtain licenses 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 license or certificate numbers to claim 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 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 exempted 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, and (6) industrial machinery - only in certain provinces when 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.

ALCOHOLIC BEVERAGES AND PRODUCTS

Alcohol, alcoholic beverages, and alcoholic products are, with minor exceptions, subject to excise duty under the Federal Excise Act. Manufacturing members of the trade must hold a license. Copies of the Excise Act may be purchased from the Queen's Printer, Ottawa, Canada.

Applications for licenses 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 license fee.

Under the Federal Excise Act the annual license 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, 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 cosmetics, subject to Excise Tax, and certain chemical products, are required to pay an annual fee of \$50 for each license 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 license.

All retail outlets must be provincially licensed. There is considerable variation between provinces 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 a license.

Alcoholic beverages are sold through government liquor stores in all provinces and licenses may now be

obtained by such other outlets as cocktail lounges, restaurants, canteens, clubs and hotels. In Manitoba, Ontario and Newfoundland beer may be sold through brewers' retail stores, in Quebec through grocery stores and in Saskatchewan through licensed beer parlours and beverage rooms for off premise consumption. In Newfoundland beer may also be retailed by agents licensed by the Board of Liquor Control. In certain smaller centres in Saskatchewan responsible persons may be appointed to act as special liquor vendors. 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 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 licenses or permissions are over and above the licenses 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 may be purchased from the Queen's Printer, Ottawa, Canada.

Manufacturers of cigars and/or tobacco products (including cigarettes and snuff) must obtain an annual license 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.

Newfoundland, Prince Edward Island, New Brunswick, Quebec, Ontario, Manitoba and Saskatchewan levy taxes on specified tobacco products; Nova Scotia levies a tax on all tobacco products in any form. Vendors are required to be licensed or registered in order that returns and remittances may be properly controlled.

All of the larger municipalities require vendors to hold a license 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 a minimum age). In other instances, cigarette vending machines can be used only where a license has been obtained from municipal authorities.

BONDED MANUFACTURERS AND BONDED WAREHOUSES

Applications for a license to manufacture in bond under the Excise Act must be made to the Regional Director of Excise Duty in whose region business is to be carried on. The license 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 manufacturer in bond is one who, under authority of the Excise Act, may receive into his premises alcohol and other excisable goods at preferred rates of duty when for use in the manufacture of products such as proprietary medicines, pharmaceutical preparations, essences and extracts, perfumes, vinegar, approved chemical compositions, toilet preparations or cosmetics subject to excise tax. The products are manufactured under government supervision.

An excise bonding warehouse is any approved premises where goods subject to excise may be stored in bond. Goods may be transferred in bond from one bonding warehouse to another or exported in bond without payment of duty.

In case of transferral or export, the shipper is liable for any accrued duty until the obligation of the bond is cancelled by due delivery of the goods.

Except in the case of spirits and alcohol, the sale of which is further controlled by provincial liquor boards or commissions, excisable goods are shipped without restriction when duty has been paid. Potable spirit, even when duty has been paid, is shipped only to provincial liquor boards or commissions.

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 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.

GASOLINE TAXES

All provinces levy a tax, or taxes, on gasoline, diesel or other motive fuels. The level of tax ranges from 12¢ 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 when gasoline is used in certain "off-highway" or stationary industrial applications.

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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