

## Tax Information

## Bulletin 5100

Bulletin: 5100  
Date: August 26, 2013  
Subject: Summary of Current Tobacco Enforcement Provisions

### **Peace Officers - Revenue Act - Section - 76A**

A compliance officer, in carrying out duties pursuant to the Revenue Act, has and may exercise in any part of the province all the powers, authorities and immunities of a peace officer as defined in the Criminal Code (Canada).

### **Tobacco fines for contravention of Part III of the Revenue Act**

#### **General Fines - Revenue Act - Subsection 89(1)**

Every person who is convicted of an offence of any provision of Part III of the Revenue Act (Tobacco Tax), for which no fine is specifically provided, is liable on summary conviction to a fine of not less than \$250.00 and not more than \$5,000.00 dollars.

#### **Fine for First Conviction - Revenue Act - Clause 89(2)(a)**

##### **Fifty Cartons of Cigarettes or Less or Tobacco Capable of Making Cigarettes in This Quantity**

Subject to subsection 89(3), a person who unlawfully possesses, purchases, sells, transports, acquires or stores tobacco in a quantity of fifty cartons of cigarettes or less or capable of making cigarettes in this quantity commits an offence and is liable on first conviction to a fine of not less than \$500.00 and not more than \$2,500.00 dollars and a fine equal to three times the tax that would have been due had the tobacco been sold to taxable consumers, and, in default of payment, to imprisonment for a term not exceeding 90 days.

#### **Fine for First Conviction - Revenue Act - Clause 89(2)(b)**

##### **Quantity of Tobacco Greater than Fifty Cartons of Cigarettes or Tobacco Capable of Making Cigarettes in This Quantity**

Subject to subsection 89(3), a person who unlawfully possesses, purchases, sells, transports, acquires or stores tobacco in a quantity greater than fifty cartons of cigarettes or capable of making cigarettes in this quantity commits an offence and is liable on first conviction to a fine of not less than \$2,500.00 and not more than \$25,000.00 and a fine equal to three times the tax that would have been due had the tobacco been sold to taxable consumers, and, in default of payment, to imprisonment for a term not exceeding 180 days.

#### **Subsequent Convictions - Revenue Act - Clause 89(2)(c)**

Subject to subsection 89(3), a fine of not less than \$5,000.00 and not more than \$100,000.00, and a fine equal to three times the tax that would have been due had the tobacco been sold to taxable consumers, and, in default of payment, to imprisonment for a term not exceeding one year.

### **Tobacco Manufacturer, Tobacco Wholesale Vendor and Employees of Tobacco Manufacturers and Tobacco Wholesale Vendors - Revenue Act - Subsection - 89(3)**

If any of the above noted persons contravene Part III of the Revenue Act, there is a fine on summary conviction of not less than \$5,000.00 and not more than \$100,000.00 and, in default of payment, to imprisonment for a term not exceeding two years and in addition shall be ordered by the judge to pay the amount of tax that is owing, including any arrears, penalties and interest on or before such date as is fixed by the judge.

### **Fines - Failure to collect tobacco tax - Revenue Act - Subsection 89(4)**

A person who fails to collect the tax imposed by Part III of the Revenue Act, is liable, on summary conviction, to a fine equal to the amount of tax, including any arrears, penalties and interest that should have been collected, and, in addition, to a penalty of not less than \$2,500.00 and not more than \$25,000.00, and, in default of payment, to imprisonment for a term not exceeding one year.

### **Permit cancellation, Suspension, Refusal to Issue or Renew - Non-arm's length transactions – Revenue Act Regulations 73(3A) and 74(3A)**

The Commissioner may cancel, suspend, refuse to issue or renew a Retail Vendor's Permit or a Wholesaler Vendor's Permit for the following reason:

- an applicant or permit holder is not dealing at arm's length within the meaning of Section 251 of the Income Tax Act (Canada) with any person whose retail vendor's permit or wholesale vendor's permit is cancelled or suspended or is refused a retail vendor's permit or wholesale vendor's permit.

### **Suspension of Licence, Permit or Registration – Revenue Act – Subsections 89(5) & (6)**

A person convicted by a court or judge of a contravention of Part III of the Revenue Act that involves the use of a vehicle to transport or store tobacco shall have their licence, permit or certificate of registration of the vehicle in respect of which the violation was committed suspended for a period of three months for a first conviction, six months for a second conviction and one year for any subsequent conviction.

### **Suspension and Cancellation of Tobacco Permits Resulting from Violation of the Revenue Act and Offences under the Income Tax Act (Canada) and Excise Tax Act (Canada)**

The Commissioner may cancel, suspend or refuse to issue or renew a wholesale vendor's permit of a person who contravenes the Revenue Act (Act) or regulations, breaches any agreement entered into pursuant to the Act or regulations, fails to comply with any condition or restriction required by the Commissioner or fails to furnish security required by or pursuant to Part IV of the Act, except that, if a person who holds a wholesale vendor's permit is convicted of an offence under the Criminal Code (Canada), the Excise Tax Act (Canada) or the Income Tax Act (Canada), the Commissioner shall cancel the permit for such period of time as the Commissioner determines.

### **Disclosure - Revenue Act - Clause 83 (ca)**

A person who has custody or control over information or records pursuant to the Revenue Act may disclose the information or records to the Department of Health for the purpose of administering or enforcing the Tobacco Access Act.

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