

Canada Customs and Revenue Agency Notice

ET/SL-0044

May 31, 2002

Notice to Fuel Manufacturers, Wholesalers, Jobbers and Other Dealers and Operators of Tugs, Ferries and Passenger Ships Proposed Legislation and Regulations Relating to Ships' Stores Provisions

I. Background

The *Ships' Stores Regulations* (SSR), which are made jointly under the authority of the *Customs Tariff* and the *Excise Tax Act*, designate certain classes of goods as ships' stores for use on board qualifying conveyances. Such classes of goods are generally eligible for relief from the duties and taxes normally imposed.

The SSR have traditionally designated petroleum products (i.e., fuel) as ships' stores for use on board *inland waters ships*. In this regard, the Federal Court of Appeal ruled on May 10, 2001, that the SSR went beyond the scope of their enabling authority in providing relief for such ships and ordered that the Regulations would cease to have effect as of October 1, 2001.

In response to the Federal Court of Appeal's ruling, the Government of Canada tabled a Notice of Ways and Means Motion on September 27, 2001, proposing the following amendments to the *Customs Tariff*, the *Excise Tax Act* and other laws relating to ships' stores.

II. Proposed Amendments to Ships' Stores Provisions

First, it is proposed that the enabling legislation be amended, retroactive to **November 10, 1986**, to ensure that the proper legislative authority is provided for all versions of the SSR made since that time. This will have the effect of upholding the past and current Regulations.

More Ways to Serve You!
Pour vous servir encore mieux !



Canada Customs and Revenue Agency Agence des douanes et du revenu du Canada

Canada

Second, it is proposed that the SSR be amended, effective **June 1, 2002**, to remove the duty and tax relief for goods designated as ships' stores for use on board tugs, ferries or passenger ships operating on the Great Lakes or St. Lawrence River. Duty and tax relief for goods designated as ships' stores will continue to be available to those tugs, ferries or passenger ships operating on the Great Lakes or St. Lawrence River that are engaged in international trade. This will ensure that those ships are not placed at a tax disadvantage relative to their competitors in international trade on the same waters, and it will harmonize the ships' stores policy with similar types of ships operating on coastal waters.

Finally, it is proposed that a temporary fuel tax rebate program be introduced into the ETA in order to provide adequate time for affected operators to make the transition to the new rules. A *transitional rebate* will be available to those operators of tugs, ferries or passenger ships on the Great Lakes or lower St. Lawrence River and will be in effect from **June 1, 2002, to December 31, 2004**.

III. Impact on the Application of the Federal Excise Tax Imposed on Fuel

Bill C-47, An Act respecting the taxation of spirits, wine and tobacco and the treatment of ships' stores, was tabled in the House of Commons on December 6, 2001, in part, to implement the proposed changes to the ships' store provisions. The draft legislation is currently before Parliament.

The proposed changes to the ships' stores provisions will have a significant impact on the application of the federal excise tax (FET) imposed on fuel sold for use on board all tugs, ferries or passenger ships operating on the Great Lakes or St. Lawrence River. Although Bill C-47 has not yet received Royal Assent, the following information is provided to explain how the Canada Customs and Revenue Agency (CCRA) will administer the proposed changes once the retroactive amendments are in force.

A. Information for Fuel Manufacturers, Wholesalers, Jobbers and Other Dealers

1. Fuel sold for use to operate or maintain a tug, ferry or passenger ship engaged in **domestic trade** on the Great Lakes or lower St. Lawrence River will remain eligible for ships' stores relief provided that the fuel is **sold before June 1, 2002**.
2. **After May 31, 2002**, excise tax must be collected on all fuel sold to operate or maintain tugs, ferries or passenger ships engaged in **domestic trade** on all parts of the Great Lakes or St. Lawrence River.

3. Fuel sold to operate or maintain a tug, ferry or passenger ship engaged in **international trade** on the Great Lakes or St. Lawrence River will remain eligible for ships' stores relief regardless of the date of sale. This means that such fuel will continue to be exempt from excise tax upon delivery to the above vessels.

B. Information for Operators of Tugs, Ferries or Passenger Ships

1. All fuel purchased **after May 31, 2002**, to operate or maintain all tugs, ferries or passenger ships engaged in **domestic trade** on all parts of the Great Lakes or St. Lawrence River must be purchased FET-paid.

2. Fuel purchased **after May 31, 2002**, to operate or maintain a tug, ferry or passenger ship engaged in **domestic trade** on certain parts of the Great Lakes or lower St. Lawrence River will generally be eligible for the *transitional rebate program*.

3. Fuel purchased **after May 31, 2002**, to operate or maintain a tug, ferry or passenger ship engaged in **domestic trade** within the bays, inlets and harbours of or on the Great Lakes or Georgian Bay, or within the waters of the St. Lawrence River (other than the lower St. Lawrence River) is neither eligible for ships' stores relief nor does it qualify for the *transitional rebate program*.

Therefore, fuel purchased after May 31, 2002, and used to operate or maintain these vessels must be purchased on an FET-paid basis with no provision for ships' stores relief or a rebate.

4. Fuel purchased **after May 31, 2002**, to operate or maintain a tug, ferry or passenger ship engaged in **international trade** on the Great Lakes or St. Lawrence River will remain eligible for ships' stores relief. Since fuel for these ships will be purchased exempt from excise tax, no rebate will be available.

IV. Methods for Determining the Transitional Rebate

As outlined below, there are two methods available to determine the amount of the rebate. In either case, only the person who purchases the fuel (or who intends to purchase fuel) for use to operate or maintain an *eligible ship* during a *rebate period* may claim the rebate. The terms "eligible ship" and "rebate period" are defined as follows:

“**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.

“**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.

Method A. Estimated Quantity of Fuel Purchased and Used

Under this method, the person estimates the quantity of fuel to be purchased on an FET-paid basis after May 31, 2002, and then claims a rebate for the portion of that fuel that is estimated to be used to operate or maintain an eligible ship during a rebate period.

Persons who choose to use this method must also file a *reconciliation report* not later than **60 days** after the end of the rebate period for which a rebate application is filed. The *reconciliation report* must indicate

- the amount of the rebate paid to the person for the rebate period; and
- the amount of FET imposed on the fuel purchased after May 31, 2002, and actually used to operate or maintain an eligible ship during that rebate period.

A difference between the two amounts indicated on the *reconciliation report* will result in either an **excess amount** (i.e., the person has under-estimated the rebate payable) or an **excess rebate** (i.e., the person has over-estimated the rebate payable). A person who has over-estimated the rebate is required to repay an excess rebate and is also required to **pay interest on the excess rebate**. A person who has under-estimated the rebate payable will automatically receive a refund of the difference from the CCRA.

Method B. Actual Quantity of Fuel Purchased and Used

Under this method, at the end of a rebate period, the person determines the actual quantity of fuel purchased on an FET-paid basis after May 31, 2002, and then claims a rebate with respect to the portion of that fuel that was actually used to operate or maintain an eligible ship during a rebate period.

Persons who choose to use this method are not required to file a *reconciliation report*.

V. Filing a Rebate Application

A person who chooses to file an application for the rebate (using the Estimated Quantity of Fuel Purchased and Used method) may do so any time after May 31, 2002. However, the rebate will not be paid to the person until Bill C-47 has received Royal Assent.

The CCRA will pay interest on any amount payable to the person on account of the rebate that is not paid after **60 days** of receipt of the rebate application.

VI. Who can I contact?

Requests for rebate applications can be directed to the Excise and Other Levies Unit of the Summerside Tax Centre at (877) 432-5472 or (902) 432-5472. General enquiries regarding the *transitional rebate program* can be directed to your local Tax Services Office or to (514) 283-6738 in the Province of Quebec. The following documents are available electronically at the respective web sites:

- Notice of Ways and Means Motion to amend the *Customs Tariff* and the *Excise Tax Act* and other laws relating to ships' stores (www.fin.gc.ca under *News Releases, 2001*);
- Bill C-47, An Act respecting the taxation of spirits, wine and tobacco and the treatment of ships' stores (www.parl.gc.ca under *Government Bills*); and
- Form N15: *Application for Refund/Deduction of Excise Taxes* (www.cca-adrc.gc.ca under *Forms and Publications*).