



# Excise Taxes and Special Levies Memoranda Series

## 1.4 Definitions

January 1997

Overview	This section contains legal definitions of terms that relate to excise taxes and special levies and is the sole location of definitions for most of the chapters in the Excise Taxes and Special Levies Memoranda Series; the exceptions are the definitions pertaining to the air transportation tax, which are found in Chapter 5, <i>Air Transportation Tax</i> and the definitions pertaining to split-run editions of periodicals which are found in Chapter 3, <i>Tax Application</i> .
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[Proposed amendments]

[Where information reflects proposed amendments, the information is enclosed in square brackets.] In this section, the proposed amendments that are reflected through the use of square brackets arise from the Notice of Ways and Means Motion that was tabled on June 20, 1966. Any commentary in this section should not be taken as a statement by the Department that such amendments will in fact be enacted into law in their current form.

### Sources of definitions

Legislation

The following definitions have been taken from the *Excise Tax Act*.

Presentation

[If a Notice of Ways and Means motion or a Bill proposes to add a definition or amend an existing one, the new or amended definition is presented in square brackets; the existing definition, if any, follows.] Any commentary in this section should not be taken as a statement by the Department that such amendments will in fact be enacted into law in their current form.

If a definition has been amended, and the effective date of the amended version is later, the previous version and the dates when it was in effect follow the newer version. The previous version is shaded.

If a definition is taken from a Regulation, the short title of the Regulation is given.

Applicability

Definitions are taken from Parts III to VII of the *Excise Tax Act* and do not apply to section 121, Part IX and Schedules V, VI and VII to the Act. Definitions taken from other sections of the Act, its schedules or regulations give the source of the definition in the margin note and name in the text portion of the legislation to which the definition applies.

## 1.4 Definitions (continued)

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### The definitions

accredited representative ss 2(1)	effective February 13, 1992, means a person who is entitled to the tax exemptions specified in Article 34 of the Convention set out in Schedule I to the <i>Foreign Missions and International Organizations Act</i> or Article 49 of the Convention set out in Schedule II to that Act;
adjustment Part VII, ss 70.1(1)	in this section, "adjustment" to the sale price of goods means the giving of a discount, allowance, rebate or other amount as a reduction in the sale price;
alcohol Part III, ss 23.4(1)	in this section, effective April 1, 1992, means ethanol and methanol produced from biomass or renewable feedstocks, but does not include ethanol or methanol produced from petroleum, natural gas or coal;
amount owing Part VII, ss 81.13(7)	for the purposes of this section and section 81.14, "amount owing", in respect of a person assessed, means,  (a) where the assessment is an original assessment, the amount by which  (i) the aggregate of all taxes, penalties, interest and other sums remaining unpaid by that person, as set out in the notice of assessment pursuant to subsection (2), exceeds  (ii) the aggregate of  (A) all amounts payable to that person, as set out in the notice of assessment pursuant to subsection (3), and  (B) the credits allowable to that person, as set out in the notice of assessment pursuant to subsection (4), and  (b) where the assessment is a variation of an assessment, or a reassessment, the amount by which  (i) the amount obtained by subtracting  (A) the amount paid by that person on account of the amount owing as set out in the notice of the original assessment or any subsequent assessment related thereto  from  (B) the aggregate of all taxes, penalties, interest and other sums remaining unpaid by that person, as set out in the notice of the varied assessment or reassessment pursuant to subsection (2),

## 1.4 Definitions (continued)

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exceeds

(ii) the amount obtained by subtracting

(A) the amount paid to that person pursuant to subsection 81.14(1) in respect of an overpayment as set out in the notice of the original assessment or any subsequent assessment related thereto

from

(B) the aggregate of

(I) all amounts payable to that person, as set out in the notice of the varied assessment or reassessment pursuant to subsection (3), and

(II) the credits allowable to that person, as set out in the notice of the varied assessment or reassessment pursuant to subsection (4);

amount owing  
Part VII, ss 81.15(11)

for the purposes of this section and section 81.16, "amount owing", in respect of a person objecting, means the amount by which

(a) the amount obtained by subtracting

(i) the amount paid by that person on account of the amount owing as set out in the notice of assessment

from

(i) the aggregate of all taxes, penalties, interest and other sums remaining unpaid by that person, as set out in the notice of decision pursuant to subsection (6)

exceeds

(b) the amount obtained by subtracting

(i) the amount paid to that person pursuant to subsection 81.14(1)

from

(ii) the aggregate of

(A) all amounts payable to that person, as set out in the notice of decision pursuant to subsection (7), and

(B) the credits allowable to that person, as set out in the notice of decision pursuant to subsection (8);

## 1.4 Definitions (continued)

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amount payable Part VII, ss 81.17(6)	for the purposes of this section and section 81.18, "amount payable", in respect of a person objecting, means the amount by which  (a) the aggregate of all amounts payable to that person pursuant to sections 68 to 69 exceeds  (b) the amount paid to that person pursuant to subsection 72(6) or authorized to be deducted by that person pursuant to subsection 74(1);
application Part VII, ss 72(1)	in this section, means an application under any of sections 68 to 69;
arm's length sale Part VII, ss 68.15(1)	in this section, means the provision of a taxable service for an amount charged by a licensee to a person with whom the licensee is dealing at arm's length at the time the service is provided;
arm's length sale Part VII, ss 68.21(1)	in this section, means a sale of goods by a licensed manufacturer to a person with whom the manufacturer is dealing at arm's length at the time of the sale;
assessment Part VII, ss 58.1(1)	in Part VII, means an assessment under subsection 81.1(1) and includes a variation of an assessment and a reassessment;
Atlantic manufactured tobacco ss 2(1)	effective February 11, 1994, means manufactured tobacco  (a) in respect of which the excise taxes imposed under section 23 have been paid or are payable at  (i) the rates applicable before February 9, 1994,  (ii) the rates applicable after February 8, 1994 under paragraphs 1(f), 2(d) and 3(e) of Schedule II, or  (iii) the rate applicable after May 31, 1994 and before September 12, 1994 under paragraph 1(e) of Schedule II, and  (b) that is marked or stamped "ATLANTIC" or "ATLANTIQUE" to indicate that it is intended for retail sale in the Provinces of Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland but not marked or stamped to indicate that it is intended for retail sale specifically in the Province of Nova Scotia or New Brunswick;
aviation fuel Part VII, ss 68.4(1)	in this section, effective June 23, 1992, does not include aviation gasoline;

## 1.4 Definitions (continued)

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band Part III, ss 23.36(1), Part VII, ss 68.165(1) and 97.5(1)	in these sections, has the same meaning as in subsection 2(1) of the <i>Indian Act</i> ;  <b>Note:</b> effective dates are as follows:  subsections 23.36(1) and 68.165(1) - April 15, 1994; and subsection 97.5(1) - June 23, 1994.
black stock ss 2(1)	effective February 11, 1994, means manufactured tobacco that is  (a) stamped in accordance with the <i>Excise Act</i> and the departmental regulations made under that Act to indicate that the duties of excise and excise tax imposed on the manufactured tobacco have been paid, and  (b) not stamped or marked in accordance with any statute of a province to indicate that the manufactured tobacco is intended for retail sale in a particular province or in particular provinces;
black stock cigarettes ss 2(1)	effective February 11, 1994, means cigarettes that are black stock;
black stock manufactured tobacco ss 2(1)	effective February 11, 1994, means black stock other than cigarettes and tobacco sticks;
carrier Part VII, ss 68.4(1)	in this section, effective June 23, 1992, "carrier" in a calendar year means a person whose gross revenue for the year is derived primarily from the business of providing eligible transportation services and who is not exempt for any period in the year from taxation under Part I of the <i>Income Tax Act</i> by reason of section 149 of that Act;
cigar ss 2(1)	effective February 13, 1992, has the meaning assigned by section 6 of the <i>Excise Act</i> ;
cigarette ss 2(1)	effective February 13, 1992, has the meaning assigned by section 6 of the <i>Excise Act</i> ;
council Part III, ss 23.36(1), Part VII, ss 68.165(1) and 97.5(1)	in these sections, "council" of a band has the same meaning as in subsection 2(1) of the <i>Indian Act</i> ;  <b>Note:</b> effective dates are as follows:  subsections 23.36(1) and 68.165(1) - April 15, 1994; and subsection 97.5(1) - June 23, 1994.

## 1.4 Definitions (continued)

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Department  
Part VII, ss 58.1(1)

in Part VII, effective February 28, 1992, means

- (a) in relation to Part I, the Office of the Superintendent of Financial Institutions, and
- (b) in relation to any other Part, the Department of National Revenue;

Department  
Part VII, ss 58.1(1)

prior to February 28, 1992, means

- (a) in relation to Part I, the Department of Insurance, and
- (b) in relation to any other Part, the Department of National Revenue;

Deputy Minister  
Part VII, ss 58.1(1)

in Part VII, effective May 12, 1994, means

- (a) in relation to Part I, the Superintendent of Financial Institutions, and
- (b) in relation to any other Part, the Deputy Minister of National Revenue;

Deputy Minister  
Part VII, ss 58.1(1)

in this Part, effective February 28, 1992, means

- (a) in relation to Part I, the Superintendent of Insurance, and
- (b) in relation to any other Part, the Deputy Minister of National Revenue for Customs and Excise;

designated retail  
vendor  
Part III, ss 23.36(1)

in this section, effective April 15, 1994, means a retail vendor on a reserve in the Province of Nova Scotia who is designated in writing by the council of a band in Nova Scotia, and by the Nova Scotia Provincial Tax Commission, as a vendor from whom Indians on the reserve may buy manufactured tobacco on which tax under the *Tobacco Tax Act*, R.S.N.S. 1989, c. 470, is not payable;

designated retail  
vendor  
Part VII, ss 68.165(1)  
and 97.5(1)

in these sections, means a retail vendor on a reserve in the Province of Nova Scotia who is designated in writing by the council of a band in Nova Scotia, and by the Provincial Tax Commission of the Department of Finance of the Province of Nova Scotia, as a vendor from whom Indians on the reserve may buy manufactured tobacco on which tax under the *Tobacco Tax Act*, R.S.N.S. 1989, c. 470, is not payable;

Note: effective dates are as follows:

subsection 68.165(1) - April 15, 1994; and subsection 97.5(1) - June 23, 1994.

designated  
wholesale  
vendor  
Part III, ss 23.36(1) and  
Part VII, ss 97.5(1)

in these sections, means a wholesale vendor who has a wholesale vendor's permit under the *Tobacco Tax Act*, R.S.N.S. 1989, c. 470, for the sale of black stock to designated retail vendors;

## 1.4 Definitions (continued)

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Note: effective dates are as follows:

subsection 23.36(1) - April 15, 1994; and subsection 97.5(1) - June 23, 1994.

diesel fuel ss 2(1)	includes any fuel oil that is suitable for use in internal combustion engines of the compression-ignition type, other than any such fuel oil that is intended for use and is actually used as heating oil;
diplomat Part VII, ss 68.3(3)	in this section, means a person referred to in section 2 of Part II of Schedule III who represents a country designated by an order made under subsection (2);
[document ss 2(1)]	[effective the date of Royal Assent, includes money, a security and a record;]
duty free shop ss 2(1)	effective February 13, 1992, has the meaning assigned by subsection 2(1) of the <i>Customs Act</i> ;
duty paid value Part III, ss 22(1) and Part VI, s 42	in Parts III and VI, means the value of the article as it would be determined for the purpose of calculating an <i>ad valorem</i> duty on the importation of that article into Canada under the laws relating to the customs and the <i>Customs Tariff</i> whether that article is in fact subject to <i>ad valorem</i> or other duty or not, plus the amount of the customs duties, if any, payable thereon;
eligible transportation services Part VII, ss 68.4(1)	in this section, effective June 23, 1992, means the carriage of passengers or goods or both, by aircraft, boat, bus, truck or train, or a combination thereof;
fiscal period Part VII, ss 68.15(1) and 68.21(1)	in these sections, means a fiscal period as determined for the purposes of the <i>Income Tax Act</i> ;
fuel Part VII, ss 68.4(1)	in this section, effective June 23, 1992, means diesel fuel and aviation fuel in respect of which the tax under Part III has been paid and cannot be recovered under any other section of this Act;
fuel tax rebate Part VII, ss 68.4(1)	in this section, effective June 23, 1992, means an amount payable under subsection (2) or (3);
gasoline ss 2(1)	means gasoline type fuels for use in internal combustion engines other than aircraft engines;

## 1.4 Definitions (continued)

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gross revenue Part VII, ss 68.4(1)	<p>in this section, effective June 23, 1992, "gross revenue" for a calendar year of a person means</p> <p>(a) where the person is a taxpayer within the meaning of the <i>Income Tax Act</i>, the gross revenue of the person under that Act for all taxation years of the person ending in the year, and</p> <p>(b) in any other case, the amount that, for the purposes of that Act, would be the gross revenue of the person for all taxation years of the person ending in the year if the person were a corporation;</p>
in bulk Part VII, ss 69.(1)	<p>in this section, in respect of a sale of gasoline or diesel fuel, means</p> <p>(a) in a quantity of five hundred litres or more, where the gasoline or diesel fuel is delivered to the purchaser at a retail outlet of the vendor, and</p> <p>(b) in any quantity, in any other case;</p>
Indian ss 2(1)	<p>effective February 11, 1994, means a person who is registered under the <i>Indian Act</i> as an Indian or is entitled to be registered under that Act as an Indian;</p>
inventory Part VII, ss 68.162(1), 68.163(1), 68.164(1), 68.165(1); 68.166(1), 68.167(1) and 68.168(1)	<p>in these sections, "inventory" of a person at any time means the goods that are owned at that time by the person and are for sale at that time in the ordinary course of the person's business;</p> <p>Note: effective dates are as follows:</p> <p>subsection 68.162(1) - February 9, 1994; subsection 68.163(1) - February 22, 1994; subsection 68.164(1) - February 9, 1994; subsection 68.165(1) - April 15, 1994; subsection 68.166(1) - February 11, 1994; subsection 68.167(1) - March 26, 1994; and subsection 68.168(1) - effective date June 1, 1994.</p>
judge Part VII, ss 102.1(6)	<p>in this section, means a judge of a superior court having jurisdiction in the province where the matter arises or a judge of the Federal Court. R.S., 1985, c. 7 (2nd Supp.), s. 49;</p>
large retailer Part VII, ss 68.162(1)	<p>in this section, effective February 9, 1994, means a retailer who applies for a tax rebate under subsection (2) of at least \$50,000 in respect of tax-paid manufactured tobacco in the retailer's inventory at the beginning of February 9, 1994;</p>
licensed manufacturer Part VI, s 42	<p>in Part VI, means any manufacturer or producer licensed under this Part;</p>



## 1.4 Definitions (continued)

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licensed retail vendor Part III, ss 23.34(1), Part VII, ss 68.167(1), 68.168(1), and 68.169(1)	in these sections, means a retail vendor licensed as such under the <i>Health Tax Act</i> , R.S.P.E.I. 1988, c. H-3;  <b>Note: effective dates are as follows:</b>  subsections 23.34(1), 68.168(1) and 68.169(1) - June 1, 1994; and subsection 68.167(1) - March 26, 1994.
licensed retail vendor Part VII, ss 68.166(1)	in this section, effective February 11, 1994, means a retail vendor licensed as such under the <i>Tobacco Tax Act</i> , R.S.N.B. 1973, c. T-7;
licensed tobacco manufacturer ss 2(1)	effective February 11, 1994, means a tobacco manufacturer, as defined in section 6 of the <i>Excise Act</i> , who is licensed as such under that Act;
licensed wholesaler Part III, ss 22.(1)	in Part III, has the meaning assigned to that expression by section 42;
licensed wholesaler Part VI, s 42	in Part VI, means any wholesaler, jobber or other dealer licensed under this Part;
licensed wholesale vendor Part III, ss 23.34(1), Part VII, ss 68.167(1), 68.168(1) and 68.169(1)	in these sections, means a wholesale vendor licensed as such under the <i>Health Tax Act</i> , R.S.P.E.I. 1988, c. H-3;  <b>Note: effective dates are as follows:</b>  subsections 23.34(1), 68.168(1) and 68.169(1) - June 1, 1994; and subsection 68.167(1) - March 26, 1994.
licensed wholesale vendor Part VII, ss 68.165(1)	in this section, effective April 15, 1994, means a person who has a wholesale vendor's permit issued under the <i>Tobacco Tax Act</i> , R.S.N.S. 1989, c. 470;
licensed wholesale vendor Part VII, ss 68.166(1)	in this section, effective February 11, 1994, means a wholesale vendor licensed as such under the <i>Tobacco Tax Act</i> , R.S.N.B. 1973, c. T-7;

## 1.4 Definitions (continued)

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logging Part VII, ss 69.(1)	in this section, means the felling, limbing, bucking and marking of trees, construction of logging roads, off-highway transportation of logs to a mill-pond or mill yard, log salvaging and reforestation, but does not include any production activity on logs after transportation to a mill-pond or mill yard;
loose tobacco Part V, s 29	in Part V, means loose, fine-cut manufactured tobacco for use in making cigarettes;
manufactured tobacco ss 2(1)	effective February 13, 1992, has the meaning assigned by section 6 of the <i>Excise Act</i> ;
manufacturer or producer ss 2(1)	includes <ul style="list-style-type: none"><li>(a) the assignee, trustee in bankruptcy, liquidator, executor or curator of any manufacturer or producer and, generally, any person who continues the business of a manufacturer or producer or disposes of his assets in any fiduciary capacity, including a bank exercising any powers conferred upon it by the <i>Bank Act</i> and a trustee for bondholders,</li><li>(b) 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 that person, firm or corporation sells, distributes, consigns or otherwise disposes of the goods or not,</li><li>(c) any department of the government of Canada or any province, any board, commission, railway, public utility, manufactory, company or agency owned, controlled or operated by the government of Canada, or any province, or under the authority of the legislature or the lieutenant governor in council of any province, that manufactures or produces taxable goods,</li><li>(d) any person who sells, otherwise than in a retail store exclusively and directly to consumers, cosmetics that were not manufactured by him in Canada, other than a person who sells those cosmetics exclusively and directly to hairstylists, cosmeticians and other similar users for use in the provision of personal grooming services and not for resale,</li><li>(e) REPEALED: R.S., 1985, c. 12 (4th Supp.), s. 1.</li><li>(f) any person who, by himself or through another person acting for him, prepares goods for sale by assembling, blending, mixing, cutting to size, diluting, bottling, packaging or repackaging the goods or by applying coatings or finishes to the goods, other than a person who so prepares goods in a retail store for sale in that store exclusively and directly to consumers,</li><li>(g) any person who imports into Canada new motor vehicles designed for highway use, or chassis therefor,</li></ul>

## 1.4 Definitions (continued)

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- (h) any person who sells, otherwise than predominantly to consumers, new motor vehicles designed for highway use, or chassis therefor,
- (i) any person who sells goods enumerated in Schedule III.1, other than a person who sells those goods exclusively and directly to consumers, and
- (j) any person who sells or leases prerecorded video cassettes that are new or have not been used in Canada, other than a person who sells or leases such goods exclusively and directly to consumers other than to consumers who lease such goods to other persons;

mineral resource      in this section, means  
Part VII, ss 69.(1)

- (a) a base or precious metal deposit,
- (b) a coal deposit, or
- (c) a mineral deposit in respect of which
  - (i) the Minister of Natural Resources has certified that the principal mineral extracted is an industrial mineral contained in a non-bedded deposit,
  - (ii) the principal mineral extracted is sylvite, halite or gypsum, or
  - (iii) the principal mineral extracted is silica that is extracted from sandstone or quartzite;

Note: In subparagraph (c)(i) of the definition "mineral resource", the expression "Minister of Energy, Mines and Resources" was replaced with the expression "Minister of Natural Resources", effective January 12, 1995.

mining                      in this section, means the extracting of minerals from a mineral resource, the processing of ore, other than iron ore, from a mineral resource to the prime metal stage or its equivalent, the processing of iron ore from a mineral resource to the pellet stage or its equivalent and the restoration of strip-mined land to a usable condition, but does not include activities related to the exploration for or development of a mineral resource;

Minister                    means  
ss 2(1)

- (a) in or in relation to Part I, the Minister of Finance, and
- (b) in or in relation to any other Part, the Minister of National Revenue;

## 1.4 Definitions (continued)

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municipality  
ss 2(1)

means

- (a) an incorporated city, town, village, metropolitan authority, township, district, county or rural municipality or other incorporated municipal body however designated, or
- (b) such other local authority as the Minister may determine to be a municipality for the purposes of this Act;

Nova Scotia  
Provincial Tax  
Commission  
Part III, ss 23.36(1)

in this section, effective April 15, 1994, means the Provincial Tax Commission of the Department of Finance of the Province of Nova Scotia;

Nova Scotia  
retail vendor  
Part VII, ss 68.165(1)

in this section, effective April 15, 1994, means a vendor, other than a designated retail vendor who is not a licensed wholesale vendor, who retails manufactured tobacco to consumers in the Province of Nova Scotia;

on-reserve  
retailer  
Part III, ss 23.35(1)  
and Part VII, ss  
68.163(1)

in these sections, means a retailer on a reserve in the Province of Ontario who is authorized under the *Tobacco Tax Act*, R.S.O. 1990, c. T.10, to sell black stock cigarettes, in the ordinary course of the retailer's business, to Indian consumers in the province;

Note: effective dates are as follows:

subsection 23.35(1) - March 26, 1994; and subsection 68.163(1) - February 22, 1994.

on-reserve  
retailer  
Part VII, ss 97.4(1)

in this section, effective June 23, 1994, means a retailer on a reserve in the Province of Ontario who is authorized under the *Tobacco Tax Act*, R.S.O. 1990, c. T.10, to sell black stock cigarettes, in the ordinary course of the retailer's business, to Indian consumers in the Province of Ontario;

operator  
ss 2(1)

effective February 13, 1992, "operator" of a duty free shop means the person operating the duty free shop who is licensed as a wholesaler under Part VI and is deemed by subsection 55(2) to be a *bona fide* wholesaler or jobber;

other enactment  
Part VII, ss 70.1(1)

in this section, means

- (a) a provision of an Act of Parliament, other than this Act, enacted before 1991, or
- (b) a provision of a regulation or order enacted under an Act of Parliament before 1991;

## 1.4 Definitions (continued)

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overpayment Part VII, ss 81.13(7)	for the purposes of this section and section 81.14, "overpayment", in respect of a person assessed, means  (a) where the assessment is an original assessment, the amount by which the aggregate described in subparagraph (a)(ii) of the definition "amount owing" in this subsection exceeds the aggregate described in subparagraph (a)(i) of that definition, and  (b) where the assessment is a variation of an assessment, or a reassessment, the amount by which the amount described in subparagraph (b)(ii) of that definition exceeds the amount described in subparagraph (b)(i) of that definition;
overpayment Part VII, ss 81.15(11)	for the purposes of this section and section 81.16, "overpayment", in respect of a person objecting, means the amount by which the amount described in paragraph (b) of the definition "amount owing" in this subsection exceeds the amount described in paragraph (a) of that definition;
person ss 2(1)	effective December 17, 1990, means an individual, partnership, corporation, trust, estate, or a body that is a society, union, club, association, commission or other organization of any kind whatever;
prescribed ss 2(1)	effective December 17, 1990, means  (a) in the case of a form, the information to be given on a form or the manner of filing a form, prescribed by the Minister, and  (b) in any other case, prescribed by regulation or determined in accordance with rules prescribed by regulation;
qualified Part VII, ss 69(1)	in this section, in respect of a farmer, fisherman, hunter, trapper or other person, means a farmer, fisherman, hunter, trapper or person who holds a sales tax bulk permit issued under regulations made pursuant to subsection (10);
[record ss 2(1)]	[effective the date of Royal Assent, includes an account, an agreement, a book, a chart or table, a diagram, a form, an image, an invoice, a letter, a map, a memorandum, a plan, a return, a statement, a telegram, a voucher, and any other thing containing information, whether in writing or in any other form;]
refund Part VII, ss 70.1(1)	in this section, "refund" of tax means  (a) a refund of that tax, or other payment calculated with reference to that tax, provided for under any of sections 68, 68.1, 68.17, 68.19, 68.2 or 68.23 to 68.3,  (b) a drawback of that tax, or payment in lieu of a drawback of that tax, provided for under section 70, or

## 1.4 Definitions (continued)

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(c) a refund, rebate, drawback or remission of that tax, or other payment in respect of or calculated with reference to that tax, provided for under any other enactment;

registered vendor  
Part VII, ss 69(1)

in this section, means a person who is registered under regulations made pursuant to subsection (10);

registrant  
Part VII, ss 70.1(1)

in this section, has the meaning assigned by subsection 123(1);

reserve  
Part III, ss 23.35(1),  
Part VII, ss 68.163(1)  
and 97.4(1)

in these sections, means a reserve as defined in subsection 2(1) of the *Indian Act* or an Indian settlement as defined in section 2 of the *Indians and Bands on certain Indian Settlements Remission Order*;

Note: effective dates are as follows:

subsection 23.35(1) - March 26, 1994; subsection 68.163(1) - February 22, 1994; and subsection 97.4(1) - June 23, 1994.

reserve  
Part III ss 23.36(1),  
Part VII, ss 68.165(1)  
and 97.5(1)

in these sections, means a reserve as defined in subsection 2(1) of the *Indian Act*;

Note: effective dates are as follows:

subsections 23.36(1) and 68.165(1) - April 15, 1994; and subsection 97.5(1) - June 23, 1994.

retailer  
Part VII, ss 68.162(1)

in this section, effective February 9, 1994, means a person who sells tax-paid manufactured tobacco primarily to consumers;

sale price  
Part III, ss 22(1)

in Part III, for the purpose of determining the excise tax payable under this Part, means the aggregate of

- (a) the amount charged as price before any amount payable in respect of any other tax under this Act is added thereto,
- (b) any amount that the purchaser is liable to pay to the vendor by reason of or in respect of the sale in addition to the amount charged as price, whether payable at the same or any other time, including, without limiting the generality of the foregoing, any amount charged for, or to make provision for, advertising, financing, servicing, warranty, commission or any other matter, and
- (c) the amount of excise duties payable under the *Excise Act* whether the goods are sold in bond or not;

## 1.4 Definitions (continued)

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separate retail establishment  
Part V, s 29

in Part V, "separate retail establishment" of a person means a shop or store of the person

- (a) that is geographically separate from other places of business of the person,
- (b) at which, in the ordinary course of the person's business, the person regularly sells, otherwise than through vending machines, tobacco products to consumers, within the meaning of section 123, attending at the shop or store, and
- (c) in respect of which separate records, books of account and accounting systems are maintained;

separate retail establishment  
Part VII, ss 68.163(1) and 68.164(1)

in these sections, "separate retail establishment" of a person means a retail establishment of the person that is geographically separate from other places of business of the person and at which, in the ordinary course of the person's business, the person regularly sells cigarettes to consumers;

Note: effective dates are as follows:

subsection 68.163(1) - February 22, 1994; and subsection 68.164(1) - February 9, 1994.

separate retail establishment  
Part VII, ss 68.165(1), 68.166(1), 68.167(1) and 68.168(1)

in these sections, "separate retail establishment" of a person means a retail establishment of the person that is geographically separate from other places of business of the person and at which, in the ordinary course of the person's business, the person regularly sells manufactured tobacco to consumers;

Note: effective dates are as follows:

subsection 68.165(1) - April 15, 1994; subsection 68.166(1) - February 11, 1994; subsection 68.167 - March 26, 1994; and subsection 68.168(1) - June 1, 1994.

stamp or excise stamp  
ss 2(1)

means a stamp prepared for the purposes of this Act pursuant to a direction of the Minister under section 60;

supplier  
Part III, ss 23.35(1) and Part VII, ss 97.4(1)

in these sections, means a wholesaler who has a permit under section 9 of the *Tobacco Tax Act*, R.S.O. 1990, c. T.10, to purchase and sell black stock cigarettes;

Note: effective dates are as follows:

subsection 23.35(1) - March 26, 1994; and subsection 97.4(1) - June 23, 1994.

## 1.4 Definitions (continued)

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taxation year Part VII, ss 68.4(1)	in this section, effective June 23, 1992, "taxation year" of a person means  (a) where the person is a taxpayer within the meaning of the <i>Income Tax Act</i> , the taxation year of the person for the purposes of that Act, and  (b) in any other case, the period that would be the taxation year of the person for the purposes of that Act if the person were a corporation;
tax debtor Part VII, ss 84(9)	in this section, means a person by whom any tax, penalty, interest or other sum is payable under this Act;
taxed tobacco Part V, s 29	in Part V, "taxed tobacco" of a person means cigarettes, tobacco sticks and loose tobacco, in respect of which tax under section 23 became payable before February 27, 1991 and that, at the beginning of that day,  (a) were owned by that person for sale in the ordinary course of a business of the person, and  (b) were not held in a vending machine;
tax-paid cigarettes Part VII, ss 68.163(1)	in this section, effective February 22, 1994, means cigarettes in respect of which excise tax under section 23 became payable before February 22, 1994 and that  (a) are marked or stamped in accordance with the <i>Tobacco Tax Act</i> , R.S.O. 1990, c. T.10, to clearly indicate that the cigarettes are intended for retail sale in the Province of Ontario, or  (b) are black stock cigarettes held for resale to on-reserve retailers by a supplier who has a permit under section 9 of that Act to purchase and sell black stock cigarettes;
tax-paid cigarettes Part VII, ss 68.164(1)	in this section, effective February 9, 1994, means cigarettes in respect of which excise tax under section 23 became payable before February 9, 1994 and that are marked or stamped in accordance with the <i>Tobacco Tax Act</i> , R.S.Q. 1977, c. I-2, to clearly indicate that the cigarettes are intended for retail sale in the Province of Québec;
tax-paid manufactured tobacco Part VII, ss 68.162(1)	in this section, effective February 9, 1994, means manufactured tobacco in respect of which excise tax under section 23 became payable before February 9, 1994;
this Act ss 2(1)	means the <i>Excise Tax Act</i> except Part IX and Schedules V, VI, and VII;
tobacco product Part III, s 23.1	in sections 23.2 to 23.3, effective February 9, 1994, means manufactured tobacco other than cut filler, cut rag or products manufactured less fully than cut filler or cut rag;



## 1.4 Definitions (continued)

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tobacco product Part III, s 23.1	prior to February 9, 1994, means cigars or manufactured tobacco other than cut filler, cut rag or products manufactured less fully than cut filler or cut rag;
tobacco stick ss 2(1)	effective February 13, 1992, has the meaning assigned by section 6 of the <i>Excise Act</i> ;
Tribunal Part VII, ss 58.1(1)	means the Canadian International Trade Tribunal established by subsection 3(1) of the <i>Canadian International Trade Tribunal Act</i> ;
trucker Part VII, ss 68.4(1)	in this section, effective June 23, 1992, "trucker" in a calendar year means a person whose gross revenue for the year is derived primarily from the business of providing carriage of goods by truck and who is not exempt for any period in the year from taxation under Part I of the <i>Income Tax Act</i> by reason of section 149 of that Act;
unit Part V, s 29	in Part V, means one cigarette, tobacco stick or gram of loose tobacco;
wine Part IV, s 25	in this Part, includes spirituous liquors that are the products of fruits, vegetables, roots, herbs, grain, molasses, sugar or other fermentable substances and are obtained by the normal alcoholic fermentation of the juices or extracts therefrom and not by distillation. 1980-81-82-83, c. 68, s. 7;
wine Part VI, ss 50(9)	in this section, has the meaning given that term by section 25.