



Ottawa, June 25, 2003

CUSTOMS NOTICE N-520

Proposed Regulatory Changes Under the *Customs Act* in Support of the Implementation of the *Excise Act, 2001*

1. This notice announces proposed regulatory changes that would support the implementation of the new excise regime established under the *Excise Act, 2001*, as well as proposed regulatory changes that are technical in nature, were requested by stakeholders or are necessary to bring the customs regime in line with the firearms regime.

2. The current *Excise Act* has remained largely unchanged since 1883, with periodic amendments to address specific issues.

3. The *Excise Act, 2001* is the culmination of a comprehensive review of the federal legislative and administrative framework for the taxation of alcohol and tobacco products. A joint project undertaken by the Department of Finance and the Canada Customs and Revenue Agency (CCRA), the *Excise Act* Review aimed to replace the existing old and outdated administrative and enforcement structure governing alcohol and tobacco products with a modern regime reflecting current practices.

4. Extensive consultations with federal departments and affected industries, provincial governments, liquor boards and enforcement agencies were undertaken throughout the conception and development of the legislative and regulatory proposals to ensure a direction that is not only acceptable to, but also endorsed by, stakeholders.

5. The *Excise Act, 2001* deals with the new regime governing spirits, wine and tobacco products. Beer, for the time being, continues to be subject to the *Excise Act*.

6. The implementation of the *Excise Act, 2001* will require regulatory changes.

7. The existing *Customs Act* regulations that would be affected by the proposed changes are:

- (a) *Accounting for Imported Goods and Payment of Duties Regulations*
- (b) *Customs Sufferance Warehouses Regulations*
- (c) *Duty Free Shops Regulations*
- (d) *Refunds of Duties Regulations*
- (e) *Sale of Goods Regulations*
- (f) *Storage of Goods Regulations*

8. The proposed regulatory changes under the *Customs Act* are described in the attached Appendix.

9. As part of the consultation process, this notice is posted on our Web site, together with the descriptions of these proposed regulatory changes, for your review and comments. For more information, visit our Web site at www.ccra.gc.ca.

10. It is further proposed that these proposed regulatory changes be made effective on July 1, 2003.

11. Inquiries and written comments about these proposed regulatory changes should be directed to the following person:

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APPENDIX

Accounting for Imported Goods and Payment of Duties Regulations

It is proposed that these Regulations would be amended to:

1. replace the words “Department of National Revenue” and “Deputy Minister” with “Agency” and “Commissioner” respectively, wherever these words appear in the Regulations; and

2. repeal part of the definition of “release period” that applies to intoxicating liquors and the provision that stipulates that, in the case of intoxicating liquors that are imported by a department, board, commission or agency of the government of a province released under subsection 32(2) of the *Customs Act*, the person required by that Act to account for the goods shall do so in the manner described in paragraph 32(1)(a) of that Act within three business days after the termination of the release period.

Customs Sufferance Warehouses Regulations

It is proposed that these Regulations would be amended to:

1. repeal the definition of “Department”, and replace the word “Department” with “Agency” wherever that word appears in the Regulations;

2. define the words “excise warehouse licensee”, “prohibited ammunition”, “prohibited device”, “prohibited weapon”, “restricted weapon”, and “special container” as follows:

“excise warehouse licensee” has the same meaning as in section 2 of the *Excise Act, 2001*;

“prohibited ammunition” has the same meaning as in subsection 84(1) of the *Criminal Code*;

“prohibited device” has the same meaning as in subsection 84(1) of the *Criminal Code*;

“prohibited weapon” has the same meaning as in subsection 84(1) of the *Criminal Code*;

“restricted weapon” has the same meaning as in subsection 84(1) of the *Criminal Code*;

“special container” has the same meaning as in section 2 of the *Excise Act, 2001*;

3. repeal the provision that prescribes tobacco products to be a class of goods for the purposes of section 39.1 of the *Customs Act*;

4. stipulate that, for the purposes of subsection 39.1(1) of the *Customs Act*,

(a) firearms, prohibited ammunitions, prohibited devices, prohibited or restricted weapons, and tobacco products are goods of a prescribed class that are forfeit if they are not removed from a sufferance warehouse within 14 days after the day on which they were reported under section 12 of that Act, and

(b) spirits are goods of a prescribed class that are forfeit if they are not removed from a sufferance warehouse within 21 days after the day on which they were reported under section 12 of that Act;

5. stipulate that goods may be manipulated, unpacked, packed, altered or combined with other goods while in the sufferance warehouse only for the purpose of

(a) stamping the goods, where the goods consist of imported tobacco products or imported raw leaf tobacco that are placed in the sufferance warehouse in accordance with section 39 of the *Excise Act, 2001*;

(b) marking the goods, where the goods consist of special containers of spirits or wine, imported by an excise warehouse licensee, that are placed in the sufferance warehouse in accordance with section 80 or 85 of the *Excise Act, 2001*; or

(c) marking the goods, where those goods consist of goods in respect of which any regulations made under paragraph 19(1)(a) of the *Customs Tariff* apply;

6. stipulate that every licensee shall provide the Agency with a list of all goods not removed from the sufferance warehouse within the time limit prescribed in the Regulations on the first business day following the end of that period; and

7. replace, in the English version, “safekeeping” with “safe-keeping”.

Duty Free Shops Regulations

It is proposed that these Regulations would be amended to:

1. define the words “beer” and “excise warehouse” as follows:

“beer” means beer or malt liquor as defined in section 4 of the *Excise Act*;

“excise warehouse” has the same meaning as in section 2 of the *Excise Act, 2001*;

2. replace the definition of “excisable goods” with the following:

“excisable goods” means spirits, wine, beer, or tobacco products;

3. replace the words “excisable goods and wine” with “excisable goods”, wherever the words appear in the Regulations, since wine would be listed in the definition of “excisable goods” (see paragraph 2, above);

4. further limit the transfer of wine and spirits. As a result, unless the licensee has obtained written approval for the transfer from the board, commission or agency that is authorized by the laws of the province to sell or to authorize the sale of intoxicating liquor in that province, no intoxicating liquor shall be transferred

(a) from a duty free shop in a province to another duty free shop in the province;

(b) in the case of beer, from a duty free shop in a province to a bonded warehouse in the province; or

(c) in the case of wine or spirits, from a duty free shop in a province to a bonded warehouse or an excise warehouse in the province, or from an excise warehouse in a province to a duty free shop in the province; and

5. replace, in the English version, “safekeeping” with “safe-keeping”.

Refund of Duties Regulations

It is proposed that these Regulations would be amended to:

1. provide for the granting of a refund under paragraph 74(1)(g) of the *Customs Act* of duties levied under section 21.1 of the *Customs Tariff* with respect to imported bulk spirits, when the duties were paid in error (for example, paid at the time of release under the *Customs Act* rather than at the time the spirits are used under the *Excise Act, 2001*);

2. provide that the following be required in support of an application for a refund described in paragraph 1:

(a) a copy of a commercial invoice or similar document to substantiate that the goods subject to the refund of duties

(i) are the goods on which the duties were paid; and

(ii) were, at the time the goods were released under the *Customs Act*, goods described under section 21.1 of the *Customs Tariff*;

(b) evidence that substantiates that the importer is authorized under the *Excise Act, 2001* to import the goods;

3. stipulate that, when the application is for a refund described in paragraph 1, the amount of the refund of duties shall be in an amount equal to the duties paid;

4. remove the requirement to submit a copy of the accounting document in support of an application for refund, when the application is based on the fact that the duties were reduced or removed by a retroactive order or regulation made under the *Customs Tariff*;

5. prevent the double payment of refunds by providing that no refund of duties levied under section 21.1 of the *Customs Tariff* shall be paid to a person in respect of goods subject to those duties to the extent that it can reasonably be regarded that

(a) the amount has previously been refunded, remitted, applied or paid to that person under this or any other Act of Parliament; or

(b) the person has applied for a refund, payment or remission of the amount under any other Act of Parliament; and

6. correct a grammatical error in the French version.

Sale of Goods Regulations

It is proposed that these Regulations would be amended to remove spirits, specially denatured alcohol, wine, raw leaf tobacco, and tobacco products from their application.

Storage of Goods Regulations

It is proposed that these Regulations would be amended to:

1. define the words “prohibited ammunition”, “prohibited device”, “prohibited weapon”, and “restricted weapon” as follows:

“prohibited ammunition” has the same meaning as in subsection 84(1) of the *Criminal Code*;

“prohibited device” has the same meaning as in subsection 84(1) of the *Criminal Code*;

“prohibited weapon” has the same meaning as in subsection 84(1) of the *Criminal Code*;

“restricted weapon” has the same meaning as in subsection 84(1) of the *Criminal Code*;

2. repeal the provision that prescribes tobacco products to be a class of goods for the purposes of section 39.1 of the *Customs Act*;

3. stipulate that, for the purposes of subsection 39.1(1) of the *Customs Act*,

(a) firearms, prohibited ammunitions, prohibited devices, prohibited or restricted weapons, and tobacco products are goods of a prescribed class that are forfeit if they are not removed from a customs office within 14 days after the day on which they were reported under section 12 of that Act; and

(b) spirits are goods of a prescribed class that are forfeit if they are not removed from a customs office within 21 days after the day on which they were reported under section 12 of that Act; and

4. replace, in the English version, “safekeeping” with “safe-keeping”.

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