

BILL 22

2002

TOBACCO TAX AMENDMENT ACT, 2002

(Assented to _____, 2002)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Amends RSA 2000 cT-4

1 The Tobacco Tax Act is amended by this Act.

2 Section 3 is amended

(a) in subsection (1)

- (i) in clause (a) by striking out “\$0.07” and substituting “\$0.16”;**
- (ii) in clause (b) by striking out “80%” and substituting “183%”, by striking out “retail price” and substituting “taxable price”, by striking out “\$0.15” and substituting “\$0.35” and by striking out “\$2.50” and substituting “\$8.00”;**
- (iii) in clause (c) by striking out “\$0.04” and substituting “\$0.16”;**

(b) by adding the following after subsection (1):

(1.1) For the purposes of subsection (1), the taxable price of a cigar is the following amount multiplied by 1.3:

- (a) if the cigar was manufactured in Canada, the manufacturer’s selling price, including any charges for**

delivery or transportation and any duty and excise tax imposed under the laws of Canada, except for the tax imposed by Part IX of the *Excise Tax Act* (Canada);

- (b) if the cigar was manufactured outside Canada, the importer's selling price, including any charges for delivery or transportation and any duty and excise tax imposed under the laws of Canada, except for the tax imposed by Part IX of the *Excise Tax Act* (Canada).

(1.2) Notwithstanding subsection (1.1), if the manufacturer or importer of a cigar is also the retailer of the cigar, the taxable price of the cigar is the price the consumer paid for it, including any charges for delivery or transportation but not including the tax payable under this Act or the tax imposed by Part IX of the *Excise Tax Act* (Canada).

3 Section 4 is amended

- (a) in subsection (1)(a) by striking out “exempt-sale” and substituting “exempt sale”;**

- (b) by repealing subsection (2) and substituting the following:**

(2) No retailer shall, in Alberta, purchase, possess, store, sell or offer for sale tobacco products that are not marked for tax-paid sale in Alberta unless

- (a) the retailer has written permission from the Minister to do so, or
- (b) in the case of tobacco products that are black stock, the retailer is an exempt sale retailer.

- (c) by adding the following after subsection (4):**

(5) No exempt sale retailer shall, in Alberta, sell black stock, or offer black stock for sale, to a person unless the person is exempted under regulations made under section 48(e).

4 The following is added after section 4:

Limits on possession of tobacco

4.1 No consumer shall, without a permit issued under the regulations, possess

- (a) more than 1000 cigarettes,
- (b) more than 1000 grams of fine cut tobacco,
- (c) cigars that in total contain more than 1000 grams of tobacco, or
- (d) any combination of tobacco products containing more than 1000 grams of tobacco.

5(1) The following is added after section 22:

Waiver or cancellation of penalties or interest

22.1 Notwithstanding the *Financial Administration Act*, the Minister may at any time waive or cancel the imposition of or liability for any penalty or interest imposed or payable under this Act.

(2) Subsection (1) applies with respect to penalties or interest imposed after this section comes into force.

6 Section 41(1) is amended

- (a) in clause (a) by striking out “\$1000” and substituting “\$5000”;
- (b) in clause (b) by striking out “\$5000” and substituting “\$15 000”.

7 Section 44 is amended

- (a) in clause (a) by striking out “\$1000” and substituting “\$5000”;
- (b) in clause (b) by striking out “\$5000” and substituting “\$15 000”.

8 Section 48 is amended

(a) by adding the following after clause (l):

- (l.1) requiring cigars not sold in packages to be marked, and governing the marking of those cigars;
- (l.2) respecting the packaging of tobacco products;

(b) by adding the following after clause (q):

- (r) respecting permits and the eligibility criteria for permits to allow a consumer to possess tobacco in excess of the amounts set out in section 4.1.

9(1) Section 2 is deemed to have come into force on March 20, 2002.

(2) Sections 4 and 8(b) come into force on Proclamation.

Explanatory Notes

1 Amends chapter T-4 of the Revised Statutes of Alberta 2000.

2 Section 3(1) presently reads:

3(1) Every consumer who purchases tobacco in Alberta shall at the time of purchase of the tobacco pay to Her Majesty in right of Alberta a tax computed at the following rates:

- (a) on every cigarette purchased by that consumer, \$0.07;*
- (b) on every cigar purchased by that consumer, 80% of the retail price of the cigar, with the tax payable on each cigar being not less than \$0.15 per cigar nor more than \$2.50 per cigar;*

- (c) *on every gram or part of a gram of any tobacco, other than cigarettes or cigars, purchased by that consumer, \$0.04.*

3 Section 4 presently reads:

4(1) No wholesaler or importer shall, in Alberta, purchase, possess, store, sell or offer for sale tobacco products that are not marked for tax-paid sale in Alberta unless the wholesaler or importer has written permission from the Minister to do so and the Minister is satisfied

- (a) *in the case of tobacco products that are black stock, that the wholesaler or importer will be selling the tobacco products to an exempt-sale retailer, or*
- (b) *that the tobacco products will be transported out of Alberta for resale.*

(2) No retailer shall, in Alberta, purchase, possess, store, sell or offer for sale tobacco products that are not marked for tax-paid sale in Alberta unless, in the case of tobacco products that are black stock, the retailer is an exempt-sale retailer.

(3) No person shall, in Alberta, purchase or possess tobacco products that are black stock unless the person is

- (a) *permitted to do so under subsection (1) or (2), or*
- (b) *exempted under regulations made under section 48(e).*

(4) Subject to subsection (3), no person shall possess more than 1000 grams of tobacco products that are not marked for tax-paid

sale in Alberta, except a wholesaler or importer who possesses the tobacco products in accordance with subsection (1).

4 Limits on possession of tobacco.

5 Waiver or cancellation of penalties or interest.

6 Section 41(1) presently reads:

41(1) A person who contravenes section 3(1) or 4(3) or (4) is guilty of an offence and liable

(a) for a first offence, to a fine of not more than \$1000 or to a term of imprisonment of not more than 30 days or to both fine and imprisonment, and

(b) for a subsequent offence, to a fine of not more than \$5000 or to a term of imprisonment of not more than 6 months or to both fine and imprisonment.

7 Section 44 presently reads:

44 Any person who contravenes a provision of this Act or the regulations for which no other penalty is provided is guilty of an offence and liable

(a) for a first offence, to a fine of not more than \$1000 or to a term of imprisonment of not more than 30 days, or to both fine and imprisonment, and

(b) for a subsequent offence, to a fine of not more than \$5000 or to a term of imprisonment of not more than 6 months or to both fine and imprisonment.

8 Adds new regulation-making authority.

9 Coming into force.