

**CONSOLIDATION OF TOBACCO TAX ACT**  
R.S.N.W.T. 1988,c.T-5

*(Current to: May 10, 2015)*

**AS AMENDED BY NORTHWEST TERRITORIES STATUTES:**

R.S.N.W.T. 1988,c.27(Supp.)  
R.S.N.W.T. 1988,c.53(Supp.)  
    In force April 1, 1990  
R.S.N.W.T. 1988,c.93(Supp.)  
    In force April 1, 1991  
S.N.W.T. 1991-1992,c.15  
S.N.W.T. 1994,c.18  
    In force April 18, 1994, except s.4  
    s.4 in force May 1, 1994: SI-005-94  
S.N.W.T. 1995,c.11  
S.N.W.T. 1997,c.8  
S.N.W.T. 1998,c.24

**AS AMENDED BY STATUTES ENACTED UNDER SECTION 76.05 OF NUNAVUT ACT:**

S.N.W.T. 1998,c.36  
    In force April 1, 1999

**AS AMENDED BY NUNAVUT STATUTES:**

S.Nu. 2003,c.13,s.24  
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S.Nu. 2006,c.17,s.1(1)-(3)  
    s.1(1)-(3) in force at 12:01 am on December 16, 2006  
S.Nu. 2012,c.6  
    In force February 23, 2012  
S.Nu. 2013,c.13,s.4  
    s.4 in force April 1, 2013 (deemed)  
S.Nu. 2013,c.20,s.38  
    s.38 in force May 16, 2013  
S.Nu. 2015,c.7  
    In force March 17, 2015

This consolidation is not an official statement of the law. It is an office consolidation prepared for convenience only. The authoritative text of statutes can be ascertained from the *Revised Statutes of the Northwest Territories, 1988* and the Annual Volumes of the Statutes of the Northwest Territories (for statutes passed before April 1, 1999) and the Statutes of Nunavut (for statutes passed on or after April 1, 1999).

A copy of a statute of Nunavut can be obtained from the Territorial Printer at the address below. The Annual Volumes of the Statutes of Nunavut and this consolidation are also available online at <http://www.justice.gov.nu.ca/english/legislation.html> but are not official statements of the law.

Any certified Bills not yet included in the Annual Volumes of the Statutes of Nunavut can be obtained through the Office of the Clerk of the Legislative Assembly.

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## GLOSSARY OF TERMS USED IN CONSOLIDATIONS

### *Miscellaneous*

- c. means "chapter".
- CIF means "comes into force".
- NIF means "not in force".
- s. means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
- Sch. means "schedule".
- SI-005-98 means the instrument registered as SI-005-98 in 1998. (*Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.*)
- SI-012-2003 means the instrument registered as SI-012-2003 in 2003. (*Note: This is a Nunavut statutory instrument made on or after January 1, 2000.*)

### *Citation of Acts*

- R.S.N.W.T. 1988,c.D-22 means Chapter D-22 of the *Revised Statutes of the Northwest Territories, 1988*.
- R.S.N.W.T. 1988,c.10(Supp.) means Chapter 10 of the Supplement to the *Revised Statutes of the Northwest Territories, 1988*. (*Note: The Supplement is in three volumes.*)
- S.N.W.T. 1996,c.26 means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
- S.Nu. 2002,c.14 means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

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**TOBACCO TAX ACT**

## INTERPRETATION

## Definitions

1. In this Act,

"Clerk" means the Clerk of the Nunavut Court of Justice appointed under the *Judicature Act*; (*greffier*)

"collector" means a wholesale dealer who is appointed under subsection 21(1) and a dealer deemed to be a collector under subsection 21(1.1); (*collecteur*)

"consumer" means

- (a) a person who purchases or receives delivery of tobacco in Nunavut, or
- (b) a person residing or ordinarily resident or carrying on business in Nunavut who brings into Nunavut tobacco acquired outside Nunavut,

for his or her own use or consumption or for consumption by others at his or her expense or on behalf of, or as the agent for, a principal who wishes to acquire the tobacco for consumption by the principal or other persons at the expense of the principal but does not include a person who acquires tobacco for resale; (*consommateur*)

"dealer" means a person who sells tobacco or offers or keeps tobacco for sale, either by wholesale or by retail in Nunavut; (*marchand*)

"deputy collector" means a retail dealer who is deemed to have been appointed as a deputy collector under subsection 21(1.2); (*sous-collecteur*)

"import" means to bring, or cause to bring, into Nunavut or to receive delivery in Nunavut; (*importer*)

"judge" means a judge of the Nunavut Court of Justice; (*jugé*)

"non-smoked tobacco" means any type of tobacco which is not meant to be burned in the process of being consumed; (*tabac non fumé*)

"officer" means an officer appointed under subsection 21.2(1) and a person who is an *ex officio* officer under subsection 21.2(2); (*agent d'exécution*)

"price at wholesale" means the price charged by a wholesale dealer; (*prix de gros*)

"retail dealer" means a person who sells tobacco, or offers or keeps tobacco for sale, directly to consumers in Nunavut; (*détaillant*)

"smoked tobacco" means any type of tobacco which is meant to be burned in the process of being consumed; (*tabac fumé*)

"taxable price per cigarette" means the price per cigarette prescribed as the taxable price per cigarette; (*prix taxable par cigarette*)

"taxable price per gram of tobacco" means the price per gram of tobacco prescribed as the taxable price per gram of tobacco; (*prix taxable par gramme de tabac*)

"tobacco" means

- (a) tobacco in any form in which it is consumed and includes snuff,
- (b) any substance consumed in the same manner as tobacco, or
- (c) any substance which is substituted for tobacco,

but does not include stramonium compounds used for the relief of respiratory conditions; (*tabac*)

"wholesale dealer" means a person who sells or offers for sale tobacco for the purpose of resale within Nunavut. (*grossiste*)

R.S.N.W.T. 1988,c.27(Supp.),s.2; S.N.W.T. 1994,c.18,s.2; S.Nu. 2013,c.20,s.38(2),(5); S.Nu. 2015,c.7,s.2.

## TAXATION OF TOBACCO

### Tax on tobacco

**2.** (1) There shall be imposed, levied and collected on tobacco, at the time of purchase, a tax at the rate of

- (a) 25 cents per cigarette or, where the taxable price per cigarette has been prescribed, 90% of the taxable price per cigarette;
- (b) 20 cents per gram of any form of smoked tobacco other than cigarettes or cigars, or, where the taxable price per gram of tobacco has been prescribed, 90% of the taxable price per gram of tobacco;
- (c) 140% of the price at wholesale for every cigar and where the application of the rate of tax produces a fraction of a cent, the fraction shall be rounded up to the next cent; and
- (d) 20 cents per gram of any form of non-smoked tobacco, or, where the taxable price per gram of tobacco has been prescribed, 90% of the taxable price per gram of tobacco.

S.Nu. 2012,c.6,s.2; S.Nu. 2015,c.7,s.3

### Calculation of tax on cigars

(2) The tax payable on cigars shall be computed separately on the price at retail of each cigar whether or not it is sold in a package.



## Calculation of tax on cigarettes, cigarette tobacco

(3) The taxes under paragraphs (1)(a) and (b) shall be computed to the nearest fifth of a cent per cigarette or per gram of tobacco, as the case may be, and for this purpose, one-tenth of a cent shall be computed as one-fifth of a cent.

## When price paid is different from taxable price per cigarette

(4) The tax imposed by this Act shall not be increased or reduced by reason of the fact that the price paid or consideration given by a consumer for cigarettes is different from the taxable price per cigarette.

(5) **Repealed, S.N.W.T. 1994,c.18,s.4.**

(6) **Repealed, S.N.W.T. 1997,c.8,s.33(2).**

R.S.N.W.T. 1988,c.27(Supp.),s.3; R.S.N.W.T. 1988,c.53(Supp.),s.2,3,4,5,6;

R.S.N.W.T. 1988,c.93(Supp.),s.1; S.N.W.T. 1994,c.18,s.4;

S.N.W.T. 1997,c.8,s.33(2); S.Nu. 2006,c.17,s.1(2),(3); S.Nu. 2012,c.6,s.2.

**3. Repealed, R.S.N.W.T. 1988,c.27(Supp.),s.4.**

## Secrecy of information

**4.** (1) Subject to subsection (2), no person employed by the Government of Nunavut shall communicate or allow to be communicated to a person not legally entitled to it information obtained under this Act, or allow that person to inspect or have access to any written statement provided under this Act.

## When information may be released

(2) The Minister may

- (a) communicate or allow to be communicated information obtained under this Act, or
- (b) allow inspection of, or access to, any written statement provided under this Act,

to a person employed by the Government of Canada or the government of a province or territory if

- (c) the information and written statements obtained by that government for the purpose of any Act that imposes a tax similar to the tax imposed under this Act are communicated or provided on a reciprocal basis to the Minister, and
- (d) the information and written statements are not used for any purpose other than the administration or enforcement of a federal, provincial or territorial law that provides for the imposition of a similar tax.

R.S.N.W.T. 1988,c.27(Supp.),s.5; S.Nu. 2013,c.20,s.38(5).

## Where import permit required

**5.** (1) A person who intends to import tobacco shall apply for an import permit under this section.

#### Application for import permit

(2) An application for an import permit shall be made to the Minister in the form approved by the Minister and shall be accompanied by payment of an amount equal to the tax payable on the tobacco the applicant intends to import.

#### Issuance of import permits

(3) The Minister may, in accordance with the regulations, issue import permits.

#### Transferability

(4) An import permit is not transferable.

#### Production of import permit

(5) The holder of an import permit shall

- (a) keep the import permit, or a notarial copy of it, with the tobacco to which it relates; and
- (b) produce the import permit for inspection on the request of an officer.

#### Copy of permit to transporter

(6) Where a person transports tobacco into Nunavut on behalf of or as agent for the holder of an import permit, the holder shall provide the transporter with a notarial copy of the import permit.

#### Duty of transporter

(7) A transporter shall

- (a) keep a notarial copy of the import permit with the tobacco to which it relates; and
- (b) produce a notarial copy of the import permit for inspection at the request of an officer.

#### Report to Minister

(8) A person who imports tobacco shall, within seven days after the tobacco is imported,

- (a) report the matter to the Minister; and
- (b) supply the Minister with the invoice and all other pertinent information required by the Minister in respect of the tobacco.

#### Persons to whom section does not apply

(9) This section does not apply to

- (a) a collector that has entered into an agreement under subsection 21(3);
- (b) a person who purchases tobacco from a collector that has entered into an agreement under subsection 21(3); or

- (c) a person who, not more than six times a year, brings with him or her into Nunavut tobacco in an amount not exceeding 400 cigarettes, 100 cigars or 800 g of any other form of tobacco. R.S.N.W.T. 1988,c.27(Supp.),s.6; S.N.W.T. 1994,c.18,s.5; S.Nu. 2013,c.20,s.38(5).

Prohibition: marked, stamped, sealed or labelled tobacco

**5.1.** (1) No person shall purchase, possess, store or sell tobacco that is, or the packaging of which is, marked, stamped, sealed or labelled in such a way as to indicate the tobacco is intended for sale in a province or territory or outside Canada.

Persons to whom section does not apply

(2) This section does not apply to a person who brings with him or her into Nunavut tobacco in an amount not exceeding 400 cigarettes, 100 cigars or 800 g of any other form of tobacco. S.N.W.T. 1994,c.18,s.5; S.Nu. 2013,c.20,s.38(5).

Prohibition against absorption of tax

**6.** No retail dealer shall advertise, hold out or state to the public or to any consumer directly or indirectly that the tax or any part of the tax imposed by this Act

- (a) will be assumed or absorbed by the retail dealer; or
- (b) will not be considered as an element in the price to the consumer or, if added, that it or any part of it will be refunded.

Inspection of place or building

**7.** (1) Where an officer believes on reasonable grounds that a person is a dealer, the officer may, at any reasonable time, enter and inspect any place or building owned or under the control of the person believed to be a dealer, other than a residence,

- (a) to determine if there is compliance with this Act and the regulations; and
- (b) to inspect, audit and examine books of account, records and documents in the place or building relating to the sale of tobacco.

Records

(2) An officer may in the performance of an inspection make copies of the books of account, records or documents referred to in paragraph (1)(b). R.S.N.W.T. 1988,c.27(Supp.),s.7.

Warrant

**7.1.** (1) Where on *ex parte* application a justice of the peace is satisfied by information on oath that there are reasonable grounds to believe that there is in any place or building any thing that there are reasonable grounds to believe will afford evidence with respect to the commission of a contravention of this Act or the regulations, the justice of the peace may issue a warrant authorizing

- (a) an officer who is appointed under subsection 21.2(1) and who is named in the warrant, or

(b) an *ex officio* officer,  
to enter and search that place or building for the thing subject to the conditions that may be specified in the warrant.

#### Authority to search

(2) An officer may, in accordance with the authority contained in a warrant issued under subsection (1), search any place or building identified in the warrant.

#### Search without warrant

(3) Where an officer has reasonable grounds to believe that there is in any place or building any thing that there are reasonable grounds to believe will afford evidence with respect to the commission of a contravention of this Act or the regulations, but by reason of exigent circumstances it would not be practicable to obtain a warrant under subsection (1), the officer may search that place or building without a warrant.

#### Exigent circumstances

(4) For the purposes of subsection (3), exigent circumstances include circumstances in which the delay necessary to obtain a warrant under subsection (1) would result in the loss or destruction of evidence. R.S.N.W.T. 1988,c.27(Supp.),s.7.

#### Assistance to officers

**7.2.** The owner or the person in charge of a place or building entered by an officer under section 7 or 7.1 and every person found in the place or building shall

- (a) allow the officer to enter the place or building;
- (b) give the officer all reasonable assistance in his or her power to enable the officer to carry out the duties of the officer under this Act and the regulations; and
- (c) provide the officer with the information with respect to the administration of this Act and the regulations, including books of account, records and documents relating to the sale of tobacco, that the officer may reasonably require.

R.S.N.W.T. 1988,c.27(Supp.),s.7.

#### Seizure

**7.3.** An officer may, in the performance of a search authorized by section 7.1, seize tobacco, books of account, records, documents or any other thing that the officer has reasonable grounds to believe is evidence of a contravention of this Act or the regulations. R.S.N.W.T. 1988,c.27(Supp.),s.7.

#### "tobacco" defined

**7.4.** In sections 7.5 to 7.9, "tobacco" means tobacco in an amount exceeding 400 cigarettes, 100 cigars or 800 g of any other form of tobacco.

R.S.N.W.T. 1988,c.27(Supp.),s.7; S.N.W.T. 1994,c.18,s.6.

### Definition of "vehicle"

**7.5.** (1) In this section and section 7.7, "vehicle" includes a trailer attached to a vehicle.

### Inspection of vehicles

(2) Where an officer on reasonable grounds believes that a vehicle contains or is being loaded or unloaded with tobacco, the officer may inspect

- (a) the contents of the vehicle and any thing that is being loaded onto or unloaded from the vehicle, and
- (b) any manifests, records, accounts, documents or things relating to tobacco in the vehicle or that is being loaded onto or unloaded from the vehicle,

to determine if there is tobacco in the vehicle and if there is compliance with this Act and the regulations.

### Direction to stop

(3) An officer may, for the purposes of conducting an inspection under subsection (2), direct the driver of a vehicle to stop and park the vehicle.

### Duty to comply

(4) The driver of a vehicle who is directed to stop and park the vehicle by an officer under subsection (3) shall comply with the direction.

### Permission to move

(5) No person shall move a vehicle that is being inspected under subsection (2), until permitted to do so by the officer conducting the inspection.

### Assistance

(6) The driver and occupants of a vehicle and any person loading or unloading a vehicle that is being inspected under subsection (2) shall provide all reasonable assistance in their power to the officer conducting the inspection. R.S.N.W.T. 1988,c.27(Supp.),s.7; S.N.W.T. 1998,c.24,s.31(2).

### Seizure of evidence

**7.6.** An officer may, in the performance of an inspection under subsection 7.5(2), seize tobacco, books of account, records, documents or any other thing that the officer has reasonable grounds to believe is evidence of a contravention of this Act or the regulations. R.S.N.W.T. 1988,c.27(Supp.),s.7.

### Seizure

**7.7.** (1) Where an officer conducting an inspection under subsection 7.5(2) believes on reasonable grounds that the owner of tobacco that was found in the vehicle or was being loaded onto or from the vehicle does not hold a permit as required by this Act, the officer may seize

- (a) the tobacco; and

- (b) any manifest, record, account, document or other thing that the officer has reasonable grounds to believe is evidence that the owner of the tobacco does not hold a permit.

#### Written statement

(2) An officer shall, at the time of making a seizure under subsection (1), provide the driver or a person in control of the vehicle with a written statement specifying that the seizure is made under the authority of subsection (1). R.S.N.W.T. 1988,c.27(Supp.),s.7; S.N.W.T. 1994,c.18,s.7.

#### Forfeiture

**7.8.** (1) Tobacco seized under subsection 7.7(1) is forfeited to the Government of Nunavut and may be disposed of as the Minister directs unless, within 30 days after the seizure, the owner of the tobacco brings an application by originating notice to a judge of the Nunavut Court of Justice to establish a right to possession of the tobacco.

#### Right of possession

(2) For the purposes of an application under subsection (1), the owner has a right to possession of the tobacco where the owner

- (a) held a permit as a wholesale dealer issued under this Act at the time that the tobacco was seized;
- (b) held a permit as retail dealer issued under this Act at the time that the tobacco was seized and can satisfy the judge that the tobacco was purchased from a person who, at the time of purchase, held a permit as a wholesale dealer issued under this Act;
- (c) held an import permit issued under this Act for the tobacco at the time the tobacco was seized; or
- (d) can satisfy the judge that
  - (i) the tobacco seized was for his or her own use and the tax payable under this Act was paid, or
  - (ii) a permit was not required for the tobacco at the time the tobacco was seized.

#### Return of tobacco

(3) Where a judge is satisfied that the owner making an application under subsection (1) has a right to possession of the tobacco, the judge may order that the tobacco be returned to the owner.

#### Decision final

(4) The decision of a judge in respect of an application made under subsection (1) is final.

#### Forfeiture

(5) On dismissal of an application under subsection (1), the tobacco is forfeited to the Government of Nunavut and may be disposed of as directed by the Minister. R.S.N.W.T. 1988,c.27(Supp.),s.7; S.N.W.T. 1994,c.18,s.8; S.Nu. 2013,c.20,s.38(5).

### Assessment

- 7.9.** (1) Where it appears to an officer after making an inspection under section 7 or a search under section 7.1 that a person has contravened this Act or the regulations,
- (a) the officer shall calculate the tax collected or due in the manner and by the procedure that the Minister may consider adequate and expedient; and
  - (b) the Minister shall assess the person for the amount of the tax calculated under paragraph (a).

### Appeal

- (2) The person assessed under subsection (1) may appeal the amount of the assessment under section 8.

### Proof of amount owing

- (3) An assessment under subsection (1) is, in the absence of evidence to the contrary, proof that the amount stated in the assessment is due and owing.  
R.S.N.W.T. 1988,c.27(Supp.),s.7; S.N.W.T. 1994,c.18.s.3,9.

### Appeal to Minister

- 8.** (1) A person who disputes an assessment made under subsection 7.9(1) may, within 60 days after receiving the notice of assessment, serve notice of appeal on the Minister.

### Notice

- (2) The notice of appeal served under subsection (1) shall be in writing and addressed to the Minister.

### Contents of notice

- (3) The notice must set out clearly the reasons for the appeal and all facts relative to the appeal.

### Decision

- (4) On receipt of the notice, the Minister shall duly consider the matter and affirm or amend the estimate or assessment and without delay notify the appellant in writing of the decision of the Minister. R.S.N.W.T. 1988,c.27(Supp.),s.5,8.

### Appeal to Nunavut Court of Justice

- 9.** (1) If the appellant is dissatisfied with the decision of the Minister, the appellant may appeal from the decision to a judge of the Nunavut Court of Justice.

### Notice

- (2) The appellant shall, within 30 days after the date of the receipt of the notice of the decision complained of, serve on the Minister a notice in writing of his or her intention to appeal to a judge of the Nunavut Court of Justice.

### Contents of notice

- (3) The notice of appeal referred to in subsection (2) must
- (a) be signed by the appellant or by his or her solicitor or agent; and
  - (b) set out the grounds of the appeal.

### Filing of notice

(4) The appellant shall file a copy of the notice of appeal referred to in subsection (2) in the office of the Clerk.

### Application

(5) Within 14 days after the service on the Minister of the notice of appeal, the appellant shall apply to a judge for the appointment of a day for the hearing of the appeal, and shall serve on the Minister, not less than 14 days before the hearing, a written notice of the day appointed for the hearing.

### Hearing

(6) A judge shall hear the appeal and the evidence adduced before the judge by the appellant and by the Minister in a summary manner, and shall decide the manner of the appeal.

### Documents

(7) The Minister shall cause to be produced before the judge on the hearing of the appeal all papers and documents in the possession of the Minister affecting the matter of the appeal.

### Costs

(8) The costs of the appeal shall be in the discretion of the judge, and the judge may make an order respecting costs in favour of or against the Government of Nunavut and may fix the amount of the costs.

### Further appeal

(9) The decision of the judge may be appealed to the Court of Appeal on any point of law raised in the hearing held under subsection (6), and the Rules governing civil appeals to the Court of Appeal shall apply. R.S.N.W.T. 1988,c.27(Supp.),s.5,9; S.N.W.T. 1994,c.18,s.3; S.Nu. 2013,c.20,s.38(3),(5).

### Collection of tax where pending appeal

**10.** The giving of a notice of appeal by any person or any delay in the hearing of the appeal does not affect the due date, interest, penalties or any liability for payment provided under this Act in respect of any taxes due and payable or that have been collected on behalf of the Government of Nunavut that are the subject-matter of the appeal or in any way delay the collection of those taxes, but, in the event of the assessment of the Minister being set aside or reduced on appeal, the Government of Nunavut shall refund the amount or excess amount of taxes that have been paid or collected and of any additional interest or penalty imposed and paid on those taxes. R.S.N.W.T. 1988,c.27(Supp.),s.9; S.N.W.T. 1994,c.18,s.3; S.Nu. 2013,c.20,s.38(5).



## Liability of consumer until tax paid

**11.** (1) A consumer is and remains liable for the tax imposed under this Act until the tax has been paid by the consumer.

## Notification by dealer where failure to collect

(2) Where a dealer fails to collect the tax from a consumer, the dealer shall immediately notify the Minister of that fact and the consumer may be sued for the amount of the tax in a court of competent jurisdiction.

## Liability of dealer

(3) An action against the consumer under subsection (2) does not affect the liability of the dealer under this Act for failure to collect the tax.

S.N.W.T. 1994,c.18,s.10.

## Tax money as trust money

**12.** (1) Every person who collects a tax imposed under this Act is deemed to hold it in trust for the Government of Nunavut and shall pay it over to the Government of Nunavut in the manner and at the time prescribed.

## Debt

(2) If any person who has collected a tax imposed by this Act fails to pay it over to the Government of Nunavut in the manner and at the time prescribed, the amount of the tax

- (a) becomes a debt due to the Government of Nunavut;
- (b) is a lien on the property of the person in default;
- (c) subject to the *Bankruptcy and Insolvency Act* (Canada), has priority over all other claims of other persons; and
- (d) shall bear interest at the rate of 12% per year.

R.S.N.W.T. 1988,c.27(Supp.),s.9, S.N.W.T. 1994,c.18,s.11;  
S.Nu. 2013,c.20,s.38(5).

## Notice to taxpayer before proceedings taken

**13.** Before taking proceedings for the recovery of taxes that are due and payable under this Act or that have been collected on behalf of the Government of Nunavut, the Minister shall give notice to the collector, dealer or consumer of the intention of the Minister to enforce payment, but failure to give the notice in any case does not affect the validity of any proceedings taken for the recovery of taxes or money collected as taxes under this Act. R.S.N.W.T. 1988,c.27(Supp.),s.9; S.N.W.T. 1994,c.18,s.3;  
S.Nu. 2013,c.20,s.38(5).

## Recovery of taxes by action in court

**14.** The amount of any taxes that are due and payable under this Act or that have been collected on behalf of the Government of Nunavut may be recovered by action in a court of competent jurisdiction as for a debt due to the Government of Nunavut and the court may make an order as to the costs of the action in favour of or against the Government of

Nunavut. R.S.N.W.T. 1988,c.27(Supp.),s.9; S.N.W.T. 1994,c.18,s.12;  
S.Nu. 2013,c.20,s.38(5).

#### Certificate

**15.** (1) Where default is made in the payment of any taxes that are due and payable under this Act or that have been collected on behalf of the Government of Nunavut, or any part of them, the Minister may

- (a) issue a certificate stating the amount due, the amount remaining unpaid, including interest and penalties, and the name of the person by whom it is payable; and
- (b) file the certificate with the Clerk.

#### Filing of certificate

(2) When the certificate referred to in subsection (1) is filed, the certificate has the same force and effect, and all proceedings may be taken on it, as if it were a judgment of the Nunavut Court of Justice for the recovery of a debt of the amount stated in the certificate against the person named in it. R.S.N.W.T. 1988,c.27(Supp.),s.9;  
S.N.W.T. 1994,c.18,s.3; S.Nu. 2013,c.20,s.38(5).

#### Demand on third party

**16.** (1) Where the Minister has knowledge that a person is or is about to become indebted to a consumer, dealer or collector, the Minister may demand of that person that the money otherwise payable by that person to the consumer, dealer or collector be, in whole or in part, paid to the Minister on account of the liability of the consumer, dealer or collector under this Act.

#### Discharge of liability

(2) The receipt of the Minister for money paid under subsection (1) constitutes a discharge of the liability of that person to the consumer, dealer or collector to the extent of the amount referred to in the receipt.

#### Liability

(3) A person who discharges a liability to a consumer, dealer or collector after receipt of a demand under this section is personally liable to the Government of Nunavut to the extent of the liability discharged as between that person and the consumer, dealer or collector, or to the extent of the liability of the consumer, dealer or collector for the taxes due and payable under this Act or that have been collected on behalf of the Government of Nunavut but not remitted, including interest and penalties, whichever is the lesser amount. R.S.N.W.T. 1988,c.27(Supp.),s.9; S.N.W.T. 1994,c.18,s.3;  
S.Nu. 2013,c.20,s.38(5).

#### Injunction

**17.** The Minister may apply to a judge of the Nunavut Court of Justice for an injunction against any dealer who is in contravention of this Act and who continues to sell or offer to sell tobacco taxable under this Act, ordering the dealer to cease selling

such tobacco until the dealer fulfils his or her obligations under this Act and the regulations and pays the costs on the application. R.S.N.W.T. 1988,c.27(Supp.),s.5; S.N.W.T. 1994,c.18,s.13; S.Nu. 2013,c.20,s.38(5).

#### Exercise of powers for recovery

**18.** (1) The powers conferred by this Act for the recovery of taxes or money collected as taxes by action in court and by filing a certificate may be exercised separately, concurrently or cumulatively.

#### Liability for payment of tax

(2) The liability of a person for the payment of any tax under this Act or the liability to remit taxes collected is not affected in any way by the fact that a fine or penalty has been imposed on the person or paid by the person in respect of a contravention of this Act. S.Nu. 2013,c.20,s.38(5).

#### Penalty and interest

**19.** In addition to any other penalty, the Minister may assess a penalty equal to 10% of the amount due, and may assess interest on the amount due, in accordance with subsection 17(1) of the *Financial Administration Act*, against any person who

- (a) fails to remit to the Government of Nunavut any tax collected under this Act within the time required; or
- (b) fails to pay any tax that the person is required to pay under this Act.

R.S.N.W.T. 1988,c.27(Supp.),s.10; S.N.W.T. 1994,c.18,s.3;  
S.Nu. 2013,c.20,s.38(5).

#### Security

**20.** (1) The Minister may require a collector to provide security by way of a bond, cash or other security satisfactory to the Minister in the amount and form that the Minister may direct, to secure the remissions to be made by the collector.

#### Failure to furnish security

(2) Where a collector fails to provide security required under subsection (1), the Minister, after giving to the collector seven days notice in writing of his or her intention to do so, may enter on and close the premises of the collector to the public until the security is provided.

#### Notice

(3) The notice referred to in subsection (2) shall be given by leaving the notice with the collector or sending it to the collector by registered mail at the address shown in his or her permit.

#### Failure to remit

(4) Where a collector who has provided security under subsection (1) fails to collect or to remit tax in accordance with this Act, the Minister may, after giving written notice to the dealer by registered mail or by service of the notice on the dealer, apply the

security in whole or in part to the amount that should have been collected, remitted or paid by the dealer as the amount due to the Government of Nunavut as of the date of the notice. R.S.N.W.T. 1988,c.27(Supp.),s.11; S.N.W.T. 1994,c.18,s.3; S.Nu. 2013,c.20,s.38(5).

#### Definitions

**20.1.** (1) In this section,

"importer" means the holder of an import permit issued under section 5; (*importateur*)

"overpayment" means the payment of an amount that exceeds the amount required to be remitted under this Act or the regulations and includes a payment that is made in respect of tobacco that is ultimately sold to a person who takes delivery of the tobacco outside Nunavut. (*paiement en trop*)

#### Overpayment

(2) Subject to subsections (3) to (5), where a collector or importer has made an overpayment, the Minister

- (a) shall refund the amount of the overpayment to the collector or importer; and
- (b) may pay interest at the prescribed rate and in the prescribed manner.

#### Set-off

(3) Where a collector or importer owes any tax and has subsequently made an overpayment to the Government of Nunavut,

- (a) the Minister shall retain the amount of the overpayment, or as much of the overpayment as is required, and apply it to the tax owing; and
- (b) the Minister shall notify the collector or importer of the set-off made under paragraph (a).

#### Time limit

(4) No refund under subsection (2) shall be made unless

- (a) an application for the refund is made to the Minister,
  - (i) in the case of a collector, within three years after the date of the payment of the amount for which a refund is sought, or
  - (ii) in the case of an importer, within 90 days after the date of the payment of the amount for which a refund is sought; and
- (b) evidence satisfactory to the Minister is provided to establish the entitlement to the refund claimed.

#### Extra-territorial sales

(5) Where a collector sells tobacco to a person who takes delivery of the tobacco outside Nunavut, no refund under subsection (2) shall be made in respect of that sale unless the applicant satisfies the Minister that tobacco taxes in respect of that sale have been paid in accordance with the laws of the jurisdiction in which the tobacco was delivered.

#### Excess refund

(6) Any amount refunded under this Act in excess of the amount to which the person receiving the refund was entitled shall be deemed to be tax owing to the Government of Nunavut.

#### Application

(7) This section applies despite the *Financial Administration Act*.  
R.S.N.W.T. 1988,c.27(Supp.),s.11; S.N.W.T. 1994,c.18,s.14; S.Nu. 2013,c.20,s.38(5).

### ADMINISTRATION

#### Power and duties of Deputy Minister

**20.2.** The Deputy Minister may exercise all the powers and perform all the duties of the Minister under this Act, except any authority conferred on the Minister to make or recommend the making of a regulation as defined in the *Statutory Instruments Act*.  
S.N.W.T. 1994,c.18,s.15.

#### Appointment of collectors

**21.** (1) The Minister may appoint wholesale dealers as collectors for the purposes of this Act.

#### Deemed to be collector

(1.1) A dealer who imports tobacco into Nunavut or acquires tobacco from a person who is not a collector shall, despite anything in this Act, be deemed to be a collector for the purposes of this Act.

#### Deemed to be deputy collector

(1.2) Every retail dealer to whom tobacco is sold by a collector shall be deemed to have been appointed as a deputy collector by the collector making the sale.

#### Remuneration to collectors

(2) The Minister may, in accordance with the regulations, remunerate collectors for their services in collecting and forwarding the tax.

#### Agreements with collectors

(3) A collector shall enter into an agreement with the Minister, on behalf of the Government of Nunavut,  
(a) setting out the duties to be performed by the collector; and

- (b) with respect to the other matters that the Minister considers necessary or advisable.

#### Records

(4) The Minister may require collectors, deputy collectors, dealers, manufacturers, wholesalers, importers, jobbers and agents to keep, in a form approved by the Minister, records of all purchases and sales of tobacco by them and to forward to the Minister the records or extracts from the records at the times and in the manner that the Minister considers fit.

#### Offence

(5) Every collector, deputy collector, dealer, manufacturer, wholesaler, importer, jobber or agent who fails or refuses to keep the records referred to in subsection (4) or to forward the records or extracts from the records as required by the Minister is guilty of an offence. R.S.N.W.T. 1988,c.27(Supp.),s.12; S.N.W.T. 1994,c.18,s.3,16; S.Nu. 2013,c.20,s.38(5).

#### Agreement with collectors respecting remissions

**21.1.** (1) In order to facilitate the collection of the tax and the remission of the proceeds of the tax to the Government of Nunavut, an agreement entered into under subsection 21(3) may provide for a method of computing the proceeds of the tax to be remitted to the collector by deputy collectors for any specified period.

#### Amount of remittance

(2) Where an agreement contains a provision referred to in subsection (1), the collector shall be deemed to have collected the amount computed in accordance with that provision and the collector shall remit that amount to the Government of Nunavut.

#### Return

(3) A remittance made under subsection (2) shall be accompanied by a return in the prescribed form.

#### Notice

(4) Where it appears to the Minister that the amount remitted by a collector in respect of a period specified in the agreement referred to in subsection (1) is less than the amount for which the collector is to account during that period, the Minister shall notify the collector of the amount of the deficiency and the collector shall, within seven days after receiving the notice, pay that amount to the Government of Nunavut.

#### Failure of deputy collector to remit

(5) Where a collector satisfies the Minister that, by reason of a deputy collector having become bankrupt or having defalcated or absconded or for a similar reason, the collector has not received and is unable to obtain the proceeds of the tax collected by that deputy collector, the Minister may deduct from the amount to be remitted by the collector a sum equal to the proceeds of the tax collected by the deputy collector and not remitted to the collector.

### Prohibition

(6) No deduction or allowance shall be made and no credit shall be given to a collector or deputy collector in respect of moneys payable by a consumer as proceeds of the tax that the collector or deputy collector failed to collect from the consumer.

### Offence

(7) A collector who remits an amount less than the amount for which the collector is to account for in respect of a period specified in an agreement referred to in subsection (1) is guilty of an offence. R.S.N.W.T. 1988,c.27(Supp.),s.13; R.S.N.W.T. 1988,c.53(Supp.),s.7; S.N.W.T. 1994,c.18,s.3; S.Nu. 2013,c.20,s.38(5).

### Appointment of officers

**21.2.** (1) The Minister may appoint officers for the purposes of enforcing this Act and the regulations.

#### *Ex officio* officers

(2) Members of the Royal Canadian Mounted Police are *ex officio* officers under this Act. R.S.N.W.T. 1988,c.27(Supp.),s.13.

**21.3. Repealed, S.N.W.T. 1994,c.18,s.17.**

### Registration of dealers

**22.** (1) The Minister may, in accordance with the regulations, register dealers and issue permits to dealers.

#### Requirements for permit

(1.1) No person shall be issued a permit as a wholesale dealer unless he or she holds an appointment as a collector and has entered into an agreement under subsection 21(3).

### Prohibition

- (2) No dealer shall sell or offer for sale tobacco unless
- (a) he or she is registered as a dealer;
  - (b) he or she has been issued a permit as a dealer on his or her application in the prescribed form; and
  - (c) the permit is in force at the time of sale or the offering for sale.

#### Retail dealer's permit

(3) No dealer shall sell or offer for sale tobacco to a consumer unless the dealer holds a retail dealer's permit.

## Same

- (4) No wholesale dealer shall sell or deliver tobacco for resale
- (a) to a person who does not hold a valid retail dealer's permit; or
  - (b) to a retail dealer whose permit has been suspended under subsection 22.10(1) for the period of time that, and to the location where, the suspension is in effect.

## Where permit to be kept

- (5) A permit issued under subsection (1)
- (a) is not transferable;
  - (b) must be kept at the principal place of business of the dealer; and
  - (c) must be presented for inspection by the Minister, or by a person designated by the Minister, on request.

**(6) Repealed, R.S.N.W.T. 1988,c.27(Supp.),s.14(b).**

R.S.N.W.T. 1988,c.27(Supp.),s.14; S.N.W.T. 1994,c.18,s.3,18;  
S.N.W.T. 1998,c.24,s.31(3); S.Nu. 2003,c.13,s.24(1).

## Refusal of permit

**22.1.** The Minister may refuse to issue a permit under subsection 22(1) to a person who

- (a) has been convicted of an offence under this Act or the regulations;
- (b) refuses to perform any duty relating to
  - (i) the collection of the tax payable under this Act, or
  - (ii) the remission or payment of moneys collected as proceeds of the tax payable under this Act;
- (c) refuses or neglects to comply with this Act or the regulations or with any demand lawfully made under this Act;
- (d) refuses or neglects to account for and pay, as required by this Act, moneys received by him or her as proceeds of the tax payable under this Act;
- (e) refuses or neglects to carry out any of the provisions of an agreement made under subsection 21(3);
- (f) refuses or neglects to provide security when required to do so under subsection 20(1); or
- (g) has been convicted of a prescribed offence.

R.S.N.W.T. 1988,c.27(Supp.),s.15; S.N.W.T. 1994,c.18,s.3,19.

## Cancellation or suspension of permit

**22.2.** (1) The Minister may, in writing, cancel or suspend the permit of a dealer who

- (a) has been convicted of an offence under this Act or the regulations;
- (b) fails to perform any duty relating to
  - (i) the collection of tax payable under this Act, or
  - (ii) the remission or payment of moneys collected as proceeds of the tax payable under this Act;
- (c) fails to comply with this Act or the regulations or with any demand lawfully made under this Act;



- (d) fails to account for and pay, as required by this Act, moneys received by him or her as proceeds of the tax payable under this Act;
- (e) fails to carry out any of the provisions of an agreement made under subsection 21(3);
- (f) withdraws the security provided under subsection 20(1) or does not continue to provide the security; or
- (g) has been convicted of a prescribed offence.

#### Service of order

(2) A copy of the cancellation or suspension of a permit made under subsection (1) shall be served on the dealer by delivering it to or sending it by registered mail to his or her address as shown in the permit. R.S.N.W.T. 1988,c.27(Supp.),s.15; S.N.W.T. 1994,c.18,s.3,19.

#### Appeal from cancellation or suspension

**22.3.** (1) A dealer who is dissatisfied with a cancellation or suspension made under section 22.2 may, within 30 days after the date on which a copy of the cancellation or suspension of the permit was served, appeal to a judge of the Nunavut Court of Justice and the judge may

- (a) receive evidence on questions of fact; and
- (b) make any order varying, confirming or rescinding the cancellation or suspension made under section 22.2.

#### Evidence

(2) The evidence referred to in paragraph (1)(a) shall be received by oral examination by the judge, by affidavit or by deposition taken before an examiner or commissioner.

#### Stay of cancellation or suspension

(3) Where an appeal is made under subsection (1), a judge may, on application, order that the cancellation or suspension shall have no effect pending the hearing of the appeal. R.S.N.W.T. 1988,c.27(Supp.),s.15; S.Nu. 2013,c.20,s.38(5).

#### Definition of "sale in bulk"

**22.4.** (1) In this section, "sale in bulk" means a sale of

- (a) all or part of stock that is out of the usual course of business or trade of the vendor;
- (b) substantially the entire stock of the vendor; and
- (c) an interest in the business of the vendor.

#### Bulk sales

(2) No collector shall dispose of tobacco through a sale in bulk without first obtaining a certificate in duplicate from the Minister stating that all taxes collected by the collector, or for which the collector has become liable to account, have been paid to the Government of Nunavut.

#### Copy of certificate

(3) Every purchaser of tobacco from a collector through a sale in bulk shall obtain from the collector the duplicate copy of the certificate provided to the collector under subsection (2).

#### Failure to obtain duplicate

(4) If a purchaser of tobacco through a sale in bulk fails to obtain the duplicate copy in accordance with subsection (3), the purchaser is liable for all taxes collected by the collector or for which the collector has become liable to account and which have not been paid to the Government of Nunavut. R.S.N.W.T. 1988,c.27(Supp.),s.15; S.N.W.T. 1994,c.18,s.3; S.N.W.T. 1997,c.8,s.33(3); S.Nu. 2013,c.20,s.38(5).

#### Duty of deputy collectors

**22.5.** (1) Every deputy collector shall collect the tax imposed under this Act from each consumer who purchases tobacco from the deputy collector at the time of the sale to the consumer.

#### Remission of tax by deputy collector

(2) Subject to section 22.6, a deputy collector who collects the tax from a consumer under subsection (1) shall remit the proceeds of the tax to the collector by whom the deputy collector is deemed to have been appointed, in the manner and at the times

- (a) agreed on by the deputy collector and the collector; or
- (b) as may be prescribed.  
R.S.N.W.T. 1988,c.27(Supp.),s.15.

#### Remission of tax by dealer

**22.6.** A dealer referred to in subsection 21(1.1) shall, in the manner and at the times as may be prescribed, remit to the Government of Nunavut all moneys collected by the dealer as proceeds of the tax in respect of sales of tobacco that he or she has imported or acquired. R.S.N.W.T. 1988,c.27(Supp.),s.15; S.Nu. 2013,c.20,s.38(5).

#### Remission of tax by collector

**22.7.** Every collector shall, in the manner and at the times as may be prescribed, remit to the Government of Nunavut all proceeds of the tax received by the collector. R.S.N.W.T. 1988,c.27(Supp.),s.15; S.Nu. 2013,c.20,s.38(5).

#### Return

**22.8.** A remittance under section 22.6 or 22.7 shall be accompanied by a return in the prescribed form. R.S.N.W.T. 1988,c.27(Supp.),s.15.

#### Agents

**22.9.** Every collector and deputy collector is, in respect of the collection and remission of the tax, an agent of the Government of Nunavut. R.S.N.W.T. 1988,c.27(Supp.),s.15; S.Nu. 2013,c.20,s.38(5).

#### Suspension of permit where automatic prohibition

**22.10.** (1) The Minister may suspend the permit of a dealer upon being notified by the Minister of Health, or a person designated in writing by the Minister of Health, that the dealer is subject to an automatic prohibition with respect to the sale of tobacco under the *Tobacco Control Act*.

#### Period of suspension

(2) A suspension under this section shall apply only to the particular place for which the automatic prohibition relates and for the time period and the dates set out in the notice of the Minister of Health or his or her designate.

#### Service of notice

(3) A copy of the suspension shall be sent to all wholesale dealers of tobacco in Nunavut and served on the dealer by delivering it to or sending it by registered mail to his or her address as shown in the permit.

#### Storage

(4) During the period of suspension no person shall sell or store tobacco in the place to which the automatic prohibition relates.

#### Seizure

(5) An officer may seize, without notice or other process, tobacco that is stored in contravention of this section.

#### Forfeiture

(6) Tobacco seized under this section is forfeited to the Government of Nunavut and shall be disposed of as the Minister directs. S.Nu. 2003,c.13,s.24(2); S.Nu. 2013,c.13,s.4(2).

## OFFENCES AND PUNISHMENT

#### False statements

**23.** Every person who makes a false statement in any form or return filed under this Act or the regulations is guilty of an offence and liable on summary conviction to a fine of not less than \$500 and not exceeding \$1,000 or to imprisonment for a term of not less than three months and not exceeding six months or to both. S.N.W.T. 1994,c.18,s.20.

#### Illegal possession of imported tobacco

**23.1.** Every person who

- (a) has in his or her possession tobacco for which an import permit is required by this Act but in respect of which no import permit has been issued,
- (b) transports into Nunavut on behalf of or as agent for another person tobacco for which an import permit is required by this Act but in respect of which no import permit has been issued, or

- (c) imports tobacco for which an import permit is required by this Act but in respect of which no import permit has been issued,  
is guilty of an offence and liable on summary conviction,
- (d) for a first offence where the amount of the tobacco does not exceed 1,000 cigarettes, 250 cigars or 2,000 g of any other form of tobacco, to a fine not less than \$200 and not exceeding \$1,000 or imprisonment not exceeding 30 days or both;
- (e) for each subsequent offence where the amount of the tobacco does not exceed 1,000 cigarettes, 250 cigars or 2,000 g of any other form of tobacco, to a fine not less than \$500 and not exceeding \$5,000 or imprisonment not exceeding six months or both;
- (f) for a first offence where the amount of the tobacco exceeds 1,000 cigarettes, 250 cigars or 2,000 g of any other form of tobacco, to
- (i) a fine consisting of
- (A) not less than \$1,000 and not exceeding \$5,000, and
- (B) an amount equal to three times the amount of tax payable under this Act in respect of the tobacco,
- (ii) imprisonment for a term not less than 10 days and not exceeding 30 days, or
- (iii) both a fine referred to in subparagraph (i) and imprisonment for a term not exceeding 30 days; and
- (g) for each subsequent offence where the amount of the tobacco exceeds 1,000 cigarettes, 250 cigars or 2,000 g of any other form of tobacco, to
- (i) a fine consisting of
- (A) not less than \$5,000 and not exceeding \$10,000, and
- (B) an amount equal to five times the amount of tax payable under this Act in respect of the tobacco,
- (ii) imprisonment for a term not less than three months and not exceeding nine months, or
- (iii) both a fine referred to in subparagraph (i) and imprisonment for a term not exceeding nine months.
- S.N.W.T. 1994,c.18,s.21; S.N.W.T. 1995,c.11,s.62;  
S.Nu. 2013,c.20,s.38(5).

#### Illegal possession of marked, stamped, sealed or labelled tobacco

**23.2.** Every person who purchases, possesses, stores or sells tobacco that is, or the packaging of which is, marked, stamped, sealed or labelled in such a way as to indicate the tobacco is intended for sale in a province or territory or outside Canada in contravention of section 5.1 is guilty of an offence and liable on summary conviction,

- (a) for a first offence where the amount of the tobacco does not exceed 1,000 cigarettes, 250 cigars or 2,000 g of any other form of tobacco, to a fine not less than \$200 and not exceeding \$1,000 or imprisonment not exceeding 30 days or both;

- (b) for each subsequent offence where the amount of the tobacco does not exceed 1,000 cigarettes, 250 cigars or 2,000 g of any other form of tobacco, to a fine not less than \$500 and not exceeding \$5,000 or imprisonment not exceeding six months or both;
  - (c) for a first offence where the amount of the tobacco exceeds 1,000 cigarettes, 250 cigars or 2,000 g of any other form of tobacco, to
    - (i) a fine consisting of
      - (A) not less than \$1,000 and not exceeding \$5,000, and
      - (B) an amount equal to three times the amount of tax that would have been payable under this Act if the tobacco was purchased in Nunavut,
    - (ii) imprisonment for a term not less than 10 days and not exceeding 30 days, or
    - (iii) both a fine referred to in subparagraph (i) and imprisonment for a term not exceeding 30 days; and
  - (d) for each subsequent offence where the amount of the tobacco exceeds 1,000 cigarettes, 250 cigars or 2,000 g of any other form of tobacco, to
    - (i) a fine consisting of
      - (A) not less than \$5,000 and not exceeding \$10,000, and
      - (B) an amount equal to five times the amount of tax that would have been payable under this Act if the tobacco was purchased in Nunavut,
    - (ii) imprisonment for a term not less than three months and not exceeding nine months, or
    - (iii) both a fine referred to in subparagraph (i) and imprisonment for a term not exceeding nine months.
- S.N.W.T. 1994,c.18,s.21; S.Nu. 2013,c.20,s.38(5).

#### Offences

**24.** (1) Every person who contravenes this Act or the regulations is guilty of an offence and each separate sale or transaction in contravention of this Act and, each day the contravention continues, constitutes a separate offence.

#### Offences committed by corporation

(2) If a corporation is guilty of an offence under this Act and an officer, director, employee or agent of the corporation directed, authorized, assented to, acquiesced or participated in the commission of the offence, that person is a party to and guilty of the offence, but this does not affect the liability of the corporation for the punishment provided for the offence. S.Nu. 2013,c.20,s.38(5).

### Punishment

**25.** (1) Every person who is guilty of an offence under this Act for which no specific punishment is provided is liable on summary conviction,

- (a) for a first offence, to
  - (i) a fine of not less than \$500 and not exceeding \$1,000,
  - (ii) imprisonment for a term of not less than 10 days and not exceeding 30 days, or
  - (iii) both a fine referred to in subparagraph (i) and imprisonment for a term not exceeding 30 days; and
- (b) for each subsequent offence, to
  - (i) a fine of not less than \$1,000 and not exceeding \$5,000,
  - (ii) imprisonment for a term of not less than three months and not exceeding six months, or
  - (iii) both a fine referred to in subparagraph (i) and imprisonment for a term not exceeding six months.

### *Idem*

(2) Every person who fails to collect the tax imposed by this Act is liable on summary conviction

- (a) to a fine equal to the amount of the tax, including any arrears, penalties and interest, that should have been collected, as determined under subsection (3), and, in addition, to a fine of not less than \$100 and not exceeding \$1,000 and costs; and
- (b) in default of payment, to imprisonment for a term not exceeding three months.

### Amount of tax

(3) The Minister shall determine the amount of the tax referred to in subsection (2) from the information that is available to the Minister, and shall issue a certificate as to the amount, but, except where the Minister considers there has been deliberate evasion of this Act, the Minister shall not consider a period of greater than three years in determining the amount of tax.

### Certificate

(4) In a prosecution under subsection (2), a certificate signed or purported to be signed by the Minister stating the amount of tax that should have been collected is, without proof of appointment or signature, and in the absence of evidence to the contrary, proof of the amount of the tax that should have been collected.

### Information or complaint

(5) Any information or complaint in respect of an offence under this Act may be for one or more than one offence, and no information, complaint, warrant, conviction, or other proceeding in a prosecution under this Act is objectionable or insufficient by reason of the fact that it related to two or more offences.

#### Remedy for recovery

(6) Nothing contained in this section or the enforcement of any punishment under this section suspends or affects any remedy for the recovery of any tax payable under this Act. S.N.W.T. 1994,c.18,s.3,22.

#### Proof of registration

**26.** (1) In a prosecution brought against a dealer who is required to register under this Act, the application form of the dealer is, in the absence of evidence to the contrary, proof that the person charged is a dealer registered under this Act, and the return form of the dealer is, in the absence of evidence to the contrary, proof that the dealer collected the tax.

#### *Idem*

(2) Where the dealer is described as a partnership on the application form, the application form is, in the absence of evidence to the contrary, proof that the persons named in the application form are partners registered as such under this Act, and the return form is, in the absence of evidence to the contrary, proof that the partnership firm collected the tax.

#### Limitation period

**27.** A prosecution for an offence under this Act may not be commenced after six years from the time when the subject-matter of the prosecution arose, except that in the case of fraud, no limitation applies.

## REGULATIONS

#### Taxable price per cigarette

**28.** (1) The Minister may make regulations prescribing a price per cigarette as the taxable price per cigarette.

#### Determining taxable price per cigarette

(2) In determining the taxable price per cigarette, the Minister shall use the median price obtained by the Minister from the prescribed periodic sampling of the retail price, excluding the tax imposed by this Act, of cartons of 200 cigarettes in the prescribed place.

#### When change in taxable price per cigarette effective

(3) Despite anything in this Act, no change in the taxable price per cigarette shall come into force until at least seven days after the registration of a regulation prescribing a different taxable price per cigarette. R.S.N.W.T. 1988,c.27(Supp.),s.16; S.N.W.T. 1994,c.18,s.23; S.N.W.T. 1998,c.36,Sch.D,s.1; S.Nu. 2013,c.20,s.38(5).

#### Taxable price per gram of tobacco

**28.1.** (1) The Minister may make regulations prescribing the taxable price per gram of tobacco.

#### Determination of taxable price per gram of tobacco

(2) In determining the taxable price per gram of tobacco, the Minister shall use the median price obtained by the Minister from the prescribed periodic sampling of the retail price, excluding the tax imposed by this Act, of 200 g tins of tobacco in the prescribed place.

#### Change of taxable price

(3) Subsection 28(3) applies, with such modifications as the circumstances require, to a change in the taxable price per gram of tobacco.

#### Deemed commencement of certain regulation

(4) The amendment to the *Tobacco Tax Regulations*, registered under the *Statutory Instruments Act* on October 7, 1991 under registration number R-109-91 is deemed

- (a) to have come into force on October 1, 1991; and
- (b) to have repealed section 3 of the amendment to the *Tobacco Tax Regulations*, registered under the *Statutory Instruments Act* on September 20, 1991 under registration number R-104-91.  
R.S.N.W.T. 1988,c.27(Supp.),s.16; S.N.W.T. 1991-1992,c.15,s.1;  
S.N.W.T. 1994,c.18,s.23; S.N.W.T. 1998,c.36,Sch.D,s.1.

#### Regulations prescribing place of sampling

**28.2.** The Minister may make regulations prescribing the place at which the samplings referred to in subsections 28(2) and 28.1(2) must be done.

S.N.W.T. 1998,c.36,Sch.D,s.2.

#### Regulations

**29.** On the recommendation of the Minister, the Commissioner may make regulations for carrying into effect the purposes and provisions of this Act and, without restricting the generality of this power to make regulations, may make regulations

- (a) prescribing forms and records to be used or kept for the purposes of this Act or the regulations;
- (b) respecting the method of collection and remittance of the tax and any other conditions or requirements affecting collection and remittance;
- (b.1) respecting import permits;
- (b.2) respecting the application of payments made under subsection 5(2) to tax payable under this Act and the refund of payments made under subsection 5(2);
- (c) respecting the appointment of collectors;
- (d) prescribing the remuneration to be paid to collectors;
- (e) prescribing the duties of collectors;
- (f) respecting the rate of interest on refunds and the manner of payment of the interest;
- (g) defining any expression used in this Act or the regulations that is not defined in this Act;



- (h) exempting certain tobacco products, sales of tobacco, dealers or purchasers from the provisions of this Act or the regulations;
- (i) respecting the registration of dealers and the issuing of permits to dealers;
- (j) establishing a system of permits to be used by dealers;
- (j.1) prescribing offences the conviction of which allows the Minister, under section 22.1, to refuse to issue a permit or, under section 22.2, to cancel or suspend a permit;
- (j.2) respecting the marking, stamping, sealing or labelling of tobacco or tobacco packaging;
- (j.3) respecting tobacco or tobacco packaging that is or is not marked, stamped, sealed or labelled;
- (k) prescribing the periodic sampling to be used for obtaining a median price under subsections 28(2) and 28.1(2);
- (l) prescribing the taxable price per cigarette and the taxable price per gram of tobacco; and
- (m) prescribing any matter or thing that by this Act may or is to be prescribed.

R.S.N.W.T. 1988,c.27(Supp.),s.17; S.N.W.T. 1994,c.18,s.24.