

## Tax Information

## **Bulletin 5052**

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**Bulletin:** 5052 R3  
**Date:** March 23, 2009  
**Subject:** Notice of Amendments to Part III of the Revenue Act and Revenue Act Regulations - Requirements for Tobacco Marking and Tobacco Tear Tape Manufacturer's Permit

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This Bulletin contains important information for tobacco manufacturers and tobacco tear tape manufacturers.

### Highlights

- The effective date of the amendments to the regulations is **June 16, 2006**.
- The Revenue Act and the regulations have been amended to provide for enhanced control of tobacco tear tape.
- Tear tape must be pressure sensitive.
- The background color of the indicium for tear tape must be **opaque** pantone purple U 100%.
- No person shall manufacture, sell or distribute tear tape for use in Nova Scotia unless the person has been issued a tear tape manufacturer's permit.
- Tear tape manufacturers may only sell, distribute or deliver tear tape to holders of a valid and current permit to mark tobacco.
- No person shall sell, distribute or possess tear tape for use in Nova Scotia unless permitted under the *Revenue Act or Revenue Act Regulations*.
- Tobacco manufacturers who hold a permit to mark tobacco must obtain tear tape from a person who holds a tear tape manufacturer's permit.
- Manufacturers of tobacco and tear tape manufacturers must account for all tear tape in their possession and allow auditors, compliance officers or any person appointed by the Commissioner to inspect, audit and examine any premises, equipment, books of account, records or documents that may relate to the possession, manufacture, sale, distribution or delivery of tear tape.
- Fines may be imposed for non-compliance with the *Revenue Act and Revenue Act Regulations*.
- Enhanced marking requirements for tobacco tear tape.
- Record keeping requirements of tear tape for tobacco manufacturers and tear tape manufacturers.
- The fee for issuing or renewing a tobacco tear tape manufacturer's permit is subject to change. Refer to Bulletin 5048 for the current fee.
- The term "NS" must be printed in a visible location on the external side of a package of cigarettes. This provision relates to packages of cigarettes and not tear tape.

### Definitions

"tear tape" means a pressure-sensitive plastic ribbon that is wrapped around a package of cigarettes or fine-cut tobacco to enable the opening of the cellophane wrapping that encloses the package.

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“tear tape manufacturer” means a person who manufacturers or otherwise acquires tear tape for the purpose of selling or distributing it.

## **Tobacco Tear Tape Manufacturer’s Permit**

### **Permit Application, Permit Renewal and Expiry Date**

Tear tape manufacturers must obtain a permit to manufacture or otherwise acquire tear tape for the purpose of sale or distribution. The Commissioner may issue a tear tape manufacturer’s permit upon application to a person who meets the requirements of the regulations and submits the prescribed fee. The tear tape manufacturer’s permit may contain conditions and restrictions that the Commissioner considers appropriate. This permit expires at the end of the 12 month period immediately following the date the tear tape manufacturer’s permit is issued or renewed.

### **Permit Cancellation, Suspension, Refusal to Issue or Renew**

The Commissioner may cancel, suspend, refuse to issue or refuse to renew a tear tape manufacturer’s permit for any of the following reasons:

- the tear tape manufacturer contravenes the *Revenue Act* or *Revenue Act Regulations*;
- the permit application contains a false statement;
- the tear tape manufacturer breaches an agreement entered into under the *Revenue Act* or *Revenue Act Regulations*;
- the tear tape manufacturer fails to comply with a condition or restriction attached to the permit by the Commissioner; or
- the Commissioner is otherwise not satisfied as to the ability or fitness of the applicant to manufacture tear tape.

Further, the Commissioner shall cancel a tobacco tear tape manufacturer’s permit if the holder of the permit is convicted of an offence under the *Criminal Code* (Canada), the *Excise Tax Act* (Canada) or the *Income Tax Act* (Canada). The period of time a permit remains cancelled is determined by the Commissioner in consideration of the circumstances.

A tobacco tear tape manufacturer’s permit may not be cancelled without the following:

- prior written notice of cancellation must be provided to the permit holder either by personal service or by mail along with the date of cancellation and the reasons for the cancellation;  
and
- the permit holder must be provided an opportunity to be heard by the Commissioner before the date of cancellation and to show cause why the permit should not be cancelled.

A notice of cancellation of a permit is effective on the date the notice is served or, if served by regular mail, 10 days after it is mailed.

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## Holders of Tobacco Tear Tape Manufacturer's Permit - Changes to Business or Sale of Shares

- ▶ A tear tape manufacturer's permit is not transferable.
- ▶ If a majority of the voting shares of a corporation are transferred by a bonafide sale, a tear tape manufacturer's permit is no longer valid from the date of the transfer.

Permit holders shall immediately notify the Commissioner in writing with respect to any of the following:

- changes in the name of the manufacturer's business;
- changes to the nature of manufacturer's business; or
- termination of the business.

## Tear Tape Manufacturers Record Keeping Requirements and Marking Requirements

Permit holders are required to comply with the following:

- mark all tear tape intended for use in Nova Scotia in accordance with section 76 of the regulations;
- account for and safeguard all tear tape in their possession;
- keep and maintain records and books of account for tear tape intended to be used in Nova Scotia including but not limited to:
  - ▶ amount of tear tape manufactured or acquired;
  - ▶ amount of tear tape sold;
  - ▶ names and addresses of all persons to whom tear tape is sold;
  - ▶ dates of all sales of tear tape;
  - ▶ dates of shipment for sales of tear tape;
  - ▶ all invoices issued on sales of tear tape; and
- retain all records until written permission is received from the Commissioner for their disposal.

## Tear Tape Manufacturer's Return

Every person who holds a tear tape manufacturer's permit shall deliver to the Commissioner a return by the 20<sup>th</sup> day of each month that shows the amount of all tear tape sold in the previous month and such other information as the Commissioner may require from time to time.

## Changes to Tobacco Marking Requirements

The background color of the indicium for the tear tape and stamps required under section 76 of the regulations is amended by the addition of the word "**opaque**" before "**pantone purple U 100%**."

In addition to the above noted markings for tear tape and stamps the following is also required:

- Tear tape shall include a code or symbol to identify the tear tape manufacturer. The code or symbol must be submitted for approval prior to the issuance of the tear tape manufacturer's permit. The code or symbol must be approved by the Commissioner.
- The term "NS" shall be printed or embossed in a visible location on the external side of a package of cigarettes which is intended to be sold in Nova Scotia to a consumer who is required to pay tax.

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## Tear Tape Record Keeping Requirements for Tobacco Manufacturers Who Hold a Permit to Mark Tobacco

Tear tape record requirements for tobacco manufacturers are as follows:

- ▶ acquire all tear tape from a person who holds a tear tape manufacturer's permit;
- ▶ account for all tear tape;
- ▶ safeguard all tear tape in their possession;
- ▶ keep and maintain records and books of account for all tear tape used in marking tobacco sold or intended to be sold in Nova Scotia;
- ▶ retain all records required under the regulations; and
- ▶ no records shall be disposed without written permission from the Commissioner.

### Prohibitions

- No person shall manufacture, sell or distribute tear tape for use in Nova Scotia without a current and valid tear tape manufacturer's permit.
- Tear tape manufacturers shall not sell, distribute or deliver tear tape to a person unless that person holds a permit to mark tobacco.
- No person shall sell, distribute or possess tear tape for use in Nova Scotia unless permitted under the *Revenue Act* or the regulations.

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