

THE TOBACCO TAX ACT

SALE OF TOBACCO ON INDIAN RESERVES

This bulletin explains the Regulation that establishes a limit on refunds available to retailers on reserves that sell exempt tobacco and the responsibilities of tobacco retailers on these reserves in respect of the sale of tobacco.

GENERAL INFORMATION

Under section 87 of the *Indian Act* (Canada), the personal property of an Indian situated on a reserve is exempt from taxation. The *Tobacco Tax Act* and Regulation establish refund limits for tobacco retailers situated on a reserve to facilitate the exempt retail sale of tobacco to adult First Nation purchasers for their personal use.

REFUND LIMIT FOR RETAILERS

Reserve's Refund Limit

- This Regulation establishes a monthly limit on refunds available to tobacco retailers on reserves selling exempt tobacco. The monthly refund limit for retailers located on these reserves is determined by considering the following factors:
 - the reserve's adult band members who reside either on or off the reserve,
 - the general smoking patterns and tobacco use of adult First Nation individuals in Manitoba, and
 - special events or circumstances taking place on the reserve.

Allocation of Reserve's Refund Limit

- The Chief and Council of a Band are authorized to:
 - allocate the reserve's monthly refund limit determined under the Regulation among the retailers located on the reserve, and notify the Taxation Division of the allocation;
 - adjust the allocation and notify the Taxation Division of the adjustment;
 - request that the Taxation Division temporarily increase the reserve's monthly refund limit to take into account special events or circumstances on the reserve.
- The Taxation Division will notify each of the reserve's tobacco retailers of their allocation of the reserve's monthly refund limit, and of any adjustments to that allocation.
- Where a Chief and Council elect not to allocate the monthly refund limit among the reserve tobacco retailers, the Taxation Division will make the allocation, taking into account the number of reserve retailers and their

volume of tobacco sales. If the Taxation Division is unable to determine their volume of tobacco sales, the monthly refund limit will be allocated equally.

RESPONSIBILITIES OF TOBACCO RETAILERS

A Retail Dealer's Licence prohibits the sale of tobacco by the retailer to other persons for the purposes of resale. Tobacco retailers are required to monitor their sales to ensure that they represent a pattern for personal use. Refunds to retailers will be limited to sales of tobacco to purchasers for their personal use.

Documentation Required for Exempt Sales

- Retailers located on a reserve are required to obtain the following documentation before a point of sale exemption is provided on sales to First Nation purchasers.
 - purchaser's name and address
 - purchaser's signature
 - purchaser's Certificate of Indian Status card number
 - date of sale
 - type and quantity of tobacco purchased

Personal Use of Tobacco

- The following guidelines are intended to assist tobacco retailers carry out their responsibilities as a Retail Tobacco Dealer to determine whether or not the sale of tobacco is for personal use.
 - Cigarettes are generally sold to individuals in quantities of 1 carton or less. When a tobacco retailer repeatedly sells cigarettes in 2 carton quantities, this is an indication that the sale of tobacco is not for personal use.
 - Frequent purchases of 2 or more cartons by the same individual are an indication that the cigarettes are not being purchased for personal use.
 - When individuals arrive in groups to purchase 2 cartons each, it is unlikely that they are purchasing cigarettes for their own use. In such situations it would be reasonable for the retailer to limit sales to these purchasers.
 - Statistics of tobacco use of adult First Nation individuals in Manitoba indicate that 74% of smokers consume between 1 and 3 cartons per month, 21% consume between 3 and 4 cartons a month and 4% consume over 4 cartons a month. These statistical consumption rates will be used as guidelines in determining reasonable tobacco consumption for personal use.
- Ceremonial fine cut tobacco is considered for personal use.

FURTHER INFORMATION

This bulletin is intended to serve as a guideline and is not all-inclusive. For the specific wording of the law, please refer to the *Tax Administration and Miscellaneous Taxes Act and Regulations*.

Further information may be obtained from:

Winnipeg Office

Manitoba Finance
Taxation Division
101 - 401 York Avenue
Winnipeg, Manitoba R3C 0P8
Telephone (204) 945-5603
Manitoba Toll-Free 1-800-782-0318
Fax (204) 948-2087

Westman Regional Office

Manitoba Finance
Taxation Division
314, 340 - 9th Street
Brandon, Manitoba R7A 6C2
Fax (204) 726-6763

E-mail: MBTax@gov.mb.ca

ONLINE SERVICES

Our web site at manitoba.ca/finance/taxation provides tax forms and publications about taxes administered by Taxation Division, and a link to Manitoba's laws and regulations. Forms and publications can also be obtained by contacting the Taxation Division.

Our online service at manitoba.ca/TAXcess provides a simple, secure way to apply for, and to file, pay and view your Taxation Division tax accounts.