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> [EDM3-1-1 Producers and Packagers of Spirits](#)

# Producers and Packagers of Spirits

From: **Canada Revenue Agency**

Excise Duty Memorandum EDM3-1-1

October 2022

This version replaces the one dated January 2013. This memorandum was updated to include information about the Canadian compositional standards for exported distilled spirit products and the age and origin certificate program. It also cancels and replaces Excise Duty Notices EDN8, *Age and Origin Certificates for Exported Distilled Spirits*, and EDN23, *Issuance of Age and Origin Certificates*.

The *Excise Act, 2001* requires a person to obtain a spirits licence in order to produce or package spirits. This memorandum provides an overview of the responsibilities and requirements related to producers and packagers of spirits.

Except as otherwise noted, all statutory references in this publication are to the provisions of the *Excise Act, 2001*. The information in this publication does not replace the law found in the Act and its regulations.

If this information does not completely address your particular situation, you may refer to the Act or relevant regulation, or contact your CRA regional excise office for additional information. The offices are listed at [Contact Information – Excise and Specialty Tax Directorate](#).

## Table of Contents

- [Requirement for a spirits licence](#)
  - [Producing and packaging spirits](#)
  - [Security](#)
- [Obtaining a spirits licence](#)
- [Obtaining other licence types](#)
  - [Excise warehouse licence](#)
- [Possession and transportation of bulk spirits](#)
- [Possession of a still](#)
- [Determining the volume of alcohol](#)

- Imposition and payment of excise duty on bulk spirits
  - Responsibility and imposition
  - Liability for excise duty
  - Relief of excise duty
  - Rates of excise duty
  - Special duty
- Spirits taken for analysis or destroyed
- Canadian compositional standards for exported distilled spirit products
- Maintaining records and filing returns
  - Keeping records
  - Filing returns and making payments
  - Reporting periods
  - Branches or divisions filing separate returns
- Claiming refunds
- Enforcement

## Requirement for a spirits licence

1. A person that has a spirits licence under the Act (that is, a spirits licensee) is authorized to produce or package spirits in Canada. A spirits licence also allows a spirits licensee to import, export, denature, possess and transport bulk spirits.

2. **Spirits** is defined under section 2 to mean any material or substance containing more than 0.5% absolute ethyl alcohol by volume, excluding wine, beer, vinegar, denatured alcohol, specially denatured alcohol, fusel oil or other refuse produced as a result of the distillation process or an approved formulation. Also excluded from the definition of spirits is any product that is not consumable as a beverage that contains, or is manufactured from, beer, vinegar, denatured alcohol, specially denatured alcohol, fusel oil or other refuse produced as a result of the distillation process or an approved formulation.

3. **Produce**, in respect of spirits, is defined under section 2 to mean to bring spirits into existence by distillation or by any other process, or to recover spirits. Spirits produced through distillation are considered to have come into existence at the earliest point at which they can be reasonably measured after leaving the column of a still.

4. Beer or malt liquor of alcohol strength greater than of 11.9% is excluded from the definition of **beer** in section 4 of the *Excise Act* and falls within the definition of **spirits**. This means that all producers or importers of such high alcohol beer or malt liquor are considered to be producing or importing spirits even though the product is produced without distillation.

5. **Packaged**, in respect of spirits, is defined in section 2 to mean packaged in a container with a capacity of not more than 100 litres, which is ordinarily sold to consumers without being further repackaged into smaller containers. Packaging of spirits also includes the marking of a special container of spirits.

## Producing and packaging spirits

6. Under subsection 60(1), a person is prohibited from producing or packaging spirits unless they have a spirits licence. Unlike the production of wine and beer for personal use, there is no exemption for a person to produce spirits for personal use.

7. Subsection 60(2) sets out an exception to this rule and provides that a spirits licence is not required to produce or package spirits for either of the following specific purposes:

- a. packaging spirits from a marked special container by an individual (that is, a purchaser) at an authorized bottle-your-own premises
- b. producing spirits for the purpose of analyzing the composition of a product containing absolute ethyl alcohol or as a consequence of such analysis

8. Under subsections 14(2) and 14(3), a person is not entitled to a spirits licence solely because they are deemed to have done one of the following:

- packaged spirits by marking a special container
- produced spirits by blending spirits with wine
- produced spirits by blending a material or substance, other than spirits or wine, that contains absolute ethyl alcohol with wine or spirits
- produced spirits for the purpose of or as a consequence of the analysis of the composition of the substance containing absolute ethyl alcohol

9. A **marked special container**, in respect of spirits, is a container of a capacity greater than 100 litres but not more than 1,500 litres that has been marked in the prescribed form and manner to indicate that it is intended for delivery to and use by a registered user or at bottle-your-own premises.

10. For additional information on marked special containers, refer to [Excise Duty Memorandum EDM3-8-1, Special Containers of Spirits](#). For additional information on the blending of spirits and wine, refer to [Excise Duty Memorandum EDM3-1-2, Licensed Users](#).

11. For the purposes of section 87 of the Act and section 1 of the *Regulations Respecting the Information to be Displayed on Alcohol Containers and their Packaging*, all spirits licensees that package spirits must ensure that immediately after the spirits are packaged, the spirits container (for example, the bottle) and any packaging encasing that container display one of the following:

- the name and address of the spirits licensee that packaged the spirits
- their licence number

12. For more information on the requirements for information to be displayed on containers of spirits, refer to [Excise Duty Memorandum EDM3-2-3, Labelling of Containers of Spirits](#).

## Security

13. Under paragraph 23(3)(b), a person applying for or renewing a spirits licence is required to provide and maintain security in a form satisfactory to the Canada Revenue Agency (CRA). The amount of security required for a spirits licence is not less than \$5,000 and not more than \$2 million. It must be sufficient to ensure payment of all amounts for which the licensee is or will be responsible under the Act. For information on security, refer to [Excise Duty Memorandum EDM2-2-2, Security Requirements for Certain Licensees and for Prescribed Persons Importing Tobacco Products](#).

## Obtaining a spirits licence

14. For instructions and requirements for obtaining a spirits licence, refer to [Excise Duty Memorandum EDM2-2-1](#),

### Obtaining and Renewing a Licence.

15. In accordance with section 4 of the *Regulations Respecting Excise Licences and Registrations*, a spirits licence is valid for a maximum period of two years. The licensing letter issued by the regional excise office will specify the effective date and expiry date of the licence.

## Obtaining other licence types

16. Depending upon the activities of a spirits licensee, the licensee may be required to possess other types of licences. For example, a spirits licensee may require an excise warehouse licence, a wine licence or a user's licence.

17. For additional information on the types of licences and the activities that may be performed under those licences, refer to Excise Duty Memorandum EDM2-1-1, Licence Types.

### Excise warehouse licence

18. Excise duty must be paid on spirits at the time they are packaged unless they are immediately entered into an excise warehouse, as spirits licensees are not permitted to possess non-duty-paid packaged spirits. Excise duty does not have to be paid until the packaged spirits are removed from the excise warehouse. Therefore, spirits licensees often possess a separate excise warehouse licence to store non-duty-paid packaged spirits.

## Possession and transportation of bulk spirits

19. Subsection 70(2) provides that a spirits licensee may possess and transport bulk spirits that are produced or imported by a spirits licensee. An alcohol registrant may also transport or store bulk spirits on behalf of a spirits licensee.

20. For additional information on the transportation or storage of bulk spirits by alcohol registrants, refer to Excise Duty Memorandum EDM3-1-4, Alcohol Registrants.

## Possession of a still

21. Under section 61, a person is prohibited from possessing a still or other equipment suitable for the production of spirits with the intent of producing spirits unless one of the following applies:

- a. the person is a spirits licensee
- b. the person has a pending application for a spirits licence
- c. the person possesses the still or equipment solely for the purpose of producing spirits for the purpose or as a consequence of the analysis of the composition of a substance containing absolute ethyl alcohol

22. An application is considered to be pending when a person has submitted all information and documentation required to obtain a spirits licence to the CRA. This includes a fully completed Form L63, Licence and Registration Application Excise Act, 2001, a detailed business plan, a list of premises to be covered by the licence, and the required security.

23. It is not prohibited to possess a still that is to be used for purposes other than the production of spirits, such as the purification of water. There is no licence or registration required under the Act to possess a still for uses other than the production of spirits.

## Determining the volume of alcohol

24. Under subsection 148(1), spirits licensees are required to determine the volume and absolute ethyl alcohol content of alcohol in a manner specified by the CRA using approved instruments. The CRA has approved several types of instruments for this purpose, including thermometers, hydrometers and mass flow measuring systems. However, each individual instrument that a spirits licensee uses for excise duty purposes must also be approved by the CRA.

25. For information relating to specifications and procedures to follow in determining the volume and alcohol strength, refer to [Excise Duty Memorandum EDM1-1-5, Instrument Certification](#).

## Imposition and payment of excise duty on bulk spirits

### Responsibility and imposition

26. Section 104 stipulates that the person that is responsible for bulk spirits is liable for the excise duty on them.

27. Under section 122, excise duty is imposed on spirits at the time they are produced in Canada. At that time, an excise duty liability is established, and the person responsible for the bulk spirits at that time is liable for the duty.

28. A customs duty equivalent to excise duty is imposed on imported bulk spirits at the time they are imported. Generally, the spirits licensee that owns the bulk spirits is responsible for them. However, there are occasions when a spirits licensee does not own the bulk spirits. If a spirits licensee does not own the bulk spirits, then the responsibility falls on the spirits licensee or licensed user that last owned them. If no licensee ever owned the bulk spirits, then the responsibility falls on the spirits licensee that imported or produced them or the licensed user that imported them.

### Liability for excise duty

29. Under the Act, the person responsible for bulk spirits is liable for the excise duty on them until such time as that excise duty is paid or relieved, or when the responsibility or liability for the spirits is transferred. Excise duty becomes payable at the time the spirits are packaged or taken for use or when they cannot be accounted for. The responsibility and the accompanying excise duty liability may be transferred when the bulk spirits are sold to another licensee. Alternatively, the spirits may be packaged and immediately entered into an excise warehouse, and the excise warehouse licensee becomes liable for the excise duty on the spirits.

### Relief of excise duty

30. Under the Act, excise duty may be relieved if the bulk spirits are taken for analysis or destroyed in an approved manner, denatured into denatured alcohol or specially denatured alcohol, exported, used or lost in specific circumstances and conditions as set out in the *Losses of Bulk Spirits and Packaged Alcohol Regulations*.

31. For additional information on losses of spirits, including unaccounted losses and prescribed losses, refer to [Excise Duty Memorandum EDM3-4-1, Losses of Spirits](#).

### Rates of excise duty

32. The rates of excise duty applicable to spirits are set out in Schedule 4 to the Act. For a listing of current and historical rates, go to [Excise Duty Rates](#).

## Special duty

33. There is also a special duty on imported spirits delivered to or imported by a licensed user. The rate of special duty is set out in Schedule 5 to the Act. For the rate of special duty on spirits, go to [Excise Duty Rates](#).

34. When a spirits licensee imports bulk spirits and delivers them to a licensed user, subsection 133(2) states that the special duty is always paid by a spirits licensee regardless of whether the spirits licensee is responsible for or owns the spirits.

## Spirits taken for analysis or destroyed

35. For a spirits licensee to be relieved of the liability on bulk spirits that are taken for analysis or destroyed, the method used must be approved by the CRA. Generally, a licensee must submit a written request for approval to their regional excise office specifying particular information (the location and method of destruction, whether the approval is for a specific circumstance or for all destructions, the controls in place, etc.). In addition, a licensee must maintain adequate records to support the claim.

36. Spirits licensees should contact their regional excise office for further information and to have their methodology approved before destroying or analyzing spirits. Refer to [Contact Information – Excise and Specialty Tax Directorate](#), for a listing of these offices.

## Canadian compositional standards for exported distilled spirit products

37. Compositional standards exist for Canadian spirit products, such as Canadian Whisky. These standards can be found in Division 2 of the [Food and Drug Regulations](#).

38. Certain of Canada's trading partners require as a condition for importing distilled spirits from Canada that the distilled spirits be accompanied by a certificate issued and signed by a duly authorized official of the Government of Canada attesting to the age and origin of the distilled spirits. The terms and conditions for the issuance of certificates can be found in the [Certificates of Age and Origin for Distilled Spirits Produced or Packaged in Canada Order](#) under the [Department of Agriculture and Agri-Food Act](#).

39. CRA officers have been designated to issue and sign certificates of age and origin for spirits products destined for export. For information on how to obtain certificates, contact your regional excise office.

## Maintaining records and filing returns

### Keeping records

40. Under subsection 206(1), every person that has a licence under the Act is required to maintain all records that are necessary to determine whether they are in compliance with the Act.

41. For additional information on the requirement to maintain books and records, refer to [Excise Duty Memorandum EDM9-1-1, General Requirements for Books and Records](#).

### Filing returns and making payments

42. Under section 160, every spirits licensee is required to file [Form B266, Excise Duty Return – Spirits Licensee](#), for each reporting period and to calculate and remit any excise duty payable on that return. The return and payment are due by the last day of the fiscal month after the reporting period. A licensee that has more than one licence is required to file a separate return for each licence. For example, a spirits licensee that also has an excise warehouse licence is required to file [Form B262, Excise Duty Return – Excise Warehouse Licensee](#), in addition to Form B266.

## Reporting periods

43. The default reporting period is a fiscal month; however, an authorized licensee may file excise duty returns twice a year (that is, semi-annual or fiscal half-year reporting periods).

44. For additional information on reporting periods and how to determine eligibility and apply for semi-annual reporting, refer to [Excise Duty Memorandum EDM10-1-1, Returns and Payments](#).

## Branches or divisions filing separate returns

45. Under subsection 164(1), spirits licensees that have branches or divisions with distinct operations under their spirits licence may apply to the CRA for authority to file separate returns for each branch or division. This request can be made by completing [Form B269, Application or Revocation of the Authorization to File Separate Excise Duty Returns and Refund Applications for Branches or Divisions](#).

46. For additional information with respect to filing returns, remitting excise duty and paying the correct amounts of excise duty, refer to Excise Duty Memorandum EDM10-1-1. For information and instructions on how to complete a spirits licensee's excise duty return ([Form B266](#)), refer to [Excise Duty Memorandum EDM10-1-7, Completing an Excise Duty Return – Spirits Licensee](#).

## Claiming refunds

47. Under section 175, a spirits licensee that paid an amount as excise duty, interest or other amount payable under the *Excise Act, 2001* in circumstances where the amount was not payable, whether it was paid by mistake or otherwise, may apply to receive a refund of that amount. A refund or deduction of excise duty can only be claimed by submitting a completed [Form B256, Excise Act, 2001 – Application for Refund](#).

48. Subsection 189(4) stipulates that a refund shall not be paid to a spirits licensee until that licensee has filed with the CRA or the Canada Border Services Agency all returns or other records that are required to be filed under the *Excise Act, 2001*, the *Air Travellers Security Charge Act*, the *Customs Act*, the *Excise Act*, the *Excise Tax Act*, the *Income Tax Act* and the *Underused Housing Tax Act*.

49. For additional information concerning the process and the legislative requirements for obtaining a refund or a deduction, refer to [Excise Duty Memorandum EDM10-3-1, Refunds](#).

## Enforcement

50. If a person fails to comply with the conditions or requirements of their licence, they may be subject to a penalty or face charges under the *Excise Act, 2001*.

## Further information

For all **technical publications** related to the *Excise Act, 2001* and its regulations, go to [Excise duties technical information under the Excise Act, 2001](#).

To make a **general** or **technical enquiry** on excise duties or to request a **ruling** or **interpretation** related to excise duties, go to [Contact Information – Excise and Specialty Tax Directorate](#).

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