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Service Agreements in Respect of Cannabis Products and Intra-Industry Sale of Cannabis Products

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Excise Duty Notice EDN84

January 2023

The purpose of this notice is to provide information to cannabis licensees regarding the authorization of service agreements between two licensed cannabis producers.

Except as otherwise noted, all statutory references in this publication are to the provisions of the *Excise Act, 2001*. In addition, all references to the “*Regulations*” are to the *Stamping and Marking of Tobacco, Cannabis and Vaping Products Regulations*.

The information in this publication does not replace the law found in the Act and its regulations. It is based on amendments to the Act and the Regulations under [Bill C-32, Fall Economic Statement Implementation Act, 2022](#), which received royal assent on December 15, 2022.

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](#).

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On April 7, 2022, the Minister of Finance tabled Budget 2022, which included a proposal to allow certain cannabis licensees to enter into service agreements in respect of cannabis products to facilitate the packaging and stamping of cannabis products. As a result of the amendments to the Act and the Regulations under [Bill C-32, Fall Economic Statement Implementation Act, 2022](#), the Canada Revenue Agency (CRA) may authorize these service agreements between two licensed cannabis producers as long as certain conditions are met.

Overview

Service agreements are a contract between two cannabis licensees:

- i. a particular cannabis licensee that produces (that is, cultivates or processes) cannabis products, other than a cannabis licensee that is a producer solely because they are packaging cannabis products
- ii. another cannabis licensee that packages, and/or affixes cannabis excise stamps to, cannabis products for the particular cannabis licensee

The following activities are permitted under the Act when the CRA authorizes the service agreement:

- the transfer of cannabis excise stamps and unpackaged, or packaged but unstamped, cannabis products from a particular cannabis licensee to another cannabis licensee
- the completion of packaging and/or stamping activities on behalf of the particular licensee and the entry of the cannabis products into the duty-paid market by the other licensee

The particular cannabis licensee is the licensee that is responsible for the cannabis under section 158.17 of the Act, which is the licensee that owns the cannabis. The particular licensee maintains responsibility for, and ownership of, the cannabis products and cannabis excise stamps at all times under an authorized service agreement. The particular cannabis licensee must pay the excise duty on cannabis products that have been stamped by the other licensee.

Service agreements

Under the amendments, the activities that are permitted under an authorized service agreement could include:

- Agreement for packaging: A particular cannabis licensee sends their cannabis products to another cannabis licensee for packaging. The other licensee returns the packaged, unstamped cannabis products to the particular cannabis licensee.
- Agreement for packaging and stamping: A particular cannabis licensee sends their cannabis products and cannabis excise stamps to another cannabis licensee for packaging and stamping. The other cannabis licensee affixes the particular cannabis licensee's stamps to the cannabis products, and the packaged and stamped products are then entered into the duty-paid market from the other licensee's premises when they are sold by the particular cannabis licensee, or they are returned to the particular cannabis licensee.
- Agreement for distribution: A particular cannabis licensee sends their packaged cannabis products and cannabis excise stamps to another cannabis licensee that affixes the particular cannabis licensee's stamps. The packaged and stamped products are then entered into the duty-paid market from the other licensee's premises when they are sold

by the particular cannabis licensee, or they are returned to the particular cannabis licensee.

Example

A particular cannabis licensee (Licensee A) transfers unpackaged cannabis products and cannabis excise stamps to another licensee (Licensee B). Licensee B packages the cannabis products.

When orders are placed by provincial or territorial distributors, Licensee B affixes Licensee A's cannabis excise stamps to the cannabis products at time of delivery and ships them to the distributor. At all points in the process, Licensee A retains responsibility for the cannabis products.

Licensee A is liable for the cannabis excise duties, which are payable at the time of delivery.

Reporting responsibilities under a service agreement

The particular cannabis licensee is the cannabis licensee responsible for the cannabis products and must report all movements of cannabis and cannabis excise stamp inventories on their [Form B300, Cannabis Duty and Information Return](#), and must calculate and remit applicable excise duties upon entering the cannabis products into the duty-paid market.

The other cannabis licensee does not report any activities pertaining to the service agreement on their Form B300. Both licensees are responsible for maintaining internal records to demonstrate compliance with the authorized agreement and the overall regulatory provisions of the Act.

The particular cannabis licensee is always responsible for any cannabis products or cannabis excise stamps that cannot be accounted for and could be subject to the assessment of excise duties and penalties on these quantities.

Requirement for authorization of a service agreement

The amendments require a licensee subject to the service agreement to apply, in writing, to the CRA for the agreement to be authorized before the proposed activities specified under the agreement could begin. The application must be submitted at least 60 days before the proposed effective date of the agreement.

A licensee that conducts activities that would be subject to a service agreement without prior authorization could be subject to the imposition of a penalty of up to \$25,000.

Form and manner of applying for authorization of a service agreement

The service agreement application must be submitted by one of the cannabis licensees subject to the agreement. The application must include details of the agreement including, but not limited to:

- a copy of the commercial contract between the particular cannabis licensee and the other cannabis licensee that details the agreed scope of the activities between the two licensees
- the legal names, business numbers and physical addresses of both licensees
- the class and estimated quantity of all cannabis products subject to the service agreement

- anticipated dates of the beginning and, if applicable, the end of the service agreement
- all controls that will be in place for safeguarding the cannabis products and cannabis excise stamps

The service agreement application must be signed by an authorized officer of each of the cannabis licensees named in the agreement and submitted to the regional excise office of the particular cannabis licensee. These offices are listed at [Contact Information – Excise and Specialty Tax Directorate](#).

A sample of an acceptable form for application in respect of a service agreement is provided in Appendix A to this notice.

Authorization of the service agreement

The CRA will notify the parties to the service agreement in writing of the decision to either authorize or refuse to authorize the agreement. If the CRA authorizes the service agreement, the written notification will include the effective date of the authorization.

At any time, the CRA could specify conditions that might be considered appropriate in respect of an authorized service agreement.

The CRA will conduct ongoing reviews of both cannabis licensees subject to a service agreement to ensure activities are conducted in the approved manner, including confirming the quantity of cannabis and/or the particular cannabis licensee's excise stamps held by the other licensee.

Amendment to an authorized service agreement

As per the amendments, a licensee that is party to an authorized service agreement must immediately notify the CRA in writing when the agreement is to be amended.

Amendments to a service agreement will be treated as a new application and must be made in the same form and manner as noted above. As well, an amended service agreement must be authorized by the CRA before the amendment activities can be conducted by the other cannabis licensee.

Revocation of the authorized service agreement

If an authorized service agreement is no longer in effect, a party to the agreement must immediately notify the CRA in writing.

The CRA could also revoke an authorized service agreement if it is determined that the terms of the agreement, or any conditions specified by the CRA, have been contravened by either licensee. The CRA will issue a notice of revocation to both cannabis licensees, specifying the date of revocation.

In the case of a revocation of an authorized service agreement, the particular cannabis licensee must retrieve all cannabis products and cannabis excise stamps in the possession of the other licensee, and may be subject to assessment of excise duties and penalties on any amounts that are unaccounted for.

Intra-industry sale of packaged cannabis products

The amendments allow for the sale of fully packaged, unstamped, non-duty-paid cannabis products between cannabis licensees.

The cannabis licensee that purchases the fully packaged cannabis products becomes the cannabis licensee that is responsible for the products. They must affix their cannabis excise stamps to the cannabis products and must calculate and remit all applicable excise duties at the time of delivery to a purchaser.

Sales of fully packaged cannabis products are not subject to the requirement for an authorized service agreement. Any other movements of fully packaged, but unstamped, cannabis products where responsibility for the products is not transferred are not permitted except under the terms of an authorized service agreement.

Appendix A – Sample format of an acceptable service agreement

1. Legislative authority:

Section 5.1 of the *Stamping and Marking of Tobacco, Cannabis and Vaping Products Regulations*

2. Description of service agreement (a copy of the commercial contract must be attached):

Product(s) being packaged and/or stamped:

Start date:

Duration of agreement (if applicable):

Controls in place:

3. Particular cannabis licensee:

Legal name:

Business number:

Physical address(es):

Authorized officer

Name (print):

Signature:

Title:

4. Other cannabis licensee:

Legal name:

Business number:

Physical address(es):

Authorized officer

Name (print):

Signature:

Title:

5. Dated:

This [dd] day of [month] in the year [year].

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 request an **excise duty licence** for **cannabis products**, contact your **regional excise office**. The offices are listed at [Contact Information – Excise and Specialty Tax Directorate](#).

For all **enquiries** on the application of excise duty to cannabis products, call **1-866-330-3304** or go to [Cannabis duty](#).

For information on how to request a **ruling** or **interpretation** related to the application of excise duty to cannabis products, go to [Requesting an Excise and Specialty Tax Ruling or Interpretation](#).

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