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[Canada.ca](#) › [Canada Revenue Agency \(CRA\)](#) › [Forms and publications - CRA](#) › [Canada Revenue Agency publications listed by number](#)
› [EDN97 Information for Tobacco Manufacturers – Specified Brands of Tobacco Products \(Formerly Prescribed Brands\)](#)

EDN97 Information for Tobacco Manufacturers – Specified Brands of Tobacco Products (Formerly Prescribed Brands)

From: [Canada Revenue Agency](#).

Excise Duty Notice

September 2024

This notice provides information about changes to the process for approving brands of tobacco products to be exported and that qualify for exceptions to the marking requirements and for special duty relief under sections 38 and 58 of the *Excise Act, 2001*.

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

- [General](#)
- [Specified brands](#)
- [Requests for specified brands](#)
- [Notification by the CRA](#)
- [Brand descriptors](#)

General

On April 16, 2024, the Deputy Prime Minister and Minister of Finance tabled Budget 2024 and a Notice of Ways and Means Motion proposing amendments to the *Excise Act, 2001*, including a simplified process for approving brands of tobacco products for export to qualify for exceptions to marking requirements under subsections 38(3) and 38(4) and relief from

special duty under subsections 58(1) and 58(2). The proposal replaces the requirement for brands to be prescribed through the regulatory process by authorizing the Minister of National Revenue (Minister) to specify brands of tobacco products for export that qualify for exceptions to the marking and special duty requirements.

The proposed legislative amendments were included in Bill C-69, *Budget Implementation Act, 2024, No. 1*, which received royal assent on June 20, 2024, and came into effect on July 1, 2024.

Previously, brands were not prescribed until they were approved through a regulatory process and the brand names were published in the regulations to the Act. These regulations were repealed effective July 1, 2024. Under the new framework, a formal letter from the Canada Revenue Agency (CRA) is issued to the tobacco licensee that requested the brand, when the brand is specified by the Minister for purposes of subsections 38(3), 38(4), 58(1), or 58(2). The specified brand names are now published in [Excise Duty Notice EDN98, Specified Brands of Tobacco](#).

Specified brands

The Act provides exceptions to the marking requirements and relieves special duty on certain tobacco products for export:

- Subsection 38(3) provides an exception to the marking requirements for containers of manufactured tobacco, including cigarettes, if the manufactured tobacco is of a brand that is not commonly sold in Canada and the brand is specified by the Minister
- Subsection 38(4) provides an exception to the marking requirements for containers of cigarettes of a particular type or formulation manufactured in Canada and exported under a brand that is also applied to cigarettes of a different type or formulation manufactured and sold in Canada, if the brand is specified by the Minister and cigarettes of the type or formulation exported have never been sold in Canada under that brand or any other brand
- Subsection 58(1) relieves the special duty imposed under section 56 on tobacco products of a particular brand that is exported if the brand is specified by the Minister and tobacco products of that brand were not sold in Canada in excess of specified quantities set out in subsection 58(1)
- Subsection 58(2) relieves the special duty imposed under section 56 on cigarettes of a particular type or formulation manufactured in Canada and exported under a brand that is also applied to cigarettes of a different type or formulation manufactured and sold in Canada, if the brand is specified by the Minister and cigarettes of the type or formulation exported have never been sold in Canada under that brand or any other brand

Requests for specified brands

Tobacco licensees that would like to have a brand of tobacco products specified for the purposes of subsections 38(3), 38(4), 58(1), or 58(2) must submit a detailed business plan and supporting information in respect of the brand, which should include all of the following:

- quantities of tobacco products of the brand sold in Canada during the current calendar year and any previous calendar years
- intended export markets, including contracts in place, in development, or under negotiation
- details of product and packaging graphics for the intended market
- business projections that forecast production volume and sales volume

In addition to the information above, tobacco licensees that would like to have a brand of cigarettes specified for the purposes of subsection 38(4) or 58(2) must also submit:

- details on the cigarette type or formulation for export
- an explanation of how it differs from the Canadian product in terms of physical characteristics before and during consumption

The CRA may contact tobacco licensees to request product samples for laboratory analysis.

Tobacco licensees may submit requests for specified brands and accompanying documentation electronically using "Submit documents" in [My Business Account](#) or by mail to:

Excise and Specialty Tax Directorate

Excise Duty – Tobacco Unit

Place de Ville Tower A 5th floor

320 Queen St

Ottawa ON K1A 0L5

Notification by the CRA

A brand will be considered specified for the purposes of subsections 38(3), 38(4), 58(1), or 58(2) only after the CRA has sent a letter to the tobacco licensee that requested the brand to indicate the effective date and the noted subsections for which the brand name is specified by the Minister.

If a brand no longer meets the requirements to qualify for exceptions to the marking requirements and for special duty relief under subsections 38(3), 38(4), 58(1), or 58(2), the CRA will send a letter to inform the tobacco licensee that requested the brand of the effective date and the subsections for which the brand is no longer specified by the Minister.

Brand descriptors

Where a brand has been specified by the Minister, certain brand descriptors may be used in connection with that specified brand without requiring a separate approval from the CRA. This includes words that describe the physical characteristics of a product, including colours that convey a flavor or allow consumers to differentiate between the physical characteristics of products sold under the same brand. Brand descriptors may include:

- 100's
- 120's
- fine cut
- full flavour
- king size
- light
- lights
- ultra lights
- menthol
- non-filter
- premium

- regular size
- colours, such as red, blue, or green

For example, if the brand "BrandX" has been specified by the Minister, "BrandX 100's", "BrandX Lights", "BrandX King Size Menthol", "BrandX non filter premium", or "BrandX Blue" would not require separate approval by the Minister.

Further information

For all **technical publications** related to excise duties, go to [Excise duties technical information](#).

For information on how to make a **general** or **technical enquiry** on excise duties, go to [Contact Information – Excise and Specialty Tax Directorate](#).

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

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