

Legislative Proposals Amending the *Excise Act, 2001* and the *Excise Act* in Respect of Canadian Wine and Beer

Explanatory Notes

These explanatory notes are provided to assist in an understanding of the proposed amendments to the *Excise Act, 2001* and the *Excise Act*. These notes are intended for information purposes only and should not be construed as an official interpretation of the provisions they describe.

Excise Act, 2001 - Duty Relief for 100% Canadian Wine

Clause 1

Bulk wine - relief for 100% Canadian wine

EA, 2001

134(3)

Subsection 134(3) currently provides that duty does not apply to bulk wine produced by an individual for their personal consumption. This subsection is amended to provide that duty will also not apply to bulk wine produced in Canada and composed wholly of agricultural or plant product grown in Canada that is taken for use.

This amendment applies to wine taken for use after June 2006.

Clause 2

Packaged wine - relief for 100% Canadian wine

EA, 2001

135(2)(a)

Subsection 135(2) currently provides that duty is not imposed on wine that is produced and packaged by an individual for their own use, or on wine produced and packaged by a wine licensee if the sales of wine by the licensee did not exceed \$50,000 in the previous year.

This subsection is amended to provide that duty will also not apply to wine that is produced and packaged in Canada and composed wholly of agricultural or plant product grown in Canada.

This amendment applies to wine packaged after June 2006.

Excise Act - Duty Relief for Canadian Beer

Clause 3

Definition - person

EA

2

The term “person” is used to refer to governments, individuals and all forms of organizations. This definition is added for clarification and is consistent with the definition of “person” in other federal taxing statutes.

This amendment comes into force on July 1, 2006.

Clause 4

Associated and related persons

EA

2.2 and 2.3

New rules with respect to related and associated persons are introduced for the purposes of determining eligibility for the special rates of duty on beer and malt liquor imposed under new section 170.1 of the Act. The new reduced rates are set out under the new Part II.1 of the schedule to the Act.

Section 2.2 - Related persons

This section provides that persons are generally related to each other for the purposes of the *Excise Act* if, at a particular time, they are considered to be related person pursuant to subsections 251(2) to (6) of the *Income Tax Act*.

Section 2.3 - Associated persons

Subsection (1) provides that a particular corporation is associated with another corporation for the purposes of the *Excise Act* if they are considered to be associated pursuant to subsections 256(1) to (6) of the *Income Tax Act*.

Subsection (2) provides that a person (other than a corporation) is associated with a particular corporation if that person or a group of associated persons of which the person is a member controls the corporation.

Subsection (3) sets out the circumstances in which a person will be treated as being associated with a partnership and with a trust.

Subsection (4) states that a person is associated with another person if both persons are associated with a third person.

These amendments come into force on July 1, 2006.

Clause 5

Duties

EA

170(1)

Subsection 170(1) currently provides that duty is imposed on beer and malt liquor at the rates set out in the schedule. This subsection is amended to refer to the rates of duty set out in Part II of the schedule. This amendment is consequential to the addition of new Part II.1 of the schedule, which sets out the rates of duty on beer and malt liquor under new section 170.1.

This amendment comes into force on July 1, 2006.

Clause 6

Reduced rates - Canadian beer

EA

170.1

New section 170.1 provides for reduced rates of duty on the first 75,000 hectolitres of Canadian-produced and packaged beer and malt liquor. It also sets out rules determining how the reduced rates will apply to various production and packaging arrangements and changes in business structures.

Subsection (1) imposes duty on the first 75,000 hectolitres of beer and malt liquor produced in Canada per year by a licensed brewer and any related or associated person at the rates set out in the new Part II.1 of the schedule to the Act.

Subsection (2) requires, where beer or malt liquor described in subsection (1) is packaged by a brewer other than the brewer referred to in that subsection, that duty be imposed at the rates that applied to that beer or malt liquor under subsection (1).

Subsection (3) provides that beer or malt liquor that is exported or deemed to be exported, or containing not more than 0.5 % absolute ethyl alcohol by volume, will not be taken into account in determining the first 75,000 hectolitres of beer and malt liquor eligible for the reduced rates of duty set out in new Part II.1 of the schedule.

Subsection (4) sets out rules regarding the contract production of beer or malt liquor. For such beer or malt liquor, the quantity produced shall be considered to have been produced by the brewer who has produced the greater volume of beer and malt liquor during the year up to that time, and duty shall be imposed at the rate that applies to that brewer.

Subsection (5) provides that where there is a family of related or associated brewers, each brewer must file an election in a form and manner satisfactory to the Minister that allocates the 75,000 hectolitre quantity among the brewers. The election must be filed no later than the filing due date of the first return in which the brewer reports duties that are imposed, levied and collected under subsection (1).

Subsection (6) sets out rules regarding a brewer formed by a business combination such as an amalgamation or merger. In such circumstances, the aggregate production of the new and predecessor brewers for that year is used for the purposes of applying subsection (1). The new brewer must determine the amount of duty that would have been imposed, levied and collected on the aggregate production volume, and is liable for (and must report and pay) any difference between the amount that would have been imposed and the amounts actually paid by the predecessor brewers within 60 days of the business combination.

These amendments come into force on July 1, 2006, except that, for 2006, every reference to “75,000” in new section 170.1 shall be read as a reference to “37,500”. This means that for 2006 only the first 37,500 hectolitres of beer and malt liquor produced in Canada by a licensed brewer after July 1, 2006 will qualify for the duty rate imposed under new section 170.1.

Clause 7

Duty on Canadian beer

EA

Schedule, Part II.1

New Part II.1 of the schedule sets out the rates of duty on the first 75,000 hectolitres of beer and malt liquor produced in Canada per year by a licensed brewer under new section 170.1 of the Act. The rates of duty vary based on the production volume of the licensed brewer. The rates

also vary depending on the absolute ethyl alcohol volume of the beer or malt liquor being produced.

This amendment comes into force on July 1, 2006, except that, for 2006, the reference to “35,000” in section 4 of Part II.1 of the schedule to the Act shall be read as a reference to “22,500” and section 5 of that schedule does not apply. This means that for 2006 only the first 37,500 hectolitres of beer and malt liquor produced in Canada by a licensed brewer after July 1, 2006 will qualify for the reduced rates.