

LEGISLATIVE PROPOSALS AMENDING THE *EXCISE ACT, 2001* AND  
THE *EXCISE ACT* IN RESPECT OF CANADIAN WINE AND BEER

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EXCISE ACT, 2001

**1. (1) Subsection 134(3) of the *Excise Act, 2001* is replaced by the following:**

Exceptions

(3) Subsection (1) does not apply to

(a) wine that is produced in Canada and composed wholly of agricultural or plant product grown in Canada; and

(b) wine that is produced by an individual for their personal use and that is consumed in the course of that use.

**(2) Subsection (1) applies to wine taken for use after June 2006.**

**2. (1) Paragraph 135(2)(a) of the Act is replaced by the following:**

(a) produced in Canada and composed wholly of agricultural or plant product grown in Canada;

(a.1) produced and packaged by an individual for their personal use; or

**(2) Subsection (1) applies to wine packaged after June 2006.**

EXCISE ACT

**3. (1) Section 2 of the *Excise Act* is amended by adding the following in alphabetical order:**

“person”  
« *personne* »

“person” means an individual, a partnership, a corporation, a trust, the estate of a deceased individual, a government or a body that is a society, a union, a club, an association, a commission or another organization of any kind.

**(2) Subsection (1) is deemed to have come into force on July 1, 2006.**

**4. (1) The Act is amended by adding the following after section 2.1:**

Related  
persons

**2.2** For the purposes of this Act, persons are related to each other if they are related persons within the meaning of subsections 251(2) to (6) of the *Income Tax Act*, except that

(a) a reference in those subsections to “corporation” shall be read as a reference to “corporation or partnership”; and

(b) a reference in those subsections to “shares” or “shareholders” shall, in respect of a partnership, be read as a reference to “rights” or “partners”, respectively.

Associated  
persons

**2.3** (1) For the purposes of this Act, a particular corporation is associated with another corporation if, by reason of subsections 256(1) to (6) of the *Income Tax Act*, the particular corporation is associated with the other corporation for the purposes of that Act.

Corporations  
controlled by  
same person or  
group

(2) For the purposes of this Act, a person other than a corporation is associated with a particular corporation if the particular corporation is controlled by the person or by a group

	of persons of which the person is a member and each of whom is associated with each of the others.
Partnership or trust	<p>(3) For the purposes of this Act, a person is associated with</p> <p>(a) a partnership if the total of the shares of the profits of the partnership to which the person and all other persons who are associated with the person are entitled is more than half of the total profits of the partnership, or would be more than half of the total profits of the partnership if it had profits; and</p> <p>(b) a trust if the total of the values of the interests in the trust of the person and all other persons who are associated with the person is more than half of the total value of all interests in the trust.</p>
Association with third person	<p>(4) For the purposes of this Act, a person is associated with another person if each of them is associated with the same third person.</p> <p><b>(2) Subsection (1) is deemed to have come into force on July 1, 2006.</b></p> <p><b>5. (1) Subsection 170(1) of the Act is replaced by the following:</b></p>
Duties	<p><b>170.</b> (1) There shall be imposed, levied and collected on every hectolitre of beer or malt liquor the duties of excise set out in <u>Part II</u> of the schedule, which duties shall be paid to the collector as provided in this Act.</p> <p><b>(2) Subsection (1) is deemed to have come into force on July 1, 2006.</b></p> <p><b>6. (1) The Act is amended by adding the following after section 170:</b></p>
Reduced rates — production	<p><b>170.1</b> (1) With respect to the first 75,000 hectolitres of beer and malt liquor brewed in Canada per year by a licensed brewer and any person related or associated with the brewer, there shall be imposed, levied and collected on each of those hectolitres the duties of excise set out in Part II.1 of the schedule, which duties shall be paid to the collector as provided in this Act, and section 170 does not apply to those hectolitres.</p>
Reduced rates — packaging	<p>(2) If the beer or malt liquor described by subsection (1) is packaged by a licensed brewer (in this subsection, referred to as the “packaging brewer”) other than the licensed brewer or related or associated person referred to in that subsection, there shall be imposed, levied and collected on every hectolitre of beer or malt liquor packaged by the packaging brewer duties of excise at the rates that applied to the beer or malt liquor under subsection (1).</p>
Exclusion of exports and de-alcoholized beer	<p>(3) In subsection (1), the reference to “first 75,000 hectolitres of beer and malt liquor brewed in Canada” does not include</p> <p>(a) beer or malt liquor that is exported or deemed to be exported under section 173 of the Act; and</p> <p>(b) beer or malt liquor containing not more than 0.5 % absolute ethyl alcohol by volume.</p>
Treatment of contract production	<p>(4) If, at any time, beer or malt liquor is brewed by a licensed brewer for another licensed brewer under an agreement with the other brewer, subsection (1) applies as though it had</p>

been brewed by the brewer who has brewed the greater volume of beer and malt liquor during the year up to that time.

Election for related or associated licensees

(5) If a licensed brewer is related or associated with one or more other licensed brewers, each of the brewers must file with the Minister an election in a form and manner satisfactory to the Minister that allocates the 75,000 hectolitre quantity amongst 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).

Brewer formed by business combination

(6) For the purposes of this section, if, in a year, two or more brewers (each of which is referred to in this section as a “predecessor brewer”) are amalgamated, merged or otherwise combined to form a new brewer, the following rules apply:

(a) the aggregate production of beer and malt liquor of the new and predecessor brewers for that year will be used for the purposes of applying subsection (1);

(b) the new brewer must determine the amount of duty that would have been imposed, levied and collected under subsection (1) on the aggregate production; and

(c) the new brewer is liable for and must, within 60 days of the combination, report and pay any difference between the amount calculated under paragraph (b) and the amounts paid by the predecessor brewers.

**(2) Subsection (1) is deemed to have come into force on July 1, 2006, except that, for 2006, every reference to “75,000” in section 170.1 of the Act, as enacted by subsection (1), shall be read as a reference to “37,500”.**

**7. (1) The Act is amended by adding the following after Part II of the schedule:**

#### II.1 CANADIAN BEER

**1.** (1) On the first 2,000 hectolitres of beer and malt liquor brewed in Canada:

(a) if it contains more than 2.5% absolute ethyl alcohol by volume, \$3.122 per hectolitre;

(b) if it contains more than 1.2% absolute ethyl alcohol by volume but not more than 2.5% absolute ethyl alcohol by volume, \$1.561 per hectolitre; and

(c) if it contains not more than 1.2% absolute ethyl alcohol by volume, \$0.2591 per hectolitre.

**2.** On the next 3,000 hectolitres of beer and malt liquor brewed in Canada:

(a) if it contains more than 2.5% absolute ethyl alcohol by volume, \$6.244 per hectolitre;

(b) if it contains more than 1.2% absolute ethyl alcohol by volume but not more than 2.5% absolute ethyl alcohol by volume, \$3.122 per hectolitre; and

(c) if it contains not more than 1.2% absolute ethyl alcohol by volume, \$0.5182 per hectolitre.

**3.** On the next 10,000 hectolitres of beer and malt liquor brewed in Canada:

(a) if it contains more than 2.5% absolute ethyl alcohol by volume, \$12.488 per hectolitre;

(b) if it contains more than 1.2% absolute ethyl alcohol by volume but not more than 2.5% absolute ethyl alcohol by volume, \$6.244 per hectolitre; and

(c) if it contains not more than 1.2% absolute ethyl alcohol by volume, \$1.0364 per hectolitre.

**4.** On the next 35,000 hectolitres of beer and malt liquor brewed in Canada:

(a) if it contains more than 2.5% absolute ethyl alcohol by volume, \$21.854 per hectolitre;

(b) if it contains more than 1.2% absolute ethyl alcohol by volume but not more than 2.5% absolute ethyl alcohol by volume, \$10.927 per hectolitre; and

(c) if it contains not more than 1.2% absolute ethyl alcohol by volume, \$1.8137 per hectolitre.

**5.** On the next 25,000 hectolitres of beer and malt liquor brewed in Canada:

(a) if it contains more than 2.5% absolute ethyl alcohol by volume, \$26.537 per hectolitre;

(b) if it contains more than 1.2% absolute ethyl alcohol by volume but not more than 2.5% absolute ethyl alcohol by volume, \$13.269 per hectolitre; and

(c) if it contains not more than 1.2% absolute ethyl alcohol by volume, \$2.2024 per hectolitre.

**(2) Subsection (1) is deemed to have come into force on July 1, 2006, except that, for 2006,**

**(a) the reference to “35,000” in section 4 of Part II.1 of the schedule to the Act, as enacted by subsection (1), shall be read as a reference to “22,500”; and**

**(b) section 5 of Part II.1 of the schedule to the Act, as enacted by subsection (1), does not apply.**