

PROVINCE OF BRITISH COLUMBIA

ORDER OF THE LIEUTENANT GOVERNOR IN COUNCIL

Order in Council No. 00 499

, Approved and Ordered

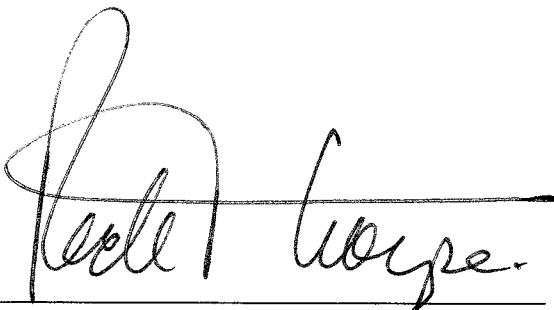
JUN 21 2007



~~Lieutenant Governor~~  
Administrator

Executive Council Chambers, Victoria

On the recommendation of the undersigned, the ~~Lieutenant Governor~~<sup>Administrator</sup>, by and with the advice and consent of the Executive Council, orders that, effective September 1, 2007, the Tobacco Tax Act Regulation, B.C. Reg. 66/2002, is amended as set out in the attached Schedule.



Minister of Small Business and Revenue and  
Minister Responsible for Deregulation



Presiding Member of the Executive Council

(This part is for administrative purposes only and is not part of the Order.)

Authority under which Order is made:

Act and section:- Tobacco Tax Act, R.S.B.C. 1996, c. 452, s. 44

Other (specify):- oic 244/2002

May 15, 2007

R 92/2007/48

## SCHEDULE

**1** *Section 1 of the Tobacco Tax Act Regulation, B.C. Reg. 66/2002, is amended by adding the following definition:*

“**retail authorization**” means

- (a) an authorization issued by the director in accordance with section 6,
- (b) a written authorization provided by the director under section 6.2, or
- (c) an authorization held by a person referred to in section 6.3; .

**2** *Section 6 is repealed and the following substituted:*

**Retail authorization**

- 6** (1) The director may issue a retail authorization to a person to sell tobacco at retail in British Columbia in the following circumstances:
- (a) the person has submitted an application containing the information required under section 6.1;
  - (b) the person has not previously held a retail authorization or dealer’s permit that was cancelled under section 7 of the Act;
  - (c) the person does not hold a retail authorization or dealer’s permit that is suspended under section 7 or 9 of the Act at the time the application is submitted;
  - (d) the application is not in respect of a location
    - (i) for which a retail authorization or dealer’s permit held by another person not at arm’s length from the applicant was suspended or cancelled by the director under section 7 of the Act,
    - (ii) to which a prohibition order under the *Tobacco Control Act* applies, or
    - (iii) that is subject to an administrative proceeding under the *Tobacco Control Act*.
- (2) For the purposes of subsection 1 (a) and (b), “**retail authorization**” includes a retail authorization as that term was used in the regulation before September 1, 2007.

**3** *The following sections are added:*

**Application**

- 6.1** An application for a retail authorization must contain the following information:
- (a) if the person is an individual, the person’s name and address;
  - (b) if the person is a corporation,
    - (i) the name of the corporation, and
    - (ii) the address of the corporation’s head office in British Columbia, or, if the corporation does not have a head office in British Columbia,

- the address of the corporation's head office;
- (c) if the person is a partnership,
    - (i) the name of the partnership,
    - (ii) the name of each partner, and
    - (iii) the address of its head office in British Columbia, or, if the partnership does not have a head office in British Columbia, the address of the partnership's head office;
  - (d) if the person is an income trust,
    - (i) the name of the income trust,
    - (ii) the name and address of the responsible trustee, and
    - (iii) the address of the trust's head office in British Columbia, or, if the income trust does not have a head office in British Columbia, the address of the income trust's head office;
  - (e) the name under which the person is conducting business;
  - (f) the address of each location at which tobacco will be sold at retail.

**Written authorization from the director**

- 6.2** (1) Despite section 6, a person may sell tobacco at retail in either of the following circumstances if the director provides written authorization to do so:
- (a) the person has previously held a retail authorization or dealer's permit that has been suspended or cancelled under section 7 of the Act;
  - (b) the person's application is in respect of a location
    - (i) for which a retail authorization or dealer's permit held by another person not at arm's length from the applicant was suspended or cancelled by the director under section 7 of the Act,
    - (ii) to which a prohibition order under the *Tobacco Control Act* applies, or
    - (iii) that is the subject of an administrative proceeding under the *Tobacco Control Act*.
- (2) Before issuing a written authorization under subsection (1), the director may require an applicant to do one or more of the following:
- (a) provide written evidence that demonstrates on a balance of probabilities that the applicant is taking measures to address the non-compliance leading to the cancellation;
  - (b) provide written evidence that demonstrates on a balance of probabilities that the applicant is at arm's length
    - (i) if subsection (1) (b) (i) applies, from the other person whose retail authorization or dealer's permit at the same location was suspended or cancelled, or
    - (ii) if subsection (1) (b) (ii) applies, from the person who is named in the order;
  - (c) provide a written undertaking to do one or both of the following:

- (i) comply with the Act and the regulations;
  - (ii) notify the director with respect to the outcome of an administrative proceeding referred to in subsection (1) (b) (iii);
  - (d) deposit a bond with the director in accordance with section 37 of the Act.
- (3) For the purposes of subsections (1) and (2), “**retail authorization**” includes a retail authorization as that term was used in the regulation before September 1, 2007.

#### **Registration under the Social Service Tax Act**

- 6.3** (1) A person is authorized to sell tobacco at retail until June 1, 2008 if, on September 1, 2007, the person
- (a) has a valid registration certificate issued under the *Social Service Tax Act*, and
  - (b) is otherwise in compliance with the Act and the regulations.
- (2) A person referred to in subsection (1) must, on or before June 1, 2008,
- (a) notify the director, in writing, that the person is selling tobacco at retail,
  - (b) submit a copy of the certificate to the director, and
  - (c) provide the director with the information set out in section 6.1.
- (3) On receiving the information required under subsection (2), the director may issue a retail authorization to the person if the circumstances described in section 6 (1) (b) to (d) apply.

#### **Black stock or unmarked tobacco**

- 6.4** A retail authorization does not permit a dealer to purchase or sell black stock tobacco or unmarked tobacco.

#### **Cancellation or suspension of retail authorization**

- 6.5** A retail authorization ceases to be valid if it is suspended or cancelled by the director under section 7 or 9 of the Act.

#### **4 Section 11 is amended**

- (a) *in subsection (1), by striking out “a dealer’s permit or to be authorized under section 6” and substituting “a dealer’s permit or retail authorization under section 6”*,
- (b) *in subsections (3) and (4), by striking out “dealer’s permit” and substituting “dealer’s permit or retail authorization”, and*
- (c) *in subsections (5) to (9), by striking out “permit” wherever it appears, and substituting “permit or authorization”.*