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Australian Government
Australian Taxation Office

Excise guidelines for duty-free shops

October 2025



We acknowledge the Traditional Owners and Custodians of Country throughout Australia and their continuing connection to land, waters and community. We pay our respects to them, their cultures, and Elders past and present.

OUR COMMITMENT TO YOU

The information in this publication is current at 1 October 2025.

We are committed to providing you with accurate, consistent and clear information to help you understand your rights and entitlements and meet your obligations.


If you follow our information in this Guide and it turns out to be incorrect, or it is misleading and you make a mistake as a result, we must still apply the law correctly. If that means you owe us money, we must ask you to pay it but we will not charge you a penalty. Also, if you acted reasonably and in good faith, we will not charge you interest.


If you feel that this Guide does not fully cover your circumstances, or you are unsure how it applies to you, you can seek further assistance from us.


ABOUT THIS GUIDE

This Guide is intended to be a reference tool for duty-free shops to assist operators to meet their excise obligations. It contains information about the excise system and how it applies to duty-free shops.

The Guide will provide you with a broad outline of excise law and your compliance obligations – it does not cover every aspect of how excise law applies to every situation.

Throughout this Guide, you will find important notes (look for the exclamation symbol ) that will help you with key information you should note.

You will also find 'more information' boxes (look for the right direction symbol ) that will show any further steps you may need to take or supplementary information you may need to refer to.

The 'danger' notes (look for the danger symbol ) give prominence to information that is critical to compliance. They suggest the highest level of urgency or facts you must comply with.

If this Guide does not fully cover your circumstances, seek help from us or a professional adviser. Contact us via:

- [ATO Online Services](#)
- phone **1300 137 290**, or
- write to us at
Australian Taxation Office
PO Box 3514
ALBURY NSW 2640

We will ordinarily respond to electronic requests within 28 business days and finalise private rulings within 28 days. If we cannot respond within 28 days, we will contact you within 14 days to obtain more information or negotiate an extended response date.

TERMS WE USE

When we say 'you' in this Guide, we mean you as a proprietor of a duty-free shop, who is either registered or wishes to register for excise.

Some technical terms used in this Guide may be new to you – some are defined in the legislation, others are not. These are indicated in quotation marks when first used and are explained at the end of that chapter.

The terms CEO, Collector, and Commissioner are all used in the legislation in reference to various officers. In most instances in this Guide we have not used these specific terms and simply refer to 'us' or 'we'.

The information in this publication is current at 1 October 2025.

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1 INTRODUCTION

1.1 PURPOSE

This Chapter deals with:

- what excise is
- an overview of excise legislation relevant to duty-free shops
- who administers excise
- when you are involved in the excise system, and
- what you need to know before you set up a duty-free shop.

It provides a general introduction to excise as it relates to duty-free shops. Further detail on the matters discussed is contained in later chapters.

1.2 WHAT EXCISE IS

The *Commonwealth of Australia Constitution Act* (the Constitution) provides that only the Commonwealth can impose duties of excise.¹

In *Ha v New South Wales*² (*Ha*), the High Court explained a duty of excise as follows³:

... duties of excise are taxes on the production, manufacture, sale or distribution of goods, whether of foreign or domestic origin. Duties of excise are inland taxes in contradistinction from duties of customs which are taxes on the importation of goods.

Excise imposed by the *Excise Tariff Act 1921* is imposed on goods dutiable under the Schedule to that Act and manufactured or produced in Australia of specified goods. It can be seen that this clearly fits the definition of duty of excise as described by the High Court in the *Ha* case.

¹ Section 90 of the Constitution.

² *Ha v New South Wales* [1997] HCA 34.

³ *Ha v New South Wales* [1997] HCA 34; 97 ATC 4674 at [4684], per Brennan CJ, McHugh, Gummow and Kirby JJ.

1.3 OVERVIEW OF EXCISE LEGISLATION

The principal legislative framework for the excise system is contained in the:

- *Excise Tariff Act 1921* (Excise Tariff Act)
- *Excise Act 1901* (Excise Act), and
- *Excise Regulation 2015* (Excise Regulation).

The Excise Tariff Act imposes excise on certain goods manufactured or produced in Australia⁴ and the Excise Act sets out the administration of excise duties. The imposition of excise duties is in a separate Act to their administration because the Constitution provides that laws imposing taxation (such as excise) shall only deal with the imposition of tax.

To change the Excise Tariff Act, an amending act must be passed through parliament. However, there are parliamentary procedures which allow for the changes to the Excise Tariff Act to apply immediately, pending amendment of the Act through parliament. These procedures are known as tariff proposals.



For more information on tariff proposals, refer to [Section 1.3.1 Excise Tariff Act 1921](#).

1.3.1 EXCISE TARIFF ACT 1921

There are 3 key provisions in the Excise Tariff Act that operate to:

- impose excise duty
- identify '[excisable goods](#)' and the applicable duty rates (the Schedule), and
- index the duty rate.

Imposition of excise duty

Section 5 of the Excise Tariff Act imposes excise duty on goods that are listed in the Schedule and manufactured or produced in Australia. Excise duty is imposed at the time of manufacture or production of the relevant goods. The Schedule lists the various goods that are subject to excise and the rate of duty applicable. It is sometimes referred to as the excise tariff.

The Schedule of excisable goods and the duty rates

The Schedule is a table that lists the goods that are subject to excise duty (if those goods are manufactured or produced in Australia). The goods that are currently subject to excise fall within 3 broad groups:

- spirits and alcoholic beverages (other than wine)

⁴ Section 5 of the Excise Tariff Act imposes excise duty on goods 'manufactured or produced'. In this Guide, the term 'manufactured' means manufactured or produced unless otherwise specified.

- cigarettes and other tobacco goods, and
- fuel and oils.

Within those 3 broad groups, the Schedule provides 8 different items and those items are (in most cases) further broken down into subitems. The table contains a description of the items and subitems and provides the rate of duty applicable to them.

The following is an extract from the alcohol products section of the table as of 4 August 2025.

Figure 1: Extract of the table in the Schedule

Item	Subitem	Description of goods	Rate of duty
2		Other excisable beverages not exceeding 10% by volume of alcohol	\$105.98* per litre of alcohol
3		Spirits; Other excisable beverages exceeding 10% by volume of alcohol	
	3.1	Brandy	\$98.97* per litre of alcohol
	3.2	Other excisable beverages exceeding 10% by volume of alcohol	\$105.98* per litre of alcohol
	3.10	Spirits not elsewhere included	\$105.98* per litre of alcohol

*Rate of duty as at 4 August 2025, for the current rates of duty, refer to [Excise duty rates](#) (referred to in this Guide as the Tariff working page or working tariff).

Indexation of the duty rate

The rates of excise duty are set in the Schedule. However, section 6A of the Excise Tariff Act provides that the rates of duty for spirits, alcoholic beverages and fuel may increase every 6 months (generally on 1 February and 1 August). The amount of any increase is calculated by reference to the All Groups Consumer Price Index published quarterly by the Australian Bureau of Statistics.

Similarly, section 6AA of the Excise Tariff Act provides that the rates of duty for cigarettes and other tobacco goods may increase every 6 months (generally 1 March and 1 September) by reference to the estimate of the full-time adult average weekly ordinary time earnings for persons in Australia (AWOTE amount). The AWOTE amount is published biannually by the Australian Bureau of Statistics.

These increases are commonly referred to as indexation. We publish these in the Commonwealth Gazette and, for ease of reference, we publish up-to-date duty rates at [Excise duty rates for alcohol](#).

Indexation increases also apply to rates set under a tariff proposal.

Tariff proposals

Tariff proposals⁵ are a means of changing the excise tariff so that the change is effective from the time it is proposed rather than after the enactment of an excise tariff amendment Act. Rates may be adjusted up or down or products may be added or removed under a tariff proposal.

Changes to the excise tariff can be notified in the Parliament or, if the Parliament is not sitting, by notice in the Commonwealth Gazette. We then apply the proposal as if it is law.

The tariff proposal is required to be validated by an Act within 12 months giving retrospective effect to the date of the proposal.⁶

You cannot commence proceedings against us for any action taken to collect the amount set by the tariff proposal during the periods specified in section 114 of the Excise Act unless it is sanctioned by a Supreme Court of a state or territory.⁷

Effectively this means you need to pay in line with a tariff proposal. Any increases in rates or introduction of new products through a tariff proposal technically does not impose excise but we will protect the revenue by collecting amounts in line with the proposal.

If an amending Act validating the changes outlined within the tariff proposal is not passed within the prescribed periods, any additional amounts will be refunded to you.

1.3.2 EXCISE ACT 1901

All excisable goods are subject to our control

Under section 61 of the Excise Act, all excisable goods are subject to the CEO's control until they are delivered for home consumption or exported to a place outside Australia. Excisable goods subject to the CEO's control are called '[underbond](#)' goods.

The CEO is the Commissioner of Taxation.

Goods are delivered for home consumption when they are released into the Australian market in an authorised manner, whether through the lodgment and passing of an entry or under a periodic settlement permission.

⁵ For an explanation of customs and excise tariff proposals, refer to [About Tariff Proposals](#).

⁶ In the absence of a tariff amendment bill, tariff proposals then before the House may be affirmed towards the end of a period of sittings by means of a tariff validation bill.

⁷ For an explanation of customs and excise tariff proposals, refer to [About Tariff Proposals](#).

Manufacture, storage and movement of excisable goods

Before you can manufacture excisable goods, you need a manufacturer licence granted under the Excise Act.⁸

Before you can 'store' excisable goods that you did not manufacture, you need a storage licence granted under the Excise Act.⁹

Before you can remove excisable goods from premises covered by a licence, on which duty has not been paid, you need permission granted under the Excise Act.¹⁰

There are several types of movement permission that we can issue. These include:

- a 'one-off' permission to move goods specified in the permission to another place specified in the permission
- an ongoing permission to move goods of a kind specified in the permission to another place specified in the permission (and such a permission remains in place until revoked)
- an ongoing permission to move goods of a kind specified in the permission to any other place covered by a licence to manufacture or store goods of that kind
- permission to deliver goods for export.

Generally, we will not grant permission to move underbond excisable alcohol products on which duty has not been paid to a place that is not covered by either a manufacturer licence or a storage licence.

Before you can sell excisable goods to '[relevant travellers](#)', you need a permission granted under the Excise Act.¹¹



For more information about the excise licensing regime, refer to [Chapter 2](#) Licensing: Applications.



For more information about movement permissions, refer to [Chapter 5](#) Movement permissions.



For more information about movement permissions, refer to [Chapter 6](#) Making duty-free sales: Outwards and [Chapter 7](#) Making duty-free sales: Inwards.

Payment of duty on excisable goods

In general terms, goods purchased at duty-free shops and exported are not liable for excise. However, payment of duty will be required when excisable goods are not taken overseas or are unable to be accounted for (for example, stock shortages).

⁸ Section 25 of the Excise Act.

⁹ Subsection 4(1) (definition of 'storage licence') and Part IV of the Excise Act.

¹⁰ Section 61A of the Excise Act.

¹¹ Sections 61D and 61E of the Excise Act.

The Excise Act in conjunction with the Excise Regulation specifies when the duty must be paid, how and what you must report to us, the relevant time to determine the rate of duty in force and provides a mechanism to require payment where duty has not been correctly accounted for on excisable goods.

➤ For more information about payment of duty, refer to [Chapter 8](#) Accounting for excisable goods.

1.3.3 EXCISE REGULATION 2015

The Excise Regulation set out provisions in relation to excisable goods such as:

- rules for duty-free shops, and
- [‘remission’](#).

➤ For more information about rules for duty-free shops, refer to [Chapter 6](#) Making duty-free sales: Outwards and [Chapter 7](#) Making duty-free sales: Inwards.

➤ For more information about remissions, refer to [Chapter 9](#) Remissions and exemptions.

1.4 ADMINISTRATION OF EXCISE

The Commissioner of Taxation has the general administration of the Excise Act and the Excise Tariff Act.¹² This means you deal with the Australian Taxation Office (ATO) when you are involved in the underbond movement and storage of Australian manufactured spirits and beer.

As excise is only levied on products manufactured in Australia, imported alcohol and tobacco goods are not subject to control by us. Customs duty, under the *Customs Act 1901* (Customs Act) and *Customs Tariff Act 1995* (Customs Tariff Act), is applied to imported alcohol and tobacco goods. The Australian Border Force (ABF) within the Department of Home Affairs is responsible for administration of the Customs Act and Customs Tariff Act.

You must have a [‘warehouse licence’](#), under the Customs Act, before you will be granted a storage licence, with permission to sell duty free, under the Excise Act.

Although cigarettes and other tobacco goods are listed in the Schedule to the Excise Tariff Act, there are currently no licenced manufacturers of tobacco in Australia. All legitimate tobacco goods are imported, subject to Customs duty and administered by the Department of Home Affairs.

¹² Section 7 of the Excise Act and section 1A of the Excise Tariff Act.

Table 1: Who you need to deal with

Type of product	ABF	ATO
Australian manufactured alcohol products	No	Yes
Imported alcohol and tobacco goods	Yes	No

1.5 INVOLVEMENT IN THE EXCISE SYSTEM

You are involved in the excise system if you:

- operate a duty-free shop
- own, move or store excisable goods on which duty has not been paid, or
- manufacture excisable goods.

1.6 KNOWLEDGE REQUIRED BEFORE SETTING UP A DUTY-FREE SHOP

1.6.1 WHAT A DUTY-FREE SHOP IS

A duty-free shop is premises covered by a storage licence that authorises the licence holder to store goods on which duty has not been paid and has a permission to sell those goods to relevant travellers.

Understanding who is a relevant traveller is fundamental to the operation of a duty-free shop.

A relevant traveller is a person who:

- intends to make an [‘international flight’](#) or [‘international voyage’](#), whether as a passenger on, or as a member of the crew, or the pilot or master of, an aircraft or ship¹³, or
- has arrived in Australia on an international flight, whether as a passenger on, or as a member of the crew, or the pilot of, an aircraft and has not been questioned, for the purposes of the Customs Act, by an officer of Customs, in respect of goods carried on that flight.¹⁴

There are 2 types of duty-free shops:

- outwards (off-airport and on-airport), and

¹³ Subsection 61D(1) of the Excise Act.

¹⁴ Subsection 61E(1) of the Excise Act.

- inwards (on-airport).


About outwards off-airport duty-free shops

Outwards off-airport duty-free shops sell to relevant travellers who are departing from Australia. They can be located away from the airport or at the airport, but *before* the Customs processing point.

Duty-free goods can only be sold to relevant travellers. Goods will be placed in a sealed bag¹⁵ and a copy of the sales invoice is placed on the outside of the bag.¹⁶ Relevant travellers must present any sealed bags for inspection, and removal of the outside invoice, by the '[proprietor](#)' of the duty-free shop, or a servant or agent of the proprietor, either:

- when surrendering them, to airline or shipping staff, for carriage other than in the cabin of an aircraft or ship, or
- in the departure area.¹⁷


Duty-free operators must ensure that invoices are retrieved from the outside of the sealed bags.¹⁸ This is done by Duty Free Security Co. Ltd (Duty Free Security), who are collection agents (docket pluckers) authorised by the duty-free shop.

 For more information about the requirements for outward duty-free sales, refer to [Chapter 6](#) Making duty-free sales: Outwards.

Changes to airport security arrangements on 31 March 2007 imposed restrictions on passengers carrying any liquid, aerosol, gel, cream or paste (LAG) products on board aircraft as hand luggage.

For information about how we administer the export of LAG duty-free products, as a result of these security changes, refer to 'Exporting duty-free liquid, aerosol, gel, cream or paste products' in [Chapter 6](#) Making duty-free sales: Outwards.

When an invoice is not retrieved, there is no proof that the goods have left Australia and the duty-free shop is liable to pay us an amount equal to the rate of excise duty that was payable on the goods when they were delivered to the relevant traveller.¹⁹

 For more information about when and how to pay excise duty, refer to [Chapter 8](#) Accounting for excisable goods.

¹⁵ Subsection 35(2) of the Excise Regulation.

¹⁶ Subsections 36(4) and (5) of the Excise Regulation.

¹⁷ Sections 41 and 42 of the Excise Regulation.

¹⁸ Subsections 38(1), (2) and (3) of the Excise Regulation.

¹⁹ Subsection 61D(12) of the Excise Act.

About outwards on-airport duty-free shops

Outwards on-airport duty-free shops are located *after* the customs barrier in the departure lounges at international airports. Goods sold in these shops are not required to be placed in sealed bags.

About inwards duty-free shops

Inwards duty-free shops are located at international airports *between* the disembarkation point and Customs and Immigration processing.

After the goods are sold to arriving passengers, they are presented at the inwards Customs processing point.

There are limits on the quantities of dutiable goods that can be sold. These are linked to Customs Act limits for arriving passengers.



For more information about these limits, contact the ABF or refer to abf.gov.au

1.6.2 WHAT IS NEEDED BEFORE SETTING UP A DUTY-FREE SHOP

You need:

- a customs warehouse licence²⁰
- an excise storage licence²¹, and
- a permission to sell duty free.²²

You may also need permission to move goods underbond if your suppliers don't have one.

You will also need permission to sell duty-free goods from ABF if you wish to sell imported goods duty free to relevant travellers.

Customs warehouse licence

You need a customs warehouse licence issued by ABF, before you can be granted a permission to sell excisable goods to relevant travellers.²³

A proprietor of a duty-free shop is the holder of a Customs warehouse licence.²⁴ Proprietor has the same meaning in the Excise Act as it has in the Customs Act.²⁵

²⁰ Sections 61D and 61E of the Excise Act.

²¹ Section 4 of the Excise Act.

²² Sections 61D and 61E of the Excise Act.

²³ Sections 61D and 61E of the Excise Act.

²⁴ Subsections 61D(1) and 61E(1) of the Excise Act.

²⁵ Subsections 61D(1) and 61E(1) of the Excise Act.



For more information about customs warehouse licences, contact the ABF or refer to abf.gov.au

Excise storage licence

You also require a licence to store excisable goods. This licence is issued by us.

For information about how to obtain an excise storage licence, refer to [Chapter 2](#) Licensing: Applications.

Licence conditions

Excise storage licences that cover duty-free shops include conditions.²⁶ These can include limits on the amount of excisable products each shop can receive over a calendar year. The quantity you can receive will be determined according to the bona fide business requirements of your duty-free shop.

As part of the application process, we may ask you to nominate and justify, via a business plan, the quantity of excisable products (on which duty has not been paid) you require over the annual period.

Permission to sell duty free

Before you can sell excisable goods on which duty has not been paid, you need a permission to sell duty free. We will also issue you with this permission.²⁷

Underbond movement permission

Excisable goods, on which duty has not been paid, cannot be moved unless there is a movement permission. This permission can be held by you or your supplier.



For information on movement permissions, refer to [Chapter 5](#) Movement permissions.

1.7 MORE INFORMATION

If you need more information on excise, as it relates to duty-free shops, contact us via:

- [ATO Online services](#)
- phone **1300 137 290**, or
- write to us at
Australian Taxation Office
PO Box 3514
ALBURY NSW 2640

²⁶ Subsection 61D(6) and 61E(5) of the Excise Act.

²⁷ Subsections 61D(2) and 61E(2) of the Excise Act.

We will ordinarily respond to written information requests within 28 days. If we cannot respond within 28 days, we will contact you within 14 days to obtain more information or negotiate an extended response date.

Most of your business reporting and transactions can be done through [ATO Online services](#).

1.8 TERMS USED

Excisable goods

Excisable goods are goods on which excise duty is imposed. Excise duty is imposed on goods that are listed in the Schedule to the Excise Tariff Act, and manufactured or produced in Australia.

For operators of duty-free, this will include:

- alcohol goods that are produced or manufactured in Australia and are subject to excise, and
- imported alcohol goods that have undergone a process of manufacture or production in Australia – for example, high strength imported whisky which has been reduced by adding water (in Australia) before it is bottled, constitutes manufacture or production for excise purposes. Vodka imported in bulk and repackaged in Australia, does not constitute manufacture for excise purposes.

This will not include:

- other imported alcohol goods (because these goods are subject to customs duty)
- wine (which is generally subject to wine equalisation tax), and
- cigarettes and other tobacco goods as there is currently no licensed manufacture of tobacco in Australia.



For more information about customable alcoholic beverages refer to Chapter 22 of Schedule 3 to the *Customs Tariff Act 1995*.

Examples of excisable goods include Australian-made:

- beer
- spirits, and
- pre-mixed drinks known as ready-to-drink beverages.

International flight

An international flight is defined as:

- a flight, whether direct or indirect, by an aircraft between a place in Australia from which the aircraft takes off and a place outside Australia at which the aircraft lands or is intended to land,²⁸ or
- a flight, whether direct or indirect, by an aircraft between a place outside Australia from which the aircraft took off and a place in Australia at which the aircraft landed.²⁹

International voyage

An international voyage is defined as 'a voyage, whether direct or indirect, by a ship between a place in Australia and a place outside Australia'.³⁰

Proprietor

In relation to a duty-free shop, a proprietor is the holder of the warehouse licence that relates to the outwards duty-free shop³¹ or inwards duty-free shop.³²

Relevant traveller

A relevant traveller is:

- for outwards duty-free shop purposes – a person who intends to make an international flight or international voyage, whether as a passenger on, or as a member of the crew (or the pilot or master) of an aircraft or ship³³
- for inwards duty-free shop purposes – a person who has arrived in Australia on an international flight, whether as a passenger on, or as a member of the crew (or the pilot) of, an aircraft and has not been questioned, for the purposes of the *Customs Act 1901*, by an officer of Customs, in respect of goods carried on that flight.³⁴

²⁸ Subsection 61D(1) of the Excise Act.

²⁹ Subsection 61E(1) of the Excise Act.

³⁰ Subsection 61D(1) of the Excise Act.

³¹ Subsection 61D(1) of the Excise Act.

³² Subsection 61E(1) of the Excise Act.

³³ Subsection 61D(1) of the Excise Act.

³⁴ Subsection 61E(1) of the Excise Act.

Remission

A remission of excise duty extinguishes the liability for duty that was created at the point of manufacture, in prescribed circumstances.



For more information about remissions, refer to [Chapter 9](#) Remissions and exemptions.

Underbond

This is an expression not found in excise legislation but it is widely used to describe goods that are subject to excise control. Excisable goods that are subject to excise control are commonly referred to as 'underbond goods' or as being 'underbond'. This includes goods that have not yet been delivered into the Australian domestic market and goods moving between premises under a movement permission.

Warehouse licence

'Warehouse licence'³⁵ has the same meaning as it has in the *Customs Act 1901* which states, "'Warehouse" means a place that a person or partnership is licensed under section 79 to use for warehousing goods'.³⁶

Amendment history

1 October 2025

Part	Comment
Throughout	Content checked for technical accuracy and currency. Updated in line with current ATO style and accessibility requirements.

³⁵ Subsection 61D(1) of the Excise Act.

³⁶ Subsection 4(1) of the Customs Act.

2 LICENSING: Applications

2.1 PURPOSE

2.2 INTRODUCTION

2.2.1 WHY THERE IS A LICENSING REGIME

2.2.2 LICENSING RULES

2.3 POLICY AND PRACTICE

2.3.1 TYPE OF LICENCES REQUIRED

2.3.2 RESPONSIBILITIES OF A LICENCE HOLDER

2.3.3 WHAT ELSE WE CAN DO

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2.4.4 MORE INFORMATION

2.5 PENALTIES THAT CAN APPLY IN RELATION TO LICENCES

2.6 TERMS USED

2 LICENSING: Applications

2.1 PURPOSE

This Chapter deals with:

- why there is a licensing regime
- what a licence is
- different licence types
- how long a licence is valid for
- whether licences are transferable
- disclosure of your licensing information
- how to register for excise
- how to apply for a licence
- how to change your licence details, and
- penalties that can apply to offences in relation to licences.

2.2 INTRODUCTION

2.2.1 WHY THERE IS A LICENSING REGIME

The excise duty attached to [‘excisable goods’](#) forms a significant component of the overall value of the goods. A licensing regime helps the CEO maintain control of excisable goods and ensure the correct amount of duty is paid.

2.2.2 LICENSING RULES

A licence enables you to manufacture or store excisable goods, or both. If you undertake these activities without a licence or contravene your licence conditions you are committing an offence and may be prosecuted.

A licence is issued to a specific entity and specifies the site where the activities may be undertaken. This may require you to have more than one licence. An excise licence may specify one or more premises and an entity may have multiple licences.

Licences can be issued to:

- individuals
- partnerships and companies in their own right, and

- individuals and companies in their capacity as trustees.

There may be different licensing processes depending on the type of entity applying for the licence.



A licence is not transferable between entities; refer to [Section 2.3.6](#) Transferring a licence.

2.3 POLICY AND PRACTICE

2.3.1 TYPE OF LICENCES REQUIRED

If you are a duty-free shop operator, you will require a storage licence (with permission to sell duty-free) to store and sell '[underbond](#)' excisable goods.



Before your storage licence is issued, you will also need a 'warehouse licence' issued under the Customs Act for that particular warehouse.



For more information on customs warehouse licences, you should contact the ABF or refer to abf.gov.au

Duty-free shops are different from other premises covered by a licence because they are allowed to display and sell goods that have not had excise paid on them. Your storage licence will specify the type of excisable goods you can store and the location. It will also specify the activities, if any, you can undertake in relation to those goods³⁷, for example, sell duty-free to:

- '[relevant travellers](#)'
- diplomats or consuls, or
- sea-going vessels of the Royal Australian Navy or Australian Military Forces.

Paying duty and '[delivering goods into the Australian domestic market](#)', supplying ship's stores or exporting by other means are *not* allowed unless specifically authorised in your licence or another permission we have issued you. We will only approve these activities when there is a genuine business need, for example, supplying ship's stores in a remote location where there is no alternative source.

2.3.2 RESPONSIBILITIES OF A LICENCE HOLDER


You are responsible for the secure storage of all excisable goods held on your premises or under your control (or direction) and must keep or store excisable goods only at premises that are covered by your licence.³⁸

³⁷ Definition of 'storage licence' in subsection 4(1) of the Excise Act.


³⁸ Section 53 of the Excise Act.

You must be able to account for the excisable goods in your possession, custody or control to our satisfaction when requested to do so.

You may be responsible for paying an amount equal to the excise duty that would have been payable on any stolen, missing or unaccounted for underbond excisable goods.³⁹

 If you wish to destroy any excisable goods, you must first obtain permission from us to do so.

You must not move excisable goods without approval from us. This includes moving excisable goods from premises covered by your licence to any other location or for export.⁴⁰

 For more information about obtaining permission to move excisable goods, refer to [Chapter 5](#) Movement permissions.

You are also responsible for ensuring that you comply with the Excise Act and all conditions of your licence.⁴¹

You must keep, retain and produce records in accordance with a '[direction under section 50](#)' of the Excise Act.

2.3.3 WHAT ELSE WE CAN DO

Access

We have the right to enter premises covered by your licence at any time and can examine and take account of all the goods at the premises.⁴² Note: we will usually only seek to enter your premises during normal business hours.

Stop vehicles

We can stop any vehicle leaving premises covered by your licence and check that there is proper documentation for excisable goods leaving the premises. We can question the driver about any goods in the vehicle. We can direct that the vehicle be unloaded and goods taken to particular parts of the premises for further examination. We must not detain a vehicle for longer than is necessary to do the checking.⁴³

³⁹ Section 60 of the Excise Act.

⁴⁰ Section 61A of the Excise Act.

⁴¹ Section 26 of the Excise Act.

⁴² Subsection 86(2) of the Excise Act.

⁴³ Section 87 of the Excise Act.

Search vehicles

We can stop and search any vehicle (not just vehicles leaving premises covered by a licence) without a warrant if we have reasonable grounds for believing that the vehicle contains excisable goods and that the vehicle has been used, is being used or will be used in the commission of an offence under the Excise Act (and certain offences in the *Crimes Act 1914* (Crimes Act)⁴⁴ and Criminal Code⁴⁵ relating to accessory after the fact, attempt to commit an offence, aid and abet someone to commit an offence and conspiracy to commit an offence).⁴⁶

Examine goods

We can open packages and examine, weigh, mark and seal any excisable alcohol products that are subject to [‘excise control’](#).

2.3.4 KEEPING RECORDS

The Excise Act provides that a licence holder shall⁴⁷:

- keep such records and furnish such returns as directed
- keep these records for the period directed, and
- on demand, produce those records to us.

Any such direction will be in writing and included with your licence. We can amend this direction at any time and will provide written notification of this to you.

We can inspect and take copies of any records kept as directed.

If you cease to hold an excise licence you must still keep all records of your previously licensed activities. Records must be kept for the period of time as directed.

2.3.5 LICENCE DURATION

Your excise licence does not have an expiry date. Your licence stays in force until it is cancelled either by the Collector⁴⁸ or at your request.⁴⁹

⁴⁴ Section 6 of the *Crimes Act 1914*.

⁴⁵ Sections 11.1, 11.2 and 11.5 of the Schedule to the *Criminal Code Act 1995*.

⁴⁶ Section 87AA of the Excise Act.

⁴⁷ Section 50 of the Excise Act.

⁴⁸ Section 4(1) of the Excise Act defines the Collector as the CEO or in relation to a section of an Excise Act for which a person is an authorised officer – that authorised officer.

⁴⁹ Section 39E of the Excise Act.

An excise storage licence differs from a customs warehouse licence. You must hold a current section 79⁵⁰ customs warehouse licence for each duty-free shop (which must be renewed annually by the ABF) prior to being granted a storage licence to store excisable goods with permission to sell these products duty-free.

You can also apply to have one excise licence covering more than one premises⁵¹ or consolidate existing excise licences into one licence that covers one or more premises.⁵² This does not apply to customs warehouse licences for duty-free shops.⁵³



For more information, refer to [Application for a licence to store excisable goods with permission to sell duty-free](#).

2.3.6 TRANSFERRING A LICENCE

Generally, you cannot transfer your licence to another individual, business entity or premises. The proposed new licence holder must apply for a new licence. You must also request cancellation of your current licence if you are no longer carrying out an excise activity. It is important that you advise us of any change before it takes effect.

The exception to the above rule arises when a licence holder dies. If this is the case, the licence is taken to be transferred to the person's legal personal representative. This allows for the finalisation of the affairs and, unless cancelled earlier, the licence is taken to be automatically cancelled 3 months after the licence holder dies.⁵⁴



For more information about cancelling licences, refer to [Chapter 4](#) Licensing: Suspension and cancellation.

2.3.7 DISCLOSING LICENSING INFORMATION

As well as the protection provided by the *Privacy Act 1988* (Privacy Act), the tax laws have secrecy provisions about using and disclosing taxpayer information.⁵⁵ We can only look at, record, discuss or disclose information about you when it is a necessary part of our work, or where the law specifies that we may.

⁵⁰ Section 79 of the Customs Act.

⁵¹ Section 39 of the Excise Act.

⁵² Section 39FA of the Excise Act.

⁵³ Subsection 78(1) of the Customs Act excludes duty-free shops from being covered by an excise-equivalent warehouse licence.

⁵⁴ Section 390 of the Excise Act.

⁵⁵ Division 355 of Schedule 1 to the *Taxation Administration Act 1953* (TAA).

Subdivision 355-B of Schedule 1 to the *Taxation Administration Act 1953* (TAA) allows us to record or disclose information about you in certain circumstances. For example, the Excise Act specifically allows us to disclose information about you to the ABF.

In relation to licensing information, the TAA specifically allows us to disclose information about:

- whether another person holds a current excise licence, and
- any conditions that apply to their licence.

The ATO is lawfully required to publish and maintain a public register on the ATO website, disclosing the name of the licence holders, their Australian Business Number (ABN) and the name of the Act under which the licence was granted.⁵⁶ This will assist business to identify entities that are licensed to manufacture and store excisable and excise equivalent goods.⁵⁷

Information may be disclosed by us in the performance of our duties and would cover disclosing information:

- to a person dealing or proposing to deal with another person in relation to goods subject to 'excise control', and
- provided we are satisfied that disclosure is necessary for the purposes of ensuring the dealing or proposed dealing is in accordance with excise law.

If we decide that the disclosure is necessary, we must provide the information in writing to the person who requires it. If the matter is urgent, we may advise by phone. However, we must later confirm the information by in writing.

Anyone who receives such information should use it only for the purpose for which it was given. Any other use may be unlawful.

Note: The TAA imposes certain obligations on you concerning the on-disclosure of information that affects another person.⁵⁸ The Privacy Act imposes certain obligations on you concerning the privacy of information that you have received about an individual. Further information can be obtained from the [Office of the Australian Information Commissioner](#).

Our decision in relation to the disclosure of protected information is not a reviewable decision. However, you have the right to make a complaint to the Commonwealth Ombudsman about a range of administrative actions we take or the Australian Information Commissioner if you think we have breached the Privacy Act in dealing with your personal information.



For information about your review rights, refer to [Chapter 10](#) Reviews and objections.

⁵⁶ Section 40 of the Excise Act.

⁵⁷ Section 4(1) of the Customs Act defines 'excise-equivalent goods' as those goods prescribed by the *Customs Regulation 2015*. They are generally imported goods which would attract an excise duty if manufactured in Australia.

⁵⁸ Subdivision 355-C of Schedule 1 to the TAA.



When you provide details of the authorised person we should contact if we need to know more about your application, or the operations of your business, you are giving us authority to disclose information. This could be yourself, as the applicant, or another person you nominate.

2.4 PROCEDURES

2.4.1 REGISTERING FOR EXCISE

You must register for excise before you can be issued with a licence to store excisable alcohol products.

While it is not compulsory to provide an ABN or tax file number (TFN) for registration, it will help us to process your application.

If you need an ABN, phone **1300 657 162** for a registration pack. You can lodge your completed ABN registration form with your completed excise registration application.

2.4.2 APPLYING FOR A LICENCE

If you would like to apply for a licence, you should:

- contact us by phone on **1300 137 290**, and
- lodge an [Excise registration](#) form together with all the required supporting documents (see below).⁵⁹

Our staff will:

- discuss your particular circumstances with you
- give you advice about the appropriate licence or licences
- explain how to apply
- explain your ongoing obligations as a licence holder, and
- provide you with a licence application form.

There is no charge for an excise licence.

Before lodging your application form, make sure you have included the required supporting documents. Your application form contains information to help you work out which supporting documents you must provide. You may also need to complete other excise forms, depending upon your proposed activities.

Supporting documents include:

- an accurate plan of the premises that clearly indicates the area for storage

⁵⁹ Section 39 of the Excise Act.

- a [Fit and proper person declaration](#)
- an application for permission to move underbond goods
- if requested by us, a Consent to a national criminal history check – excise.



For more information about movement permissions, refer to [Chapter 5](#) Movement permissions



To lodge your completed application form and supporting documents:

- lodge online [ATO Online Services](#)
- post them to
Excise Licensing Group
Australian Taxation Office
PO Box 3514
ALBURY NSW 2640



You must not manufacture or store excisable goods before your licence has been granted.⁶⁰

We will ordinarily respond to written information requests within 28 days. If we cannot respond within 28 days, we will contact you within 14 days to obtain more information or negotiate an extended response date

Applying to vary a licence

Where you hold an existing storage licence⁶¹, you can apply to vary your licence to:

- add new premises to your existing storage licence
- remove one or more of the premises from your licence (as long as your licence will still cover at least one premises)
- consolidate your existing licences into one licence that covers multiple premises.



You must not store excisable goods at the new premises before your licence has been varied.⁶²

We will ordinarily respond to written information requests within 28 days. If we cannot respond within 28 days, we will contact you within 14 days to obtain more information or negotiate an extended response date.

⁶⁰ Sections 25 and 117 of the Excise Act.

⁶¹ Sections 39FA and 39LA of the Excise Act.

⁶² Sections 25 and 117 of the Excise Act.

2.4.3 CHANGING LICENCE DETAILS

We can amend your licence for changes that do not involve a change of entity. This includes a change of:

- business name (that is your trading name)
- postal address, or
- street name or property address made by a relevant authority.

A change in composition of a partnership does not affect the continuity of that partnership. Any one or more of the partners may act on behalf of the partnership in notifying changes.⁶³

You must advise us of any of these changes within 30 days. We will then provide you with an amended licence.

2.4.4 MORE INFORMATION

If you need more information on licensing matters, contact us via:

- [ATO Online Services](#)
- phone **1300 137 290**, or
- write to us at
Australian Taxation Office
PO Box 3514
ALBURY NSW 2640

We will ordinarily respond to written information requests within 28 days. If we cannot respond within 28 days, we will contact you within 14 days to obtain more information or negotiate an extended response date.

2.5 PENALTIES THAT CAN APPLY IN RELATION TO LICENCES

The following are the penalties that may apply after conviction for an offence.

Keep or store without permission

If you possess or have custody or control of excisable goods without permission, the penalty is a maximum of 2 years in prison or the greater of 500 '[penalty units](#)' and 5 times the amount of duty that would have been payable if the goods had been entered for home consumption on the penalty day.⁶⁴

⁶³ Section 6A of the Excise Act.

⁶⁴ Section 117 of the Excise Act.

False or misleading statements

If you make a statement to us that is false or misleading, or make an omission from a statement that makes it false or misleading, the penalty is a maximum of 50 penalty units.

However, if that false or misleading statement is in respect of duty payable on particular goods, the penalty is a maximum of 50 penalty units and twice the amount of duty payable on those goods.⁶⁵

Records

If you do not keep, retain and produce records in accordance with a 'direction under section 50' of the Excise Act, the penalty is a maximum of 30 penalty units.

2.6 TERMS USED**Deliver into the Australian domestic market**

Deliver into the Australian domestic market⁶⁶ is the term we use in this Guide for when excisable goods are released into domestic consumption. The term used in the legislation is 'deliver for home consumption'.

Normally, this will be by delivering the goods away from premises covered by a licence but includes using those goods yourself (for example, sales to staff).

The term 'home consumption' is not defined in the Excise Act and there is no definitive case law that looks at the issue in question. However, there are several cases where issues closely related to it are considered.⁶⁷

The conclusion drawn from those cases is that 'home consumption' refers to the destination of goods as being within Australia as opposed to exporting them.

Excisable goods

Excisable goods are goods on which excise duty is imposed. Excise duty is imposed on goods that are listed in the Schedule, and manufactured or produced in Australia.

⁶⁵ Section 120 of the Excise Act.

⁶⁶ Note the legislation uses the term 'delivered for home consumption' (see, for example, sections 61 and 61C of the Excise Act).

⁶⁷ See *R v Lyon* [1906] HCA 17; *Collector of Customs (NSW) v Southern Shipping Co Ltd* [1962] HCA 20; *Carmody v F C Lovelock Pty Ltd* [1970] HCA 35; *Caltex Australia Petroleum Pty Ltd v Commissioner of Taxation* [2008] FCA 1951 and *Moama Refinery Pty Ltd v Chief Executive Officer of Customs* [2001] FCA 1287.

For operators of duty-free shops, this will include:

- alcohol goods that are produced or manufactured in Australia and are subject to excise, and
- imported alcohol goods that have undergone a process of manufacture or production in Australia – for example, high-strength imported whisky which has been reduced by adding water (in Australia) before it is bottled, constitutes manufacture or production for excise purposes. Vodka imported in bulk and repackaged in Australia, does not constitute manufacture for excise purposes.

This will not include:

- other imported alcohol goods (because these goods are subject to customs duty)
- wine (which is generally subject to wine equalisation tax), and
- cigarettes and other tobacco goods as there is currently no licensed manufacture of tobacco in Australia.



For more information about customizable alcoholic beverages, refer to Chapter 22 of Schedule 3 to the *Customs Tariff Act 1995*.

Examples of excisable goods include Australian-made:

- beer
- spirits, and
- pre-mixed drinks known as ready-to-drink beverages.

Excise control

Section 7 of the Excise Act refers to the CEO as having 'general administration of this Act'. In this Guide, we will also refer to this general administration as excise control.

Goods are subject to excise control from the point of manufacture until they have been delivered into the Australian domestic market (referred also as to home consumption⁶⁸) or for export.

Goods subject to excise control cannot be moved, altered or interfered with except as authorised by the Excise Act.

Penalty units

The value of a penalty unit is contained in section 4AA of the *Crimes Act 1914*, and is indexed regularly. The dollar amount of a penalty unit is available at [Penalties](#).

⁶⁸ The term used in section 58 of the Excise Act is 'entry for home consumption'.

Relevant traveller

A relevant traveller is:

- for outwards duty-free shop purposes – a person who intends to make an international flight or international voyage, whether as a passenger on, or as a member of the crew (or the pilot or master) of an aircraft or ship⁶⁹
- for inwards duty-free shop purposes – a person who has arrived in Australia on an international flight, whether as a passenger on, or as a member of the crew (or the pilot) of, an aircraft and has not been questioned, for the purposes of the *Customs Act 1901*, by an officer of Customs, in respect of goods carried on that flight.⁷⁰

Section 50 direction

This is a written instruction issued under section 50 of the Excise Act to a licensed manufacturer, or proprietor of premises covered by a storage licence, to keep specified records, furnish specified returns, retain records for a specified period and produce those records on demand by us. The written instruction is incorporated into the licence conditions.

Underbond

This is an expression not found in excise legislation but it is widely used to describe goods that are subject to excise control. Excisable goods that are subject to excise control are commonly referred to as 'underbond goods' or as being 'underbond'. This includes goods that have not yet been delivered into the Australian domestic market and goods moving between premises under a movement permission.

Warehouse licence

Warehouse licence⁷¹ has the same meaning as it has in the Customs Act which states, “‘Warehouse’ means a place that a person or partnership is licensed under section 79 to use for warehousing goods’.⁷²

⁶⁹ Subsection 61D(1) of the Excise Act.

⁷⁰ Subsection 61E(1) of the Excise Act.

⁷¹ Subsection 61D(1) of the Excise Act.

⁷² Subsection 4(1) of the Customs Act.

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Part	Comment
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3 LICENSING: Assessing applications

3.1 PURPOSE

3.2 INTRODUCTION

3.3 POLICY AND PRACTICE

3.3.1 LICENSING CRITERIA

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3.6 TERMS USED

3 LICENSING: Assessing applications

3.1 PURPOSE

This Chapter deals with:

- licensing criteria
- records you need to keep
- licence conditions
- securities
- what happens if your licence is not granted
- what will happen if your licence is granted
- how to renew your licence, and
- penalties that can apply to offences in relation to making an application.

3.2 INTRODUCTION

We have the discretion whether to grant or refuse a licence. We base our decision on the information you supply.

Subsection 39A(2) of the Excise Act provides that if we consider certain criteria exist, they can be the basis for refusal.

Those criteria include:

- you, or a director, officer, shareholder or an associate are not 'fit and proper'
- you do not have, or do not have available to you, the skills and experience required to carry out the activity that would be authorised by the licence
- the physical security of the premises is not adequate
- the plant and equipment to be used at the premises is not suitable
- you will not have a market for the goods
- you would not be able to keep proper books of account for audit purposes
- the grant of a storage licence would delay liability for duty, or
- it is necessary to refuse to grant the licence to protect the revenue.

These criteria are explained in more detail at [Section 3.3.1 Licensing criteria](#).

How any of these criteria affects a particular licence application depends on the facts in each particular case. There are, however, some criteria that are critical, for instance:

- whether you are 'fit and proper'

- the existence of a market, and
- protection of the revenue.

3.3 POLICY AND PRACTICE

3.3.1 LICENSING CRITERIA

'Fit and proper' person or company

The nature of the entity applying for the licence will affect who is assessed as being fit and proper⁷³:

- if it is an individual, the individual is assessed
- if it is a partnership, each partner is assessed, and
- if it is a company, the company is assessed.

Persons other than the applicant can also be assessed as to whether they are fit and proper. These persons are:

- another person who would participate in the management or control of the premises that is the subject of the licence application⁷⁴
- if the applicant is a company, any director, officer or shareholder of the company that would participate in the management or control of the company⁷⁵, and
- certain associates of the applicant (associates can be people or companies).⁷⁶

Meaning of 'fit and proper'

The term 'fit and proper'⁷⁷ is not defined in the Excise Act or the Excise Regulation. Fit and proper is dependent on the purpose of the legislation and the proposed activities of the person concerned. In general, qualities of diligence, honesty and the likelihood of observance of the law are pivotal characteristics to be taken into account in considering fitness and propriety. In an excise context, we are assessing the suitability of the people who will have access and control over '[excisable goods](#)' if a licence is granted.

⁷³ Sections 39B and 39C of the Excise Act.

⁷⁴ Paragraph 39A(2)(d) of the Excise Act.

⁷⁵ Paragraph 39A(2)(c) of the Excise Act.

⁷⁶ Paragraph 39A(2)(f) of the Excise Act.

⁷⁷ Sections 39B and 39C of the Excise Act.

The Excise Act provides a definitive list of factors that we will take into account in determining whether a person or company is fit and proper. These factors generally relate to:

- any prosecution history
- solvency
- the honesty of information provided by the applicant
- compliance with tax obligations, and
- licensing history, if applicable.

In assessing these factors, we will consider whether your circumstances demonstrate that you are diligent, honest and likely to observe excise laws.

A single factor will not necessarily be determinative of whether a person or company is fit and proper. It will depend on the facts and circumstances of each case.

The weight afforded to each factor in reaching a decision about whether a person or company is 'fit and proper' is a matter for us to decide after considering all relevant information.

Some factors apply to both individuals and companies; others are specific to individuals or to companies.

- individual or company⁷⁸
 - whether, within a year of lodging the application, the person or company has been charged with
 - an offence under the excise legislation, or
 - an offence under Commonwealth, state or territory law punishable by imprisonment for one year or longer (for an individual) or by a fine of 50 ['penalty units'](#) or more
 - whether, within 10 years of lodging the application, the person or company has been convicted of
 - an offence under the excise legislation, or
 - an offence under Commonwealth, state or territory law punishable by imprisonment for one year or longer (for an individual) or by a fine of 50 penalty units or more
 - the extent of the person's or company's compliance, within 4 years of lodging the application, with any law administered by us – for example, income tax or goods and services tax (GST)
 - whether the person has held an excise licence which has been cancelled or varied to no longer cover one or more premises, or

⁷⁸ Sections 39B and 39C of the Excise Act.

- the person's or company's financial resources
- individual only⁷⁹
 - whether the person has participated in the management or control of a company that has had its excise licence cancelled or varied to no longer cover one or more premises
 - whether the person is an undischarged bankrupt
 - any misleading statement made in the application by the person, and
 - where any false statement was made in the application – whether the person knew it was false



False and misleading statements are discussed in [Where a person makes false or misleading statements in their application](#).

- company only⁸⁰
 - whether a receiver has been appointed over the property, or part of the property, of the company
 - whether the company is under administration under the *Corporations Act 2001* (Corporations Act)
 - whether there is a current deed of company arrangement in place under Part 5.3A of the Corporations Act, or
 - whether the company is being wound up.

Where a person makes false or misleading statements in their application

It is important that you provide information that is accurate and complete. If your application (that is, your completed application form, any supporting documentation and any oral statements made) contains false or misleading statements⁸¹, we will take this into account.

Misleading statements

The term 'mislead' is not defined in the Excise Act. *The Australian Oxford Dictionary*⁸² defines 'mislead' as:

1. cause (a person) to go wrong, in conduct, belief, etc.

⁷⁹ Section 39B of the Excise Act.

⁸⁰ Section 39C of the Excise Act.

⁸¹ Paragraphs 39B(e) and (f) of the Excise Act.

⁸² Moore, B (2004) *The Australian Oxford Dictionary*, 2nd edn, Oxford University Press, Melbourne.

2. lead astray or in the wrong direction.

A misleading statement does not have to successfully mislead us, but it can be taken into account if it was reasonably foreseeable that we could have been misled when assessing the application.

Misleading may be by omission as well as what has been said.

Example 3A

You advise us that you have installed a state-of-the-art security system at your premises. You failed to advise us that a design fault has resulted in repeated false alarms to the point where you have switched off the security system and have no intention of re-engaging it. The design fault cannot be remedied. The only security in operation at the premises is a rusty padlock.

The information you provided, while not false, could lead us to believe that your premises are secure. This is misleading and may be taken into account in determining whether you are fit and proper.

False statements

If you make a false statement, we will consider whether you knew the statement was false.⁸³

In essence, a statement is false if it is not true. A false statement may be made expressly, such as stating you have no criminal convictions when, in fact, you have been convicted. A false statement may also be made by omission, such as leaving a blank response to the question on your application form in relation to criminal convictions when, in fact, you have been convicted.

Associates that can be assessed under the fit and proper person test

To avoid situations where people with a high risk of non-compliance can exercise control over licence holders or excisable goods, certain associates⁸⁴ can be assessed under the fit and proper person test.

The word 'associate' effectively takes its meaning from the *Income Tax Assessment Act 1936* and is summarised below.

⁸³ Paragraph 39B(f) of the Excise Act.

⁸⁴ Paragraph 39A(2)(f) of the Excise Act; section 995-1 of the *Income Tax Assessment Act 1997*; subsection 318(1) of the *Income Tax Assessment Act 1936* (ITAA 1936).

An associate of a natural person (otherwise than in the capacity of trustee) includes⁸⁵:

- a relative⁸⁶ of the individual – for example, their spouse, parent, sibling, uncle or aunt
- a partner of the individual or a partnership in which the individual is a partner
- if a partner of the individual is a natural person otherwise than in the capacity of trustee, the spouse or child of the partner
- a trustee of a trust under which the individual or their associate benefits, or
- a company under the control of the individual or their associate.

Although an associate includes a spouse, a legally married spouse of a person who lives separately and apart on a permanent basis is not an associate.⁸⁷

An associate of a company includes⁸⁸:

- a partner of the company or a partnership in which the company is a partner
- if a partner of the company is an individual, the spouse or child of the partner
- a trustee of a trust under which the company or their associate benefits
- another entity (a company, partnership, trustee or an individual) or its associate (or associates) who controls the company, or
- another company which is under the control of the company or the company's associate.

The control of a company looks to whether another entity (including individuals):

- has sufficient influence over the company, or
- holds a majority voting interest in the company.

An associate of a trustee includes an entity or an associate of the entity that benefits or is capable of benefiting either directly or indirectly under the trust.⁸⁹

For a partnership, an associate includes each partner of the partnership or associate of the partner.⁹⁰

⁸⁵ Subsection 318(1) of the ITAA 1936.

⁸⁶ Section 995-1 of the *Income Tax Assessment Act 1997* for definition of 'relative' for this purpose.

⁸⁷ Subsection 318(7) of the ITAA 1936.

⁸⁸ Subsection 318(2) of the ITAA 1936.

⁸⁹ Subsection 318(3) of the ITAA 1936.

⁹⁰ Subsection 318(4) of the ITAA 1936.

Skills and experience

Skills and experience⁹¹ are not defined in the Excise Act or the Excise Regulation. There is no case law regarding skills and experience in an excise context.

In forming an opinion as to whether you have the required skills and experience, we will consider your ability to:

- carry out the activity requiring a licence
- conduct a business, and
- comply with excise obligations.

It is important to note that you, as the applicant, do not necessarily need to possess the skills and experience yourself provided that you can demonstrate that you will use another person's skills and experience – for example, by hiring them or using a consultant. Should that be the case, we will assess the other person's skills or experience.

Example 3B

Mr X, as a Director of Z Duty Free Co, applies for a storage licence with permission to sell duty free.

Neither Mr X nor any of his staff have the skills and experience to comply with the company's excise obligations. This poses a risk that excisable goods may be sold without adequate record keeping and may adversely affect revenue and compliance.

Therefore, when assessing this element of subsection 39A(2) in isolation, Z Duty Free Co would fail the requirements of skills and experience. However, a decision on granting a licence is made based on an assessment of all elements of subsection 39A(2).

Z Duty Free Co may choose to address the deficiency in skills and experience by such measures as appointing a manager who has the relevant skills and experience.

Physical security of the premises

Physical security⁹² relates to measures that prevent unauthorised access to excisable goods and thus protects against theft or loss of goods and excise revenue.

⁹¹ Paragraph 39A(2)(fa) of the Excise Act.

⁹² Paragraphs 39A(2)(g) and (h) of the Excise Act.

In forming an opinion about the physical security at the premises, we will consider:

- the nature of the site
- the kinds and quantities of goods to be kept, and
- the procedures and methods adopted to ensure the security of goods.

Consideration of the nature of the site can include:

- construction (for example, floor, walls, ceiling, windows and doors) and whether material is difficult to penetrate or remove
- barriers (for example, fences or wire) to a standard that would prevent unauthorised access
- locks and bars
- alarms, security lighting, security guard patrols or closed-circuit TV cameras
- physical security of all warehouse facilities within the site, and
- fire alarms, smoke detectors, sprinklers and other similar safety and protection devices.

Consideration of the kind and quantity of goods to be kept at the site can include:

- the ease with which goods can be handled – for example, cartons of cigarettes are easier to move than cartons of beer
- the rate of excise duty applicable to the goods (goods that attract a greater rate of excise duty represent a greater revenue risk), and
- the greater the quantity of excisable goods to be dealt with, the higher the level of physical security that would be required.

Consideration of the security procedures and methods can include:

- a gate security system that identifies all people accessing the site and confirms their right to do so
- a gate security system that identifies the type and quantity of all goods entering and leaving the site
- a surveillance system
- procedures to handle and retain information from surveillance system (if there is one)
- access control – for example, by limited distribution of keys, access swipe cards or codes
- security responses when breaches are detected – for example, back-to-base system, and
- an independent security audit function to oversee the security procedures and methods.

Suitability of plant and equipment

Plant and equipment⁹³ are considered suitable if they are capable of performing the intended tasks and will allow you to properly account for excisable goods and calculate the correct amount of excise duty.

Market for the goods

For this criterion, we are primarily concerned with the presence of an available market⁹⁴ within Australia. That market must be legal. Licensing is concerned with minimising the risk of excisable goods entering an illicit market in Australia and the resultant loss of revenue.

You must provide sufficient information to identify your proposed market.

You may be able to demonstrate that you have a market by, for example, supplying:

- evidence of contracts (including 'in principle' contracts) you have negotiated (for example, a contract to lease an area, at an international airport, to be used as a duty-free shop), or
- a business plan which outlines the market you have identified.

Ability to keep proper books of account

This criterion is whether you can keep 'proper books of accounts and records' that enable us to audit those records.⁹⁵

You may be asked to demonstrate:

- the recording systems you intend to use, whether they are manual or electronic
- where an electronic record-keeping system is used, systems documentation showing details such as screens, reports available and security controls, and
- the internal documentation supporting the recording systems, ensuring that the recording systems will record sufficient detail.

Delay liability for duty (storage licence only)

This criterion only relates to an application for a storage licence where the granting of the licence would delay liability for the duty.⁹⁶

⁹³ Paragraph 39A(2)(i) of the Excise Act.

⁹⁴ Paragraph 39A(2)(ia) of the Excise Act.

⁹⁵ Paragraph 39(2)(j) of the Excise Act.

⁹⁶ Paragraph 39A(2)(k) of the Excise Act.

It is our view that we may refuse to grant a storage licence where the granting of the licence would delay payment of duty beyond the point of storage occurring in the normal wholesale distribution of the goods.

This criterion is not relevant for duty-free shops.

Protect the revenue

The term 'necessary to protect the revenue'⁹⁷ is not defined in the Excise Act.

The meaning of 'protect the revenue' was considered by Deputy President Forgie in *Martino and Australian Taxation Office*.⁹⁸ She said, at [50–52]:

... The expression "*protect the revenue*" is not defined in the Act and I am not aware of any authorities that have considered it. The word "*revenue*" has been considered in *Stephens v Abrahams* [1902] VicLawRp 123; (1902) 27 VLR 753 by Hodges J. ... Hodges J took:

"... the 'revenue' to be moneys which belong to the Crown, or moneys to which the Crown has a right, or moneys which are due to the Crown ..."

The ordinary meanings of the word "*protect*" include "*keep safe, take care of*" ... and they would seem to be the senses in which the word is used in the expression "*protect the revenue*". Mr Martino's licence may only be cancelled if it is necessary to take care of the money belonging to the Crown in right of the Commonwealth. That has the aspect of ensuring that the Commonwealth receives all that it should in the form of any excise that is ultimately payable in respect of tobacco originally grown on Mr Martino's farm and keeps all that it receives. It also has the aspect of not spending more of the Commonwealth's money than need be spent in carrying out its supervisory duties and responsibilities under the Act and in ensuring that the tobacco is not marketed illegally in Australia, and so avoid the payment of excise duty, if it cannot be marketed legally.

What is meant by the word "*necessary*"? I have taken the view that the meaning adopted by Allen J in *State Drug Crime Commission of NSW v Chapman* (1987) 12 NSWLR 447:

"As to the word 'necessary' it does not have, in my judgment, the meaning of 'essential'. The word is to be subjected to the touchstone of reasonableness. The concept is one as to what reasonably is necessary in a commonsense way."

While this case was in relation to tobacco, the finding is equally applicable to duty-free shops. 'Protect the revenue' therefore means ensuring that the Commonwealth receives the full amount of excise duty that is ultimately payable and we do not spend more Commonwealth funds than necessary to carry out our responsibilities.

⁹⁷ Paragraph 39A(2)(l) of the Excise Act.

⁹⁸ *Martino and Australian Taxation Office* [2002] AATA 1242.

3.3.2 LICENCE CONDITIONS

Licence conditions form part of your licence. If you fail to comply with a condition, we may suspend or cancel your licence.⁹⁹

All excise licences are subject to certain conditions imposed by:

- the Excise Act, and
- us (special conditions).

We are able to add, vary or modify special conditions even after the licence has been granted.¹⁰⁰ We will notify you in writing if we do so and provide you with an amended licence that includes the amended conditions.

Conditions imposed under the Excise Act

You must advise us in writing within 30 days if¹⁰¹:

- you or any person participating in the management or control of a licensed company or premises is charged with or convicted of
 - an offence against a provision of the Excise Act, or
 - an offence against a law of the Commonwealth, a state or a territory that is punishable by imprisonment for a period of one year or longer or by a fine of 50 penalty units or more
- you become bankrupt
- a person not listed in the licence application starts to participate in the management or control of premises covered by the licence or of the company, as the case may be
- there is a change in the membership of a partnership that holds a licence
- a company that holds a licence comes under receivership, administration or begins to be wound up
- there is a change that substantially affects the physical security of premises covered by the licence or plant and equipment used in relation to excisable goods at the premises, or
- you hold a storage licence and you cease to keep and store goods at premises covered by the licence.

⁹⁹ Paragraph 39G(1)(k) of the Excise Act.

¹⁰⁰ Subsection 39D(4) and section 39DA of the Excise Act.

¹⁰¹ Subsection 39D(1) of the Excise Act.

Special conditions

We can also impose special conditions on your licence if we find it necessary to protect the revenue or ensure compliance with the Excise Act.¹⁰² [‘Directions issued under section 50’](#) of the Excise Act to keep specified records, furnish specified returns, retain records for a specified period and produce those records on demand are included as a special condition on each licence.

Examples of conditions that have been imposed under this provision are:

- the trustee for a trust is to notify the Collector of the appointment of a new trustee in writing and prior to the appointment of the new trustee
- limits to the volume of excisable product you can access annually
- the requirement to undertake regular stocktakes, and
- ensuring that [‘underbond’](#) stock is readily identifiable and quantifiable and reporting on LAG products.

The examples of special conditions given above are only for illustrative purposes. The decision to impose special conditions is considered on a case-by-case basis.

You can apply to have these special conditions varied, revoked or added. We will consider and advise you of our decision.

If you are not satisfied with any decision we make about a special condition, you can ask for a review by lodging an objection.¹⁰³



For more information about your review rights, refer to [Chapter 10](#) Reviews and objections.

3.3.3 SECURITIES

We can use conditions as a mechanism to increase the level of protection of the revenue or to ensure compliance with the Excise Act. However, prior to granting the licence, we may also require you to provide a security to achieve the same result. Even if we do not require a security prior to the granting of the licence, we may ask for a security at a later time. We can also ask you to increase the value of any security you may already have given.¹⁰⁴

A security can be a bond, guarantee, cash deposit or similar financial product for an amount of money which may be forfeited if there is a failure to comply with the Excise Act. It is not necessary for a liability to arise as a result of the failure to comply for the security to be forfeited. There is no statutory limit to the amount of a security but the amount is generally set by reference to the level of revenue at risk.

¹⁰² Subsection 39D(3) of the Excise Act.

¹⁰³ Section 39Q of the Excise Act.

¹⁰⁴ Sections 16 to 22 of the Excise Act.

We cannot apply these securities against other tax debts.

We review securities every 3 years, at which time they may be extended, revised or cancelled.

You cannot object to a decision to require a security. However, there may be other avenues for review – for example, you may seek an informal review of our decision.



For information about your review rights, refer to [Chapter 10](#) Reviews and objections.

3.4 PROCEDURES

3.4.1 IF A LICENCE IS NOT GRANTED

If we do not grant a licence (or we grant you a licence that does not cover all the premises applied for), we will notify you of the decision and provide you with an explanation for our decision.

If you are not satisfied with our decision, you can ask for a review by lodging an objection within 60 days of the day we notify you.¹⁰⁵



For information about your review rights, refer to [Chapter 10](#) Reviews and objections.

3.4.2 IF A LICENCE IS GRANTED

If we grant you a licence, we will send it to you. We will also provide you with an establishment number or numbers for the premises specified on your licence. This will be needed in some of your dealings with us.

You may receive a visit or phone call from us to ensure you understand your obligations and check whether you need further assistance.

3.4.3 MORE INFORMATION

If you need more information on duty-free shops, contact us via [ATO Online Services](#) or the other options listed on [Contact us about excisable alcohol](#).

We will ordinarily respond to written information requests within 28 days. If we cannot respond within 28 days, we will contact you within 14 days to obtain more information or negotiate an extended response date.

¹⁰⁵ Section 39Q of the Excise Act.

3.5 PENALTIES THAT CAN APPLY IN RELATION TO APPLICATIONS

You commit an offence punishable upon conviction if you¹⁰⁶:

- intentionally make a statement to an officer, reckless as to the fact that the statement is false or misleading in a material particular, or
- intentionally omit from a statement made to an officer any matter or thing, reckless as to the fact that without the matter or thing the statement is misleading in a material particular.

The maximum penalty is 50 penalty units.¹⁰⁷

3.6 TERMS USED

Excisable goods

Excisable goods are goods on which excise duty is imposed. Excise duty is imposed on goods that are listed in the Schedule, and manufactured or produced in Australia.

For operators of duty-free shops, this will include:

- alcohol goods that are produced or manufactured in Australia and are subject to excise, and
- imported alcohol goods that have undergone a process of manufacture or production in Australia – for example, high-strength imported whisky which has been reduced by adding water (in Australia) before it is bottled, constitutes manufacture or production for excise purposes. Vodka imported in bulk and repackaged in Australia, does not constitute manufacture for excise purposes.

This will not include:

- other imported alcohol goods (because these goods are subject to customs duty)
- wine (which is generally subject to wine equalisation tax), and
- cigarettes and other tobacco goods as there is currently no licensed manufacture of tobacco in Australia.



For more information about customisable alcoholic beverages, refer to Chapter 22 of Schedule 3 to the *Customs Tariff Act 1995*.

¹⁰⁶ Paragraph 120(1)(iv) of the Excise Act.

¹⁰⁷ Paragraph 120(2)(d) of the Excise Act.

Examples of excisable goods include Australian-made:

- beer
- spirits, and
- pre-mixed drinks known as ready-to-drink beverages.

Penalty units

The value of a penalty unit is contained in section 4AA of the *Crimes Act 1914*, and is indexed regularly. The dollar amount of a penalty unit is available at [Penalties](#).

Section 50 direction

This is a written instruction issued under section 50 of the Excise Act to a licensed manufacturer, or proprietor of premises covered by a licence, to keep specified records, furnish specified returns, retain records for a specified period and produce those records on demand by us. This instruction is part of the licence.

Underbond

This is an expression not found in excise legislation but it is widely used to describe goods that are subject to excise control. Excisable goods that are subject to excise control are commonly referred to as 'underbond goods' or as being 'underbond'. This includes goods that have not yet been delivered into the Australian domestic market and goods moving between premises under a movement permission.

Amendment history

1 October 2025

Part	Comments
Throughout	Content checked for technical accuracy and currency. Updated in line with current ATO style and accessibility requirements.

4 LICENSING: Suspension and cancellation

4.1 PURPOSE

4.2 INTRODUCTION

4.3 POLICY AND PRACTICE

4.3.1 IF YOU CEASE YOUR EXCISE BUSINESS

4.3.2 SUSPENSION OR CANCELLATION OF A LICENCE

4.4 PROCEDURES

4.4.1 SERVICE OF NOTICES

4.4.2 MORE INFORMATION

4.5 PENALTIES THAT CAN APPLY IN RELATION TO SUSPENSIONS AND CANCELLATIONS

4.6 TERMS USED

4 LICENSING: Suspension and cancellation

4.1 PURPOSE

This Chapter deals with:

- what happens when you cease your business
- when your licence can be suspended or cancelled
- service of notices, and
- penalties that can apply to offences in relation to suspensions and cancellations.

4.2 INTRODUCTION

Your licence remains in force until it is cancelled. However, activities approved under your licence may be restricted if we suspend your licence. Suspension may be a temporary measure or may lead to the cancellation of your licence.

Where your licence covers more than one premises, we can also vary your licence to no longer cover particular premises if we:

- have reasonable grounds to [suspend](#) your licence in relation to those premises
- receive written notice from the licence holder requesting the variation.

We can cancel your licence if:

- you ask us to do so (for example, where you intend to cease business), or
- we make a decision to do so because one or more of the following criteria are present
 - you or an associate are not 'fit and proper' as an individual or company
 - a director, officer or shareholder who participates in the management or control of the company is not a 'fit and proper' person
 - a person who participates in the management or control of the premises is not a 'fit and proper' person
 - you do not have, or have available to you, the skills and experience required to carry out the activity authorised by the licence
 - the physical security of the premises is inadequate
 - the plant and equipment used at the premises are such that there is inadequate protection of the revenue in relation to the goods at the premises
 - you have no market for the goods covered by the licence
 - you are not keeping proper books of account for audit purposes
 - you have breached a condition of your licence

- you have made a false or misleading statement to us¹⁰⁸
- suspension is necessary for the protection of the revenue
- suspension is necessary to ensure you comply with excise law, or
- you have not, for a period of at least 3 years, conducted any activities authorised by the licence at any premises covered by the licence.

4.3 POLICY AND PRACTICE

4.3.1 IF YOU CEASE YOUR EXCISE BUSINESS

Your licence conditions require you to notify us within 30 days if you permanently cease activities that require an excise licence. To finalise your excise obligations, you must request in writing a cancellation of your licence.¹⁰⁹

Before we can cancel your licence, we must be satisfied that you no longer have any [‘excisable goods’](#). To be satisfied of this, we may:

- arrange a final audit of goods at premises covered by the licence, and
- work out if you are liable to pay any excise duty.

Although your licence conditions require you to notify us within 30 days of cessation of activities, you are encouraged to notify us at the earliest opportunity. This will enable us to assist you to check your records and any stock on hand prior to closure of the site for excise purposes.

If you want to sell your business with the stock included, we can coordinate your licence cancellation with the licence approval for the new owner. (This does not mean that the new owner will automatically be granted a licence). This will ensure the premises and goods are covered by a licence at all times.

If you do not intend to sell the goods with your business, you can¹¹⁰:

- pay any outstanding excise duty on goods held at the premises covered by the licence and then dispose of them as you wish, or
- move the goods to another licence holder's premises, provided you have permission from us to move goods to those premises.

¹⁰⁸ Note that this is different to the consideration for granting a licence. In granting a licence, we can take into account any misleading statement or, if you knowingly made a false statement, in your application. For suspension or cancellation, we can consider any statement you make to us in relation to excise matters.

¹⁰⁹ Subsection 39L(2) of the Excise Act.

¹¹⁰ Subsection 39L(4) of the Excise Act.

We will cancel your licence by giving you written notice.¹¹¹

If you do not comply with the requirements of the notice, the goods will be sold or otherwise disposed of.¹¹²

4.3.2 SUSPENSION OR CANCELLATION OF A LICENCE

The difference between suspension and cancellation

Suspension of a licence is a temporary measure we may take that limits the activities you can undertake during the period of suspension. It could be followed by cancellation of the licence or revocation of the suspension. Cancellation is a permanent measure which has the effect of prohibiting you from undertaking the activities for which you were previously licensed.

Where your licence covers more than one premises, we may also suspend your licence in relation to particular premises limiting the activities you can undertake during the period of suspension at those premises. It could be followed by variation of your licence to remove particular premises prohibiting you from undertaking the activities for which you were previously licensed at those premises.

When your licence can be suspended or cancelled

We can suspend or cancel your licence if we have reasonable grounds for believing¹¹³:

- you are not 'fit and proper' as an individual or company*
- a director, officer or shareholder who participates in the management or control of the company is not a 'fit and proper' person*
- a person who participates in the management or control of the premises is not a 'fit and proper' person*
- you are an associate of a person or a company that is not 'fit and proper'*
- you do not have, or have available to you, the skills and experience required to carry out the activity authorised by the licence*
- the physical security of the premises is inadequate*
- the plant and equipment used at the premises are such that there is inadequate protection of the revenue in relation to the goods at the premises*
- you have no market for the goods covered by the licence*
- you are not keeping proper books of account for audit purposes
- you have breached a condition of your licence

¹¹¹ Subsection 39L(3) of the Excise Act.

¹¹² Paragraph 39L(4)(b) of the Excise Act.

¹¹³ Subsections 39G(1) and 39L(1) of the Excise Act.

- you have made a false or misleading statement to us
- suspension is necessary for the protection of the revenue*
- suspension is necessary to ensure you comply with excise law, or
- you have not, for a period of at least 3 years, conducted any activities authorised by the licence at any premises covered by the licence.

* For an explanation of these criteria, refer to [Section 3.3.1](#) Licensing criteria.

The criteria which have not been the subject of previous considerations are:

- You are not keeping proper books of account for audit purposes. For this criterion, we are assessing your actual record-keeping practices during the licence period and whether they are in an adequate state for an audit to represent your business activity.
- You have breached a condition of your licence. A breach means you have not complied with a condition. In deciding whether or not to suspend, we will take into account
 - the severity of the breach
 - the circumstances surrounding the breach, and
 - what the condition is (that is, the risk it is addressing).
- You have made a false or misleading statement to us. In considering your initial application, the false or misleading statements we take into account are in your application. Once you have been granted a licence, we can take into account any statements (including, for example, in a return, letter or response to a question) you have made in relation to your excise activities.
- Suspension is necessary to ensure you comply with excise law. Where we consider that you are not complying with your obligations under the Excise Act, for example, if you have not been complying with a condition in respect of your permission.¹¹⁴
- You have not, for a period of at least 3 years, conducted any activities authorised by the licence at any premises covered by the licence. We will consider suspending the licence where, for example, you have not stored excisable goods for the previous 3 years at any premises covered by the licence and it is unlikely you will do so in the near future.

If your licence is suspended

If we believe your conduct warrants consideration of suspension of your licence or particular premises covered by your licence, we will generally advise you of our concerns prior to proceeding with suspension and provide you with an opportunity to rectify the issues identified.

¹¹⁴ Sections 61D and 61E of the Excise Act.

If we decide to proceed with the suspension, this will be done by serving a Notice of suspension. The notice may be served on you or given to a person who appears to participate in the management or control of any of the premises covered by your licence.

A Notice of suspension will state that, if you want to stop the cancellation of your licence (or variation of your licence to no longer cover particular premises), you must provide us with a written statement, within 7 days of the notice being served, giving reasons why your licence should not be cancelled (or varied). We will include our reasons for deciding to suspend your licence or particular premises covered by your licence with the Notice of suspension.

The notice will also state when the suspension takes effect, which could be immediately.

When your licence is suspended¹¹⁵, unless you have written permission from us, it is against the law to keep or store excisable goods at premises covered by your licence.

During the period of suspension, we may give you written permission to¹¹⁶:

- keep or store excisable goods at premises covered by your licence
- carry out a process at your premises, or
- move goods from your premises to another place.

As a result of a suspension, we may:

- require the owner (you or a third party) of excisable goods to move the goods from premises covered by your licence to another place
- require payment of any costs incurred by us as a result of the suspension
- carry out a stocktake so that the total excise liability is known, and
- take control of premises covered by your licence and any excisable goods stored at these premises.


If we suspend your licence, we have 28 days to cancel your licence. During this period, we can revoke the suspension if you satisfactorily address the issues which led to the suspension. If we revoke a licence suspension, we will do so in writing. We may impose additional conditions or allow you to resume your excise activities under the existing conditions.

Where your licence covers more than one premises, the suspension processes outlined above can be applied in the same manner to particular premises covered by the licence.

All decisions relating to the suspension of a licence or to particular premises covered by the licence are reviewable by lodging an objection.


¹¹⁵ Section 39K of the Excise Act.

¹¹⁶ Subsection 39K(6) of the Excise Act.

-  For more information about your review rights, refer to [Chapter 10](#) Reviews and objections.

If your licence is cancelled

We can cancel your licence or vary your licence to remove particular premises for the same reasons we can suspend your licence.


-  We can cancel your licence without suspending your licence first. This may occur where we consider the issues require immediate action – for example, repeated delivery of excisable goods without payment of required duty.

If we cancel your licence, we will serve you with a Notice of cancellation. If we cancel your licence, you are not permitted to store excisable goods. You are also not permitted to move excisable goods without our permission.

The Notice of cancellation may be served on you or given to a person who appears to participate in the management or control of premises covered by your licence. We will include our reasons for deciding to cancel your licence with the Notice of cancellation.


At the same time, we will serve the owner of the excisable goods (whether that is you or someone else) notice in writing to either:

- pay the duty on the goods, or
- move the goods to another place in accordance with our permission.

-  This direction notice is served in the same manner as the Notice of cancellation.

If the owner does not comply with the direction notice to pay duty or move the goods, we may remove them from the owner's control. We may sell or dispose of the excisable goods if, after 6 months, the owner has not¹¹⁷:

- lodged a written claim for the goods, and
- paid the duty and other movement and storage related expenses.

-  If we cancel your licence, you must retain all records that you have been directed to keep, for the period you have been directed.

¹¹⁷ Subsection 39N(2) of the Excise Act.

Where your licence covers more than one premises, the cancellation processes outlined above can be applied to particular premises in the same manner by variation of the licence to remove those particular premises.¹¹⁸

If you are not satisfied with our decision to cancel your licence, vary your licence to remove particular premises or dispose of your excisable goods, you can request a review of our decision by lodging an objection.¹¹⁹



For more information about your review rights, refer to [Chapter 10](#) Reviews and objections.

Applying for another licence after a licence cancellation

You can apply for another licence after you have had a licence cancelled. However, we will take the reasons for the cancellation into account when considering any new application.

4.4 PROCEDURES

4.4.1 SERVICE OF NOTICES

Notices of suspension, variation or cancellation and directions to deal with excisable goods will be served either¹²⁰:

- personally or by post¹²¹ on you, or
- personally on a person who, at the time the notice is served, appears to participate in the management or control of premises covered by the licence.

4.4.2 MORE INFORMATION

If you need more information on excise, as it relates to duty-free shops, contact us via [ATO Online Services](#) or the other options as listed on [Contact us about excisable alcohol](#).

We will ordinarily respond to written information requests within 28 days. If we cannot respond within 28 days, we will contact you within 14 days to obtain more information or negotiate an extended response date.

¹¹⁸ Section 39LA of the Excise Act.

¹¹⁹ Section 39Q of the Excise Act.

¹²⁰ Subsections 39J(2) and 39L(5) of the Excise Act.

¹²¹ Section 39P of the Excise Act.

4.5 PENALTIES THAT CAN APPLY IN RELATION TO SUSPENSIONS AND CANCELLATIONS

The following are the penalties that may apply after conviction for an offence.

Keep or store

If you store excisable goods when your storage licence is suspended, the penalty is a maximum of 2 years in prison or the greater of 500 '[penalty units](#)' and 5 times the amount of duty on the excisable goods.¹²²

Where your licence covers more than one premises

Where your licence covers more than one premises, the penalties outlined above of 500 penalty units and 5 times the amount of duty on the excisable fuel products apply if you keep or store excisable goods at particular premises in relation to which the licence is suspended.¹²³

Remove

If your licence has been cancelled or varied to remove premises, you must not, without our permission, remove excisable goods on which duty has not been paid. The penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable goods.¹²⁴

4.6 TERMS USED

Excisable goods

Excisable goods are goods on which excise duty is imposed. Excise duty is imposed on goods that are listed in the Schedule, and manufactured or produced in Australia.

For operators of duty-free shops, this will include:

- alcohol goods that are produced or manufactured in Australia and are subject to excise, and
- imported alcohol goods that have undergone a process of manufacture or production in Australia – for example, high-strength imported whisky which has been reduced by

¹²² Paragraph 39K(1)(b) of the Excise Act.

¹²³ Subsection 39K(1A) of the Excise Act.

¹²⁴ Subsection 39M(1) of the Excise Act.

adding water (in Australia) before it is bottled, constitutes manufacture or production for excise purposes. Vodka imported in bulk and repackaged in Australia, does not constitute manufacture for excise purposes.

This will not include:

- other imported alcohol goods (because these goods are subject to customs duty)
- wine (which is generally subject to wine equalisation tax), and
- cigarettes and other tobacco goods as there is currently no licensed manufacture of tobacco in Australia.



For more information about customable alcoholic beverages, refer to Chapter 22 of Schedule 3 to the *Customs Tariff Act 1995*.

Examples of excisable goods include Australian-made:

- beer
- spirits, and
- pre-mixed drinks known as ready-to-drink beverages.

Penalty units

The value of a penalty unit is contained in section 4AA of the *Crimes Act 1914*, and is indexed regularly. The dollar amount of a penalty unit is available at [Penalties](#).

Amendment history

1 October 2025

Section	Changes and updates
Throughout	Content checked for technical accuracy and currency. Updated in line with current ATO style and accessibility requirements.

5 MOVEMENT PERMISSIONS

5.1 PURPOSE

5.2 INTRODUCTION

5.3 POLICY AND PRACTICE

5.3.1 PERMISSION TYPES

5.3.2 OBTAINING A MOVEMENT PERMISSION

5.3.3 WHAT IS INCLUDED IN A MOVEMENT PERMISSION

5.3.4 RECEIVING PREMISES LICENCES

5.3.5 PAYING A SECURITY

5.3.6 ONCE A MOVEMENT PERMISSION IS GRANTED

5.3.7 YOUR RESPONSIBILITIES

5.3.8 IF AN APPLICATION IS NOT APPROVED

5.3.9 REVOCATION OR CANCELLATION OF A MOVEMENT PERMISSION

5.4 PROCEDURES

5.4.1 APPLYING FOR A MOVEMENT PERMISSION

5.4.2 AMENDING A CONTINUING MOVEMENT PERMISSION

5.4.3 MORE INFORMATION

5.5 PENALTIES THAT CAN APPLY IN RELATION TO MOVEMENT PERMISSIONS

5.6 TERMS USED

5 MOVEMENT PERMISSIONS

5.1 PURPOSE

This Chapter deals with:

- why you need a movement permission
- different movement permission types
- whether you can get a movement permission
- what is included in a movement permission
- whether the receiving premises have to be covered by a licence
- whether you will need to pay a security
- what happens when your movement permission is granted
- your responsibilities
- what happens if your application for a movement permission is not approved
- when and how a movement permission can be revoked or cancelled
- how to apply for a movement permission
- how to amend a continuing movement permission, and
- penalties that can apply to offences in relation to movement permissions.

5.2 INTRODUCTION

Under the excise system, control of goods from the time of creation to the point of authorised '[delivery of the goods into the Australian domestic market](#)', or export, lies with the Commissioner. To maintain this control, the Excise Act requires that goods subject to control are not to be moved without permission.¹²⁵

We refer to this form of permission as a movement permission. It is a permission we provide in writing that authorises you to move specified goods from one specified place to another specified place without excise duty being payable.¹²⁶ This permission may be subject to conditions.

The permission holder retains responsibility for any excise liability arising on the '[excisable goods](#)' until they are taken up into the stock of the new premises.

¹²⁵ This does not mean movements within the bounds of premises covered by your licence, rather movements from premises covered by your licence to another place.

¹²⁶ Section 61A of the Excise Act.

5.3 POLICY AND PRACTICE

5.3.1 PERMISSION TYPES

Depending on your circumstances, you may apply for a permission to move specified excisable goods once (single permission) or excisable goods of a particular kind on a continuing basis (continuing permission). Continuing permissions are used where you have a need to move excisable goods in a regular pattern (for example, a delivery each week to the same premises). A single permission is used when movements are not to a continuing or regular pattern to the same premises.

There are 5 types of movement permission:

- single movement permission (non-export) – a permission to move specified excisable goods from one specified place to another specified place (effective for one movement)
- continuing movement permission (non-export) – a permission to move excisable goods of a kind specified from one specified place to another specified place on a continuing basis
- general movement permission – a permission to move excisable fuel products of a kind from any premises covered by your licence to any other premises covered by a licence which are authorised to keep those goods, on a continuing basis
- single movement permission (export) – a permission to move specified excisable goods to a place of export (effective for one movement), or
- continuing movement permission (export) – a permission to move excisable goods of a kind specified to a place of export on a continuing basis.



An export movement permission is **not** an authority to export. You must obtain this separately from the Department of Home Affairs. Excisable goods being exported by '[relevant travellers](#)' do not need a movement permission.

5.3.2 OBTAINING A MOVEMENT PERMISSION

You can be granted a movement permission if you are the licence holder of:

- the place covered by a licence from where the goods are despatched, or
- the place covered by a licence where the goods are received.

You can also be granted a movement permission if you are the owner of the goods even if you do not hold an excise licence.

A general movement permission can only be granted to the holder of an excise licence to despatch excisable products from premises covered by that licence. If you are granted a licence that covers more than one premises, you may also receive a general movement permission by default.

5.3.3 WHAT IS INCLUDED IN A MOVEMENT PERMISSION

Each movement permission we approve contains 3 parts:

1. The permission

The permission specifies the:

- permission holder.
- goods by tariff item or general description that can be moved under the permission.

The type of goods may be expressed generally (for example 'excisable goods', or 'excisable alcohol products') or specifically, by tariff item number or description.

A single movement permission will specify the kind and quantity of the goods that can be moved, for example, 12 (cartons) × 12 (bottles) × 1L whisky @ 40% alcohol by volume = 57.6 litres of alcohol (Lals) classified to excise tariff item 3.2.

2. The conditions

Movement permissions can be subject to conditions that are necessary to protect the revenue or ensure compliance with the Excise Act. In general, the conditions listed below are considered necessary to do that.

As a standard condition, you must provide to both the despatching and receiving premises a consecutively numbered document with each movement of goods that specifies:

- the despatching premises and destination
- the date of despatch
- the number and type of packages
- a description of the goods
- a statement that the goods are '[underbond](#)', and
- any other information necessary to permit the goods to be dealt with at the destination.

A condition can also have a restriction limiting the volume of goods that can be moved within a specific period of time, or at any one time.

3. The schedule

This specifies:

- the premises from which the goods can be removed
- the premises to which the goods can be moved
- the goods by tariff item that can be moved under the permission, and
- for single movement permissions, the period or dates in which the goods may be moved.

* Note that general movement permissions will not contain a schedule, as the permission allows the permission holder to move excisable alcohol products of a kind from any premises covered by their licence to any other premises authorised to keep those kinds of goods.

5.3.4 RECEIVING PREMISES LICENCES

Generally, the receiving premises should be covered by a licence. However, we may authorise underbond movement of goods to a 'specified place' not covered by a licence, for example, a waste destruction facility.

For a general movement permission, the receiving premises must be covered by a licence and be authorised to keep those kinds of goods.

5.3.5 PAYING A SECURITY

Prior to granting a movement permission, we may also require you to provide a security to protect the revenue or ensure compliance with the Excise Act. Even if we don't require a security prior to the granting of the movement permission, we may ask for a security at a later time. We can also ask you to increase the value of any security you may already have given.¹²⁷

A security can be a bond, guarantee, cash deposit or similar financial product for an amount of money which may be forfeited if there is a failure to comply with the Excise Act. It is not necessary for a liability to arise as a result of the failure to comply, for the security to be forfeited. There is no statutory limit to the amount of a security but the amount is generally set by reference to the level of revenue at risk.

As part of assessing your application for a movement permission, we will decide whether you must provide a security. We will take into account:

- whether you currently hold an excise licence
- whether the despatching and receiving premises are covered by a licence
- the type of goods involved
- the amount of the liability on the goods
- the tax compliance record of the
 - applicant for the permission
 - owner of the despatching premises
 - owner of the receiving premises, and
- the susceptibility of the goods to be lost or diverted into home consumption without the payment of duty.

¹²⁷ Sections 16 to 22 of the Excise Act.

We review securities linked to continuous movement permissions every 3 years, at which time they may be extended, revised or cancelled. Compliance with a single movement permission is assessed on completion of the movement of the excisable goods covered by the permission.

The decision to require a security is not a reviewable decision under the objection process. However, there may be other avenues for review, for example, you may seek an informal review of our decision.



For more information about your review rights, refer to [Chapter 10](#) Reviews and objections.

5.3.6 ONCE A MOVEMENT PERMISSION IS GRANTED

When your movement permission is granted, it will be sent to you. You can then move your goods in accordance with the schedule. You will need to keep appropriate records to track the movement of your goods.

5.3.7 YOUR RESPONSIBILITIES

Where you have had possession, custody or control of goods we may request you (the permission holder) to account for the goods. If you are able to demonstrate that the goods have been lawfully moved under a movement permission, this will be considered a satisfactory accounting. It is important that you keep good records of any movement of goods both to and from your premises.

If you cannot satisfactorily account for the goods or you have failed to keep them safely, we may demand an amount equal to the duty that would have been payable on the goods.¹²⁸

The permission holder is accountable for the goods:

- from the time they are removed from the despatching premises, and
- until they are delivered to the receiving premises.

Accountability then transfers to the receiving premises. If the permission holder is the owner of the receiving premises, transfer of accountability occurs when the goods leave the despatching premises. If the permission holder owns the goods but is not licensed, they would generally be accountable for the goods from the time they are removed from the despatching premises until they are delivered to the receiving premises and taken up into stock.

If there is a discrepancy between the quantity shown in the delivery documentation and the physical quantity received you should contact us.



In the exceptional case where the goods are moved to premises not covered by a licence, accountability for the goods remains with you, as the permission holder.

¹²⁸ Section 60 of the Excise Act.

5.3.8 IF AN APPLICATION IS NOT APPROVED

If we do not approve your application for a movement permission, or to amend your existing movement permission, we will notify you in writing. If you are not satisfied with our decision, you can ask us to review it. You will not be able to move the goods to the place nominated in the application.

 For more information about your review rights, refer to [Chapter 10](#) Reviews and objections.

5.3.9 REVOCATION OR CANCELLATION OF A MOVEMENT PERMISSION

A continuing permission remains in effect until it is revoked or cancelled.¹²⁹

We can cancel your movement permission if:

- you ask us to do so
- we consider that there is a risk to the revenue, or
- we have cancelled the licence of the receiving or despatching premises and this is the only premises listed on the permission.

If we decide to cancel your movement permission, we will notify you in writing. The cancellation will take effect from the time:

- you are served with the cancellation notice, or
- specified on the cancellation notice.

 A decision to revoke or cancel a movement permission is not a reviewable decision.

 For more information about your review rights, refer to [Chapter 10](#) Reviews and objections.

5.4 PROCEDURES

5.4.1 APPLYING FOR A MOVEMENT PERMISSION

Relevant forms to apply for a movement permission are available at [Permission to move excise alcohol products](#).

If you do not have control of the proposed receiving premises (either covered or not covered by a licence), we require you to obtain a letter from the operator of these premises stating that they will

¹²⁹ While there is no specific provision in the Excise Act which allows permissions to be cancelled (unlike licences), in accordance with subsection 33(3) of the *Acts Interpretations Act 1901* the power to grant the permission provides the power to cancel or revoke the permission.

accept responsibility for the underbond goods when received. The application forms contain details of the statement required from the operator of the receiving premises.



If you need to deliver goods to new premises within specified periods, ensure that you allow sufficient time for your application to be determined. Generally, we will make a decision on your application within 28 days unless we need further information.

If you are granted a licence that covers more than one premises, or your existing licence is varied to cover more than one premises you may also receive a general movement permission by default with your licence.

5.4.2 AMENDING A CONTINUING MOVEMENT PERMISSION

If you wish to amend your existing continuing movement permission (for example, change the schedule of receiving premises), you must send us either:

- a new application form with the amending details, or
- a letter including the permission number and necessary changes.

If you wish to add new receiving premises to your existing permission, you must also provide us with a letter from the operator of the receiving premises accepting responsibility for the underbond goods when received. The application form contains details of the statement required from an operator of the receiving premises.

We will consider your request and send you a new or amended permission if approved. In the meantime you cannot move goods outside your current permission.

5.4.3 MORE INFORMATION

If you need more information on movement permissions contact us as follows:

- phone **1300 137 290**
- [ATO Online Services](#), or
- write to us at
Australian Taxation Office
PO Box 3514
ALBURY NSW 2640

We will ordinarily respond to written information requests within 28 days. If we cannot respond within 28 days, we will contact you within 14 days to obtain more information or negotiate an extended response date.

5.5 PENALTIES THAT CAN APPLY IN RELATION TO MOVEMENT PERMISSIONS

If you move excisable goods without a movement permission¹³⁰ or contrary to your movement permission¹³¹, the penalty is a maximum of 2 years in prison or the greater of 500 '[penalty units](#)' and 5 times the amount of duty on the excisable goods.

5.6 TERMS USED

Deliver into the Australian domestic market

Deliver into the Australian domestic market¹³² is the term we use in this Guide for when excisable goods are released into domestic consumption. The term used in the legislation is 'deliver for home consumption'.

Normally, this will be by delivering the goods away from premises covered by a licence but includes using those goods yourself (for example, sales to staff).

The term 'home consumption' is not defined in the Excise Act and there is no definitive case law that looks at the issue in question. However, there are several cases where issues closely related to it are considered.¹³³

The conclusion drawn from those cases is that 'home consumption' refers to the destination of goods as being within Australia as opposed to exporting them.

Excisable goods

Excisable goods are goods on which excise duty is imposed. Excise duty is imposed on goods that are listed in the Schedule, and manufactured or produced in Australia.

For operators of duty-free shops, this will include:

- alcohol goods that are produced or manufactured in Australia and are subject to excise, and

¹³⁰ Section 117A of the Excise Act.

¹³¹ Section 61A of the Excise Act.

¹³² Note the legislation uses the term 'delivered for home consumption' (see, for example, sections 61 and 61C of the Excise Act).

¹³³ See *R v Lyon* [1906] HCA 17; *Collector of Customs (NSW) v Southern Shipping Co Ltd* [1962] HCA 20; *Carmody v F C Lovelock Pty Ltd* [1970] HCA 35; *Caltex Australia Petroleum Pty Ltd v Commissioner of Taxation* [2008] FCA 1951 and *Moama Refinery Pty Ltd v Chief Executive Officer of Customs* [2001] FCA 1287.

- imported alcohol goods that have undergone a process of manufacture or production in Australia – for example, high-strength imported whisky which has been reduced by adding water (in Australia) before it is bottled, constitutes manufacture or production for excise purposes. Vodka imported in bulk and repackaged in Australia, does not constitute manufacture for excise purposes.

This will not include:

- other imported alcohol goods (because these goods are subject to customs duty)
- wine (which is generally subject to wine equalisation tax), and
- cigarettes and other tobacco goods as there is currently no licensed manufacture of tobacco in Australia.



For more information about customizable alcoholic beverages, refer to Chapter 22 of Schedule 3 to the *Customs Tariff Act 1995*.

Examples of excisable goods include Australian-made:

- beer
- spirits, and
- pre-mixed drinks known as ready-to-drink beverages.

Penalty units

The value of a penalty unit is contained in section 4AA of the *Crimes Act 1914*, and is indexed regularly. The dollar amount of a penalty unit is available at [Penalties](#).

Relevant traveller

A relevant traveller is:

- for outwards duty-free shop purposes – a person who intends to make an international flight or international voyage, whether as a passenger on, or as a member of the crew (or the pilot or master) of an aircraft or ship¹³⁴
- for inwards duty-free shop purposes – a person who has arrived in Australia on an international flight, whether as a passenger on, or as a member of the crew (or the pilot) of, an aircraft and has not been questioned, for the purposes of the *Customs Act 1901*, by an officer of Customs, in respect of goods carried on that flight.¹³⁵

¹³⁴ Subsection 61D(1) of the Excise Act.

¹³⁵ Subsection 61E(1) of the Excise Act.

Underbond

This is an expression not found in excise legislation but it is widely used to describe goods that are subject to excise control. Excisable goods that are subject to excise control are commonly referred to as 'underbond goods' or as being 'underbond'. This includes goods that have not yet been delivered into the Australian domestic market and goods moving between premises under a movement permission.

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6 MAKING DUTY-FREE SALES: OUTWARDS

6.1 PURPOSE

6.2 INTRODUCTION

6.3 POLICY AND PRACTICE

6.3.1 OUTWARDS DUTY-FREE SHOPS – OFF-AIRPORT

6.3.2 EXPORTING DUTY-FREE LIQUID, AEROSOL, GEL, CREAM OR PASTE PRODUCTS

6.3.3 OUTWARDS DUTY-FREE SHOPS – ON-AIRPORT

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6.5 PENALTIES THAT CAN APPLY IN RELATION TO DUTY-FREE SHOPS

Deliver

6.6 TERMS USED

6 MAKING DUTY-FREE SALES: OUTWARDS

6.1 PURPOSE

This Chapter deals with:

- making outwards duty-free sales
- conditions travellers must be made aware of
- what happens when goods are not exported
- exporting duty-free LAG products, and
- penalties that can apply to offences in relation to duty-free shops.

6.2 INTRODUCTION

In general terms, outwards duty-free shops will not pay duty. However, excise duty will be payable when excisable goods are not taken overseas or are unable to be accounted for (for example, stock shortages).

This Chapter focuses on the rules that you need to follow when making duty-free sales from an outwards duty-free shop.

6.3 POLICY AND PRACTICE

6.3.1 OUTWARDS DUTY-FREE SHOPS – OFF-AIRPORT

Off-airport outward duty-free shops are usually located away from the airport. However, they could also be physically located at an airport, before the customs processing point.

You are not permitted to sell or deliver duty-free goods unless the purchaser is a '[relevant traveller](#)' able to show you a ticket or other approved document showing an '[international flight](#)' or '[international voyage](#)'.¹³⁶

You must follow specific procedures in the invoicing, packaging and sealing of goods. Sales made from outwards off-airport duty-free shops must use the sealed bag method of delivery.

¹³⁶ Subsections 32(1) and (3) of the Excise Regulation.

The number or other identification of the traveller's ticket, or similar approved travel documentation, must be recorded on the sales invoice.



You must not deliver the goods to the traveller earlier than 60 days before the traveller is due to depart.¹³⁷

Sales to 'relevant travellers'

Sealing goods

You must enclose goods purchased by a relevant traveller in a package¹³⁸:

- sealed, so that the goods cannot be removed without the seal being broken
- with a copy of the sales invoice, and
- if that package is of a size that will be carried as hand baggage in the cabin of the aircraft or ship, transparent enough for the goods to be easily identifiable.

Invoice preparation

When you deliver goods from your shop for export by a relevant traveller you must prepare, in triplicate, an invoice, being one of a series of sequentially numbered invoices, specifying¹³⁹:

- the name and usual residential address of the relevant traveller
- the following particulars of the intended relevant flight or voyage
 - date of departure
 - airport or wharf of departure
 - in the case of a relevant flight – flight number or other designation of the flight
 - in the case of a relevant voyage – name of the ship and the number or other destination of the voyage
 - number or other identification of the traveller's ticket or similar approved travel document
- a precise description of the goods, including
 - quantity, in figures, of each item of the goods
 - the total number, in words, of items on the invoice
 - the sale value, in figures, of each item or quantity of items, and

¹³⁷ Subsection 35(1) of the Excise Regulation.

¹³⁸ Subsection 35(2) of the Excise Regulation.

¹³⁹ Subsections 36(1) to (3) of the Excise Regulation.

- the total sales value of those items and quantities of items.

You must prepare the invoices in a way that would make it impracticable to add other items to the description. For hand-prepared invoices, a line should be drawn from the last item to the far right of the page and then diagonally to the bottom left-hand corner and then across the page to the bottom right-hand column.

Distribution of invoices

In relation to distribution of invoices, you must¹⁴⁰:

- place one copy of the sales invoice inside the tamper-proof sealed package with the goods
- securely attach a second copy of the sales invoice to the outside of the package in a waterproof envelope, and
- retain a third copy for your records.

Procedures to be followed at the airport

Goods carried in the cabin

When a relevant traveller takes packages in the cabin of the aircraft or ship (that is, taken by hand into the departure lounge on the way to the cabin of the aircraft or ship), you or your agent must ensure the traveller presents the sealed bag to Duty Free Security staff or an authorised agent near the Outwards Control Point who will¹⁴¹:

- ensure that the package is examined to ascertain whether the seal has been broken or tampered with, and
- if the package has not been tampered with, compare the invoice details to the physical goods and ensure that the attached invoice copy is removed.

This process is commonly referred to as 'plucking' the invoice or sales docket.

Goods checked in as hold baggage

When a relevant traveller does not take packages in the cabin of the aircraft or ship, (that is, they are checked in as hold baggage) you or your agent must, at the point of surrender of the goods¹⁴²:

- ensure that the seal has not been broken or tampered with, and

¹⁴⁰ Subsections 36(4) and (5) of the Excise Regulation.

¹⁴¹ Subsections 38(1) to (3) of the Excise Regulation.

¹⁴² Subsections 38(1) to (3) of the Excise Regulation.

- remove the docket from the outside of the sealed bag and present it to Duty Free Security staff or an authorised agent near the Outwards Control Point.

6.3.2 EXPORTING DUTY-FREE LIQUID, AEROSOL, GEL, CREAM OR PASTE PRODUCTS

The Department of Infrastructure, Transport, Regional Development, Communications, Sport and the Arts provides restrictions on the volume of LAG products that an international passenger can take on board a flight in carry-on luggage.

This means that any LAG products over 100 ml must be packed in baggage that is checked in and therefore transported in the hold of the plane. Failure to comply with these arrangements will result in the traveller having to surrender the items at the security screening point. Effectively, this affects all alcohol purchased by relevant travellers from duty-free stores.

This change in airport security impacts on outwards off-airport duty-free stores as the outwards on-airport and inwards duty-free stores operate either after the Customs barrier (outwards on-airport), or before it (inwards duty-free), in which case the security risk is not an issue.

Any LAG products sold to a relevant traveller by an outwards off-airport duty-free store must be sealed in a separate bag to other duty-free purchases. You must complete a sales invoice in the same manner as all other sales, although if the relevant traveller has other non-LAG duty-free purchases (that is, cigarettes), a separate docket must be completed for both bags.

The traveller must place the sealed bag containing LAG products into their luggage that is to be checked into the hold of the plane. They should remove the docket attached to the exterior of the sealed bag and, once inside the airport and past the Customs checkpoint, they must present it to Duty Free Security staff or an authorised agent.

Retrieved invoices or dockets

At monthly intervals, Duty Free Security will send to you a list of all dockets retrieved. You must then compare this list with your sales records and pay excise duty for those dockets which are not listed as retrieved.

This is done by completing a [Duty-free operator return](#) and sending it to us.

A '[duty-free operator return](#)' must be lodged 'within 21 working days of the shop after the end of a month'.¹⁴³ A return is required even if no stock shortages or missed dockets are identified.¹⁴⁴

¹⁴³ Subsection 39(1) of the Excise Regulation.

¹⁴⁴ Section 39 of the Excise Regulation.

Missed dockets for LAG products should be treated in the same manner as missed dockets for other non-LAG products.



For more details, refer to [Missed dockets](#) later in this section.

Discrepancies at the airport

Certain details must be provided to us if a discrepancy is detected at the airport, such as¹⁴⁵:

- a package is not sealed or has been tampered with
- the invoice enclosed in the bag does not correspond with the attached outside invoice
- there is no enclosed invoice or attached outside invoice
- the package contains goods that are not as specified in the enclosed or attached invoice, or
- the package does not contain the goods that are specified on the attached invoice.

These details are:

- the name of the relevant traveller
- particulars of the intended exportation of the goods by the relevant traveller on the relevant flight or voyage, such as
 - date and time of departure
 - relevant flight number and destination of the flight
 - relevant voyage, name of the ship and number or destination of the voyage
- the nature of the discrepancy.

You should include shortages detected in this way on your next duty-free operator return and pay the appropriate excise duty.

Internet and phone sales

You or your staff (including the '[proprietor](#)' and the proprietor's servants and agents) can agree to sell duty-free goods through the internet or over the phone as long as¹⁴⁶:

- the purchaser is a relevant traveller
- details of their intended travel have been given, and
- the agreement is subject to the condition that the sale takes place in the shop (that is, the relevant traveller must pick the goods up from the shop).

¹⁴⁵ Subsections 38(4) and (5) of the Excise Regulation.

¹⁴⁶ Subsection 32(2) of the Excise Regulation.

Prior to the delivery of goods, you must sight the ticket for the relevant flight, which must match with the details provided at the time the agreement was entered into.¹⁴⁷

Conditions travellers must be made aware of

You must ensure that relevant travellers are made aware of any conditions of a permission with which the traveller is required to comply.¹⁴⁸

Travellers must, when they take possession of the goods, sign an approved form acknowledging their obligations concerning the export of the goods.¹⁴⁹

Obligations of the relevant traveller are as follows:

- They shall not remove, alter or otherwise interfere with an invoice attached outside the sealed package (except LAG products as required or authorised under the Excise Act).¹⁵⁰
- They shall not break the seals or otherwise tamper with the integrity of the package.¹⁵¹
- When taking a sealed package into a departure area or checking in a sealed package as baggage, they shall present the package sealed and with the outside invoice attached, and permit examination of the package and removal of the invoice by the duty-free shop proprietor's agent.¹⁵²

Sales to diplomats, consuls or the Royal Australian Navy

In some circumstances, we may grant you permission to make sales to persons or organisations who are not relevant travellers. This includes sales to diplomatic missions, consular posts and the Royal Australian Navy.

If you make sales to the Navy, diplomatic missions or consular posts you may be entitled to a '[remission](#)' of the excise duty.¹⁵³ You should retain relevant documentary orders as proof of this entitlement.

For more information, refer to [Chapter 9](#) Remissions and exemptions.

¹⁴⁷ Subsection 32(3) of the Excise Regulation.

¹⁴⁸ Paragraph 61D(10)(a) of the Excise Act.

¹⁴⁹ Section 33 of the Excise Regulation.

¹⁵⁰ Section 41 of the Excise Regulation.

¹⁵¹ Section 41 of the Excise Regulation.

¹⁵² . Section 42 of the Excise Regulation. This is normally a firm contracted by the duty-free shop to 'pluck' the invoices. That company is known as Duty Free Security

¹⁵³ Section 8 of the Excise Regulation.

Record keeping and reporting

Records that need to be kept

You must keep, and make available to us when requested, records as directed.¹⁵⁴

These will typically include proof of export of goods that have been delivered to a relevant traveller. This may be the electronic record of invoice numbers of dockets removed and provided to you by Duty Free Security.¹⁵⁵

You may also be required to notify us of all sales made to which your permission applies.¹⁵⁶

Further records to keep may include:

- copy of the sales invoice
- copy of the travel documents attached to the sales invoice
- stock records for excisable products
- [‘underbond’](#) delivery notes for goods received from suppliers
- underbond delivery notes for goods removed
- copies of approved single movement permissions for movement in and out of premises covered by your licence
- copies of approved remissions
- orders for goods delivered as excise free goods in prescribed circumstances such as diplomatic and consular sales
- documentation relating to your physical stocktakes.

Reports that need to be prepared

Prior to departure

If we direct you to, you must provide the following sales information prior to the date of departure of the flight or voyage¹⁵⁷:

- name of shop
- name of relevant traveller
- details in relation to relevant flight or voyage, as follows

¹⁵⁴ Section 50 and paragraph 61D(7)(c) of the Excise Act.

¹⁵⁵ Paragraph 61D(10)(b) of the Excise Act and section 46 of the Excise Regulation.

¹⁵⁶ Paragraph 61D(7)(c) of the Excise Act.

¹⁵⁷ Subsections 37(1), (2) and (3) of the Excise Regulation.

- date and time of departure, and
- flight number or name of ship and voyage number
- full description of any item included in the sale with a sale value of \$500 or more
- total number of items of the goods included in the sale
- total number of specially sealed packages in which the goods included in the sale are packed
- total number of the specially sealed packages
 - that are able to be carried in the cabin of the aircraft or ship
 - that are not able to be carried in the cabin of the aircraft or ship, and
- invoice numbers in respect of all invoices relating to the sale.

Proof of export

You must provide proof of export in the following manner:

- an electronic record must be made of the invoice numbers of all retrieved (plucked) invoices or sales dockets, and
- the electronic records must be created within 10 working days after the date of departure of the relevant traveller.¹⁵⁸

Missed dockets

In relation to missed dockets, you must lodge a return within 21 working days after the end of the month stating¹⁵⁹:

- the name of the duty-free shop
- the invoice number of each invoice
 - which has been prepared as set out in Invoice preparation in this section
 - with a date of the proposed departure that is in that month, and
 - for which a copy *has not* been removed as set out in [Procedures to be followed at the airport](#)
- full invoice details as set out in [Invoice preparation](#), and
- the amount of excise duty payable in respect of the goods to which the invoice relates.

This is done by completing a [Duty-free operator return](#) and sending it to us.

¹⁵⁸ Section 46 of the Excise Regulation.

¹⁵⁹ Section 39 of the Excise Regulation.

You must pay to us the sum of the amounts of excise duty payable, at the rate in force when the goods were delivered to the relevant traveller.¹⁶⁰

A 'nil' return is still required even if no stock shortages or missed dockets are identified.



For more information, refer to [Duty-free operator return](#) and [Excise duty rates for alcohol](#).

6.3.3 OUTWARDS DUTY-FREE SHOPS – ON-AIRPORT

On-airport outward duty-free shops are located after the Customs processing point.

Sale or delivery of duty-free goods is only permitted to a relevant traveller¹⁶¹ who is able to show a ticket or other approved documentation, that shows an international flight or voyage.¹⁶² There is no requirement for the duty-free goods sold at on-airport duty-free shops to be in sealed bags.

You must follow specific procedures in the invoicing of goods.

Sales to relevant travellers

Invoice preparation

When you make a sale to a relevant traveller you must prepare, in duplicate, an invoice, being one of a series of sequentially numbered invoices, specifying¹⁶³:

- date of departure of the intended relevant flight or voyage
- flight number or other designation of the relevant flight
- a precise description of the goods, including
 - quantity, in figures, of each item of the goods
 - the sale value, in figures, of each item or quantity of items, and
 - the total sales value of those items and quantities of items.

Aircraft crew (or the pilots) are also eligible to purchase goods from you when they comply with the definition of relevant traveller. For these travellers, in addition to the above, you must also record on the sales invoice¹⁶⁴:

- the name and usual residential address of the relevant traveller, and

¹⁶⁰ Section 59 of the Excise Regulation.

¹⁶¹ Subsection 32(1) of the Excise Regulation.

¹⁶² Subsection 32(2) of the Excise Regulation.

¹⁶³ Subsections 45(1) to (3) of the Excise Regulation.

¹⁶⁴ Subsections 45(1) to (3) of the Excise Regulation.

- the airport of departure.

You must prepare the invoices in a way that would make it impracticable to add other items to the description.¹⁶⁵

Distribution of invoices

You must¹⁶⁶:

- give one copy of the invoice to the relevant traveller, and
- retain one copy of the invoice for your records.

Internet and phone sales

You or your staff (including the proprietor and the proprietor's servants and agents) can agree to sell duty-free goods through the internet or over the phone as long as¹⁶⁷:

- the purchaser is a relevant traveller
- details of their intended travel have been given, and
- the agreement is subject to the condition that the sale takes place in the shop, that is, the traveller picks the goods up in the shop.

Prior to handing the goods to the traveller, you must sight the ticket for the relevant flight, which must match with the details provided at the time the agreement was entered into.¹⁶⁸

Record keeping and reporting

Records that need to be kept

You must keep, and make available to us when requested, records as directed.¹⁶⁹

You may also be required to notify us of all sales made, to which your permission applies.¹⁷⁰

¹⁶⁵ Subsection 45(3) of the Excise Regulation.

¹⁶⁶ Subsection 45(4) of the Excise Regulation.

¹⁶⁷ Subsection 32(2) of the Excise Regulation.

¹⁶⁸ Subsection 32(3) of the Excise Regulation.

¹⁶⁹ Section 50 and paragraph 61D(7)(c) of the Excise Act.

¹⁷⁰ Paragraph 61D(7)(c) of the Excise Act.

These records may include:

- sales of excisable product
- stock records for excisable products
- underbond delivery notes for goods received from suppliers
- underbond delivery notes for goods removed
- copies of approved single movement permissions for movement in and out of premises covered by your licence
- copies of approved remissions, and
- documentation relating to your physical stocktakes.

Reports that need to be prepared

You are not required to provide any particular reports, however you may be directed to supply specific returns. If this is the case, you will receive a specific direction to do so.

6.3.4 WHEN THE TRAVELLER DOES NOT EXPORT GOODS

Responsibilities and duties of the traveller

If a traveller does not export the goods on the relevant flight or voyage, they must, by noon of the next working day after the scheduled departure time¹⁷¹:

- if they intend to export the goods on a subsequent flight or voyage, departing not more than 48 hours after the initial scheduled time, notify you of that intention, along with the flight or voyage numbers and date and intended time of departure
- if they no longer intend to travel, notify you no later than the close of business on the second working day after the initial scheduled departure time, and return the goods to your shop.

If, a traveller notifies you that they intends departing on a flight or voyage, but does not export the goods, they must¹⁷²:

- notify you that the goods have not been exported, not later than noon on the next working day of the shop after the specified date of departure, and
- return the goods to your shop no later than the close of business of the second working day after the specified date of departure.

¹⁷¹ Section 43 of the Excise Regulation.

¹⁷² Subsections 43(5) and (6) of the Excise Regulation.

Your responsibilities and duties

Your responsibilities and duties include:

- taking returned goods back into stock (to be able to account for the sales invoice)¹⁷³, or
- advising us of goods that were not exported via the [Duty-free operator return](#) that you are obliged to submit monthly¹⁷⁴, and
- paying us the sum of the amounts of excise duty, specified in the return.¹⁷⁵



For more information about how to calculate and pay excise duty, refer to [Chapter 8](#) Accounting for excisable goods.

6.3.5 PREVENTION OF COLLUSION

You or your staff must not collude with passengers to obtain duty-free goods. You must not enter into an arrangement with a traveller where goods delivered to the traveller under the permission are to¹⁷⁶:

- be transferred to you upon return of the relevant traveller to Australia, or
- remain with you.



Any such collusion may result in the revocation of your permission or a court-imposed penalty, or both.

6.4 MORE INFORMATION

If you need more information on excise, as it relates to duty-free shops, contact us via:

- [ATO Online services](#)
- phone **1300 137 290**, or
- write to us at
Australian Taxation Office
PO Box 3514
ALBURY NSW 2640

¹⁷³ Section 43 of the Excise Regulation.

¹⁷⁴ Section 39 of the Excise Regulation.

¹⁷⁵ Section 39 of the Excise Regulation.

¹⁷⁶ Subsection 32(4) of the Excise Regulation.

We will ordinarily respond to written information requests within 28 days. If we cannot respond within 28 days, we will contact you within 14 days to obtain more information or negotiate an extended response date.

6.5 PENALTIES THAT CAN APPLY IN RELATION TO DUTY-FREE SHOPS

The following are the penalties that may apply after conviction for an offence.

Move, alter or interfere

If you move, alter or interfere with '[excisable goods](#)' that are subject to '[excise control](#)', without permission, the penalty is a maximum of 2 years in prison or the greater of 500 '[penalty units](#)' and 5 times the amount of duty on the excisable goods.¹⁷⁷

Note: this includes moving underbond excisable goods from your premises to any other location or for export.

If your movement of underbond excisable goods does not comply with the permission to move the underbond excisable products, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable goods.¹⁷⁸

Deliver

If you '[deliver excisable goods into the Australian domestic market](#)' contrary to your permission, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable goods.¹⁷⁹

Records

If you do not keep, retain and produce records in accordance with a '[direction under section 50](#)' of the Excise Act, the penalty is a maximum of 30 penalty units.

¹⁷⁷ Section 61 of the Excise Act.

¹⁷⁸ Section 61A of the Excise Act.

¹⁷⁹ Section 61C of the Excise Act.

Evade

If you evade payment of any duty which is payable, the maximum penalty is 5 times the amount of duty on the excisable goods or where a court cannot determine the amount of that duty the penalty is a maximum of 500 penalty units.¹⁸⁰

False or misleading statements

If you make a false or misleading statement, or make an omission from a statement in respect of duty payable on particular goods, to us, a penalty not exceeding the sum of 50 penalty units and twice the amount of duty payable on those goods.¹⁸¹

6.6 TERMS USED**Deliver into the Australian domestic market**

Deliver into the Australian domestic market¹⁸² is the term we use in this Guide for when excisable goods are released into domestic consumption. The term used in the legislation is 'deliver for home consumption'.

Normally, this will be by delivering the goods away from premises covered by a licence but includes using those goods yourself (for example, sales to staff).

The term 'home consumption' is not defined in the Excise Act and there is no definitive case law that looks at the issue in question. However, there are several cases where issues closely related to it are considered.¹⁸³

The conclusion drawn from those cases is that 'home consumption' refers to the destination of goods as being within Australia as opposed to exporting them.

Duty-free operator return

A duty-free operator return is a document that you use if you operate a duty-free store that is:

- on-airport – to report stocktake shortages or surpluses of excisable alcohol goods

¹⁸⁰ Paragraphs 120(1)(iv) and 120(2)(b) of the Excise Act.

¹⁸¹ Section 120 of the Excise Act.

¹⁸² Note the legislation uses the term 'delivered for home consumption' (see, for example, sections 61 and 61C of the Excise Act).

¹⁸³ See *R v Lyon* [1906] HCA 17; *Collector of Customs (NSW) v Southern Shipping Co Ltd* [1962] HCA 20; *Carmody v F C Lovelock Pty Ltd* [1970] HCA 35; *Caltex Australia Petroleum Pty Ltd v Commissioner of Taxation* [2008] FCA 1951 and *Moama Refinery Pty Ltd v Chief Executive Officer of Customs* [2001] FCA 1287.

- outwards off-airport – to report missed or found dockets and stocktake shortages or surpluses of excisable alcohol goods, or
- where you also hold a licence to store excisable alcohol goods at a site that is not a duty-free store – to report any shortages or surpluses of stock at your storage site.

Excisable goods

Excisable goods are goods on which excise duty is imposed. Excise duty is imposed on goods that are listed in the Schedule, and manufactured or produced in Australia.

For operators of duty-free shops, this will include:

- alcohol goods that are produced or manufactured in Australia and are subject to excise, and
- imported alcohol goods that have undergone a process of manufacture or production in Australia – for example, high-strength imported whisky which has been reduced by adding water (in Australia) before it is bottled, constitutes manufacture or production for excise purposes. Vodka imported in bulk and repackaged in Australia, does not constitute manufacture for excise purposes.

This will not include:

- other imported alcohol goods (because these goods are subject to customs duty)
- wine (which is generally subject to wine equalisation tax), and
- cigarettes and other tobacco goods as there is currently no licensed manufacture of tobacco in Australia.



For more information about customizable alcoholic beverages, refer to Chapter 22 of Schedule 3 to the *Customs Tariff Act 1995*.

Examples of excisable goods include Australian-made:

- beer
- spirits, and
- pre-mixed drinks known as ready-to-drink beverages.

Excise control

Section 7 of the Excise Act refers to the CEO as having 'general administration of this Act'. In this Guide, we will also refer to this general administration as excise control.

Goods are subject to excise control from the point of manufacture until they have been delivered into the Australian domestic market (referred also as to home consumption¹⁸⁴) or for export.

¹⁸⁴ The term used in section 58 of the Excise Act is 'entry for home consumption'.

Goods subject to excise control cannot be moved, altered or interfered with except as authorised by the Excise Act.

International flight

An international flight is defined as a flight, whether direct or indirect, by an aircraft between¹⁸⁵:

- a place in Australia from which the aircraft takes off and a place outside Australia at which the aircraft lands or is intended to land¹⁸⁶, or
- a place outside Australia from which the aircraft took off and a place in Australia at which the aircraft landed.

International voyage

An international voyage is defined as 'a voyage, whether direct or indirect, by a ship between a place in Australia and a place outside Australia'.¹⁸⁷

Penalty units

The value of a penalty unit is contained in section 4AA of the *Crimes Act 1914*, and is indexed regularly. The dollar amount of a penalty unit is available at [Penalties](#).

Proprietor

In relation to a duty-free shop, a proprietor is the holder of the warehouse licence that relates to the outwards duty-free shop¹⁸⁸ or inwards duty-free shop.¹⁸⁹

Relevant traveller

A relevant traveller is:

- for outwards duty-free shop purposes – a person who intends to make an international flight or international voyage, whether as a passenger on, or as a member of the crew (or the pilot or master) of an aircraft or ship¹⁹⁰
- for inwards duty-free shop purposes – a person who has arrived in Australia on an international flight, whether as a passenger on, or as a member of the crew (or the pilot)

¹⁸⁵ Subsection 61E(1) of the Excise Act.

¹⁸⁶ Subsection 61D(1) of the Excise Act.

¹⁸⁷ Subsection 61D(1) of the Excise Act

¹⁸⁸ Subsection 61D(1) of the Excise Act.

¹⁸⁹ Subsection 61E(1) of the Excise Act.

¹⁹⁰ Subsection 61D(1) of the Excise Act.

of, an aircraft and has not been questioned, for the purposes of the *Customs Act 1901*, by an officer of Customs, in respect of goods carried on that flight.¹⁹¹

Remission

A remission of excise duty extinguishes the liability for duty that was created at the point of manufacture, in prescribed circumstances.



For more information about remissions, refer to [Chapter 9](#) Remissions and exemptions.

Section 50 direction

This is a written instruction issued under section 50 of the Excise Act to a licensed manufacturer, or proprietor of premises covered by a storage licence, to keep specified records, furnish specified returns, retain records for a specified period and produce those records on demand by us. The written instruction is incorporated into the licence conditions.

Underbond

This is an expression not found in excise legislation but it is widely used to describe goods that are subject to excise control. Excisable goods that are subject to excise control are commonly referred to as 'underbond goods' or as being 'underbond'. This includes goods that have not yet been delivered into the Australian domestic market and goods moving between premises under a movement permission.

Amendment history

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¹⁹¹ Subsection 61E(1) of the Excise Act.

7 MAKING DUTY-FREE SALES: INWARDS

7.1 PURPOSE

7.2 INTRODUCTION

7.3 POLICY AND PRACTICE

7.3.1 INWARDS DUTY-FREE SHOPS

7.4 PROCEDURES

7.4.1 MORE INFORMATION

7.5 PENALTIES THAT CAN APPLY IN RELATION TO DUTY-FREE SHOPS

7.6 TERMS USED

7 MAKING DUTY-FREE SALES: INWARDS

7.1 PURPOSE

This Chapter deals with:

- making inwards duty-free sales
- conditions travellers must be made aware of, and
- penalties that can apply to offences in relation to duty-free shops.

7.2 INTRODUCTION

In general terms, inwards duty-free shops will not pay duty. However, excise duty will be payable when [‘excisable goods’](#) are unable to be accounted for – for example, stock shortages.

This Chapter focuses on the rules that you need to follow when making duty-free sales from an inwards duty-free shop.

7.3 POLICY AND PRACTICE

7.3.1 INWARDS DUTY-FREE SHOPS

An inwards duty-free shop is authorised to sell airport shop goods which can be excisable or customable goods. We provide authorisation for excisable goods while the Australian Border Force is responsible for authorisations dealing with imported goods.

Inwards duty-free shops sell to [‘relevant travellers’](#) who have just completed an [‘international flight’](#) from a place outside Australia and are purchasing excisable product prior to clearing the Customs barrier.

Purchases of excisable goods by inward travellers form part of the (Customs) passenger concession. Provided the excisable goods are within the passenger concession limits, they remain free of duty.¹⁹²

Specific controls on inwards duty-free shops exist so that sales can only be made to relevant travellers.

¹⁹² Table item 7 in clause 2 of Schedule 1 to the Excise Regulation.

Identifying a 'relevant traveller'

You must not sell goods to a person in your shop unless the person¹⁹³:

- is a relevant traveller¹⁹⁴, and
- shows a ticket or other document that confirms that they have arrived in Australia on an international flight.

Mandatory signage

You must display prominent signs that clearly state the¹⁹⁵:

- amount of alcohol products that may be entered for home consumption by a relevant traveller free of excise duty, and
- conditions (if any) under which, for the purposes of the Excise Act, a traveller needs to comply in relation to their purchase.

Internet and phone sales

You may arrange sales through the internet or phone. You can do so as long as¹⁹⁶:

- the purchaser is, or intends to be, a relevant traveller
- they give details of their intended arrival in Australia (including the flight number or other destination of the international flight)
- you inform the traveller of the
 - amount of alcohol that may be entered free of excise duty, and
 - conditions (if any) under which, for the purposes of the *Customs Act 1901*, a traveller is to comply in relation to the purchase of the goods, and
- the agreement is subject to the condition that the sale takes place in the shop – that is, the traveller picks the goods up in the shop.

Prior to handing the goods to the traveller, you must sight the ticket or other document for the relevant flight confirming the details provided at the time the agreement was entered into.¹⁹⁷

¹⁹³ Subsection 52(1) of the Excise Regulation.

¹⁹⁴ Subsection 61E(1) of the Excise Act.

¹⁹⁵ Section 53 of the Excise Regulation.

¹⁹⁶ Subsection 52(2) of the Excise Regulation.

¹⁹⁷ Subsection 52(3) of the Excise Regulation.

Record keeping and reporting

Records that need to be kept

You must keep records as specified and may be required to notify us of all sales made to which your permission applies.¹⁹⁸

These records may include:

- sales of excisable product
- stock records for excisable products
- [‘underbond’](#) delivery notes for goods received
- underbond delivery notes for goods removed
- copies of approved single movement permissions for movement in and out of premises covered by your licence
- copies of approved [‘remissions’](#), and
- documentation relating to your physical stocktakes.

Reports that need to be prepared

You are not required to prepare any special reports.

7.4 PROCEDURES

7.4.1 MORE INFORMATION

If you need more information on excise as it relates to duty-free shops, contact us via [ATO Online Services](#) or the other options listed on [Contact us about excisable alcohol](#).

We will ordinarily respond to written information requests within 28 days. If we cannot respond within 28 days, we will contact you within 14 days to obtain more information or negotiate an extended response date.

¹⁹⁸ Paragraph 61E(6)(b) of the Excise Act.

7.5 PENALTIES THAT CAN APPLY IN RELATION TO DUTY-FREE SHOPS

The following are the penalties that may apply after conviction for an offence.

Move, alter or interfere

If you move, alter or interfere with excisable goods that are subject to [‘excise control’](#), without permission, the penalty is a maximum of 2 years in prison or the greater of 500 [‘penalty units’](#) and 5 times the amount of duty on the excisable goods.¹⁹⁹

Note: this includes moving underbond excisable goods from your premises to any other location or for export.

If your movement of underbond excisable goods does not comply with the permission to move the underbond excisable alcohol products, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable goods.²⁰⁰

Deliver

If you [‘deliver excisable goods into the Australian domestic market’](#) contrary to your permission, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable goods.²⁰¹

Records

If you do not keep, retain and produce records in accordance with a [‘direction under section 50’](#) of the Excise Act, the penalty is a maximum of 30 penalty units.

Evade

If you evade payment of any duty which is payable, the maximum penalty is 5 times the amount of duty on the excisable goods or, where a court cannot determine the amount of that duty, the penalty is a maximum of 500 penalty units.²⁰²

¹⁹⁹ Section 61 of the Excise Act.

²⁰⁰ Section 61A of the Excise Act.

²⁰¹ Section 61C of the Excise Act.

²⁰² Paragraphs 120(1)(iv) and (2)(b) of the Excise Act.

False or misleading statements

If you make a false or misleading statement to us, the penalty is a maximum of 50 penalty units.²⁰³

7.6 TERMS USED**Deliver into the Australian domestic market**

Deliver into the Australian domestic market²⁰⁴ is the term we use in this Guide for when excisable goods are released into domestic consumption. The term used in the legislation is 'deliver for home consumption'.

Normally, this will be by delivering the goods away from premises covered by a licence but includes using those goods yourself (for example, sales to staff).

The term 'home consumption' is not defined in the Excise Act and there is no definitive case law that looks at the issue in question. However, there are several cases where issues closely related to it are considered.²⁰⁵

The conclusion drawn from those cases is that 'home consumption' refers to the destination of goods as being within Australia as opposed to exporting them.

Excisable goods

Excisable goods are goods on which excise duty is imposed. Excise duty is imposed on goods that are listed in the Schedule, and manufactured or produced in Australia.

For operators of duty-free shops, this will include:

- alcohol goods that are produced or manufactured in Australia and are subject to excise, and
- imported alcohol goods that have undergone a process of manufacture or production in Australia – for example, high-strength imported whisky which has been reduced by adding water (in Australia) before it is bottled, constitutes manufacture or production for excise purposes. Vodka imported in bulk and repackaged in Australia, does not constitute manufacture for excise purposes.

²⁰³ Section 120 of the Excise Regulation.

²⁰⁴ Note the legislation uses the term 'delivered for home consumption' (see, for example, sections 61 and 61C of the Excise Act).

²⁰⁵ See *R v Lyon* [1906] HCA 17; *Collector of Customs (NSW) v Southern Shipping Co Ltd* [1962] HCA 20; *Carmody v F C Lovelock Pty Ltd* [1970] HCA 35; *Caltex Australia Petroleum Pty Ltd v Commissioner of Taxation* [2008] FCA 1951 and *Moama Refinery Pty Ltd v Chief Executive Officer of Customs* [2001] FCA 1287.

This will not include:

- other imported alcohol goods (because these goods are subject to customs duty)
- wine (which is generally subject to wine equalisation tax), and
- cigarettes and other tobacco goods as there is currently no licensed manufacture of tobacco in Australia.



For more information about customable alcoholic beverages, refer to Chapter 22 of Schedule 3 to the *Customs Tariff Act 1995*.

Examples of excisable goods include Australian-made:

- beer
- spirits, and
- pre-mixed drinks known as ready-to-drink beverages.

Excise control

Section 7 of the Excise Act refers to the CEO as having 'general administration of this Act'. In this Guide, we will also refer to this general administration as excise control.

Goods are subject to excise control from the point of manufacture until they have been delivered into the Australian domestic market (referred also as to home consumption²⁰⁶) or for export.

Goods subject to excise control cannot be moved, altered or interfered with except as authorised by the Excise Act.

International flight

An international flight is defined as a flight, whether direct or indirect, by an aircraft between²⁰⁷:

- a place in Australia from which the aircraft takes off and a place outside Australia at which the aircraft lands or is intended to land²⁰⁸, or
- a place outside Australia from which the aircraft took off and a place in Australia at which the aircraft landed.

Penalty units

The value of a penalty unit is contained in section 4AA of the *Crimes Act 1914*, and is indexed regularly. The dollar amount of a penalty unit is available at [Penalties](#).

²⁰⁶ The term used in section 58 of the Excise Act is 'entry for home consumption'.

²⁰⁷ Subsection 61E(1) of the Excise Act.

²⁰⁸ Subsection 61D(1) of the Excise Act.

Relevant traveller

A relevant traveller is:

- for outwards duty-free shop purposes – a person who intends to make an international flight or international voyage, whether as a passenger on, or as a member of the crew (or the pilot or master) of an aircraft or ship²⁰⁹
- for inwards duty-free shop purposes – a person who has arrived in Australia on an international flight, whether as a passenger on, or as a member of the crew (or the pilot) of, an aircraft and has not been questioned, for the purposes of the *Customs Act 1901*, by an officer of Customs, in respect of goods carried on that flight.²¹⁰

Remission

A remission of excise duty extinguishes the liability for duty that was created at the point of manufacture, in prescribed circumstances.



For more information about remissions, refer to [Chapter 9](#) Remissions and exemptions.

Section 50 direction

This is a written instruction issued under section 50 of the Excise Act to a licensed manufacturer, or proprietor of premises covered by a storage licence, to keep specified records, furnish specified returns, retain records for a specified period and produce those records on demand by us. The written instruction is incorporated into the licence conditions.

Underbond

This is an expression not found in excise legislation but it is widely used to describe goods that are subject to excise control. Excisable goods that are subject to excise control are commonly referred to as 'underbond goods' or as being 'underbond'. This includes goods that have not yet been delivered into the Australian domestic market and goods moving between premises under a movement permission.

²⁰⁹ Subsection 61D(1) of the Excise Act.

²¹⁰ Subsection 61E(1) of the Excise Act.

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8 ACCOUNTING FOR EXCISABLE GOODS

8.1 PURPOSE

8.2 INTRODUCTION

8.3 POLICY AND PRACTICE

8.3.1 ACCOUNTING FOR EXCISABLE GOODS

8.3.2 WORKING OUT THE AMOUNT OF DUTY

8.3.3 DISPUTES AS TO THE DUTY

8.4 PROCEDURES

8.4.1 DESTRUCTION OF DETERIORATED STOCK

8.4.2 LODGING DUTY-FREE OPERATOR RETURNS AND PAYING EXCISE DUTY

8.4.3 MORE INFORMATION

8.5 PENALTIES THAT CAN APPLY IN RELATION TO ACCOUNTING FOR EXCISABLE GOODS

8.6 TERMS USED

8 ACCOUNTING FOR EXCISABLE GOODS

8.1 PURPOSE

This Chapter deals with:

- accounting for '[excisable goods](#)'
- how to work out the amount of duty to pay
- what to do if you have a dispute as to the duty
- destruction of deteriorated stock
- how to lodge duty-free operator returns, and
- penalties that can apply to offences in relation to accounting for goods.

8.2 INTRODUCTION

In general terms, duty-free shops will not pay duty. However, excise duty will be payable when excisable goods are not taken overseas or are unable to be accounted for – for example, stock shortages.

This Chapter explains when and how to pay excise duty.

8.3 POLICY AND PRACTICE

8.3.1 ACCOUNTING FOR EXCISABLE GOODS

If you have, have had, or have been entrusted with possession, custody or control of any excisable goods²¹¹ (subject to '[excise control](#)'), you have to be able to satisfactorily account for them.

If we ask you to account for excisable goods and you cannot satisfactorily do so, we may demand payment of an amount equal to the duty. Our demand will be given in writing. The amount you are required to pay is calculated using the rate of duty in force on the day the demand is made.

²¹¹ Section 60 of the Excise Act.

When requested to account for excisable goods, you must be able to show that:

- the goods are still at your premises
- the goods have otherwise been dealt with in accordance with the law (for example, moved under a movement permission or delivered to a [‘relevant traveller’](#))
- duty was not payable (for example, where a [‘remission’](#) applied), or
- duty has been paid.

Excisable goods will not have been accounted for satisfactorily just because they were:

- given away for promotional purposes²¹²
- stolen from premises covered by a licence²¹³, or
- [‘delivered into the Australian domestic market’](#) under the mistaken belief that they were not excisable.²¹⁴

We may also demand payment from you if you have failed to keep excisable goods safely (for example, if you have a break-in and a theft occurs, you will be required to pay an amount equal to the excise duty that would have applied to the excisable goods that have been stolen).

Our decision to demand payment is a reviewable decision.²¹⁵



For information about your review rights, refer to [Chapter 10](#) Reviews and objections.

In determining whether you have accounted for the excisable goods, we may allow you to offset any stock shortages and surpluses.

Example 8A

A duty-free shop is asked to account for their excisable alcohol products. They carry out a stocktake and there is a surplus of 50 one-litre bottles of Brand X gin at 40% by volume of alcohol and a shortage of 200 one-litre bottles of Brand Y gin at 40% by volume of alcohol.

We will allow the duty-free shop to offset the surplus and shortage. Therefore, there are 150 bottles that have not been accounted for.

A demand will be issued for an amount equal to the excise duty payable on the 150 bottles.

²¹² ATO Interpretative Decision ATO ID 2004/61 *Excise: goods given away without payment of excise duty.*

²¹³ ATO Interpretative Decision ATO ID 2001/595 *Excise: Liability to pay an amount equal to the excise duty on excisable goods stolen from the premises of a licensed excise manufacturer or a licensed storage place.*

²¹⁴ ATO Interpretative Decision ATO ID 2004/62 *Excise: goods sold without payment of excise duty.*

²¹⁵ Section 162C of the Excise Act.

The duty-free shop corrects book stock to take up the surplus floor stock of 50 bottles and, when the demand is paid, write off the shortage of 200 bottles.

Example 8B

A duty-free shop is asked to account for their excisable alcohol products. They carry out a stocktake and there is a surplus of 25 one-litre bottles of Brand A Australian rum at 38% by volume of alcohol and a shortage of 10 one-litre bottles of Brand B Australian whisky at 38% by volume of alcohol.

We will allow the duty-free shop to offset the surplus and shortage. Therefore, there are no bottles that have not been accounted for but there is a surplus of 15 bottles.

The licence holder corrects book stock to take up the surplus floor stock of 25 bottles of rum and write-off the shortage of 10 bottles of whisky.



If you store both imported customable goods and domestic excisable goods, you cannot offset one against the other.

8.3.2 WORKING OUT THE AMOUNT OF DUTY

To work out how much duty you need to pay, you need to:

- check whether your goods are excisable goods according to the Schedule to the Excise Tariff Act²¹⁶ and identify the correct duty rate
- work out the quantity of excisable goods subject to duty in each tariff sub-item
- multiply the quantity of excisable goods by the rate of duty on the excisable goods, and
- add up the total for each sub-item to work out total duty to be paid.

(i) Classifying excisable goods

The Schedule to the Excise Tariff Act lists those goods that, if manufactured in Australia, are subject to excise. The Schedule also contains the rate of duty applicable to the goods. For excisable alcohol, an extract of the Schedule is as follows:

²¹⁶ For the latest version of the Schedule, refer to [Excise duty rates for alcohol](#).

Table 1: Extract regarding excisable alcohol from the Schedule

Tariff Item	Subitem	Description of goods	Rate from 4 August 2025
3		Spirits; Other excisable beverages exceeding 10% by volume of alcohol	
	3.1	Brandy	\$98.97* per litre of alcohol
	3.2	Other excisable beverages exceeding	\$105.98* per litre of alcohol

* Rate of duty as at 4 August 2025. For current rates of duty, refer to [Excise duty rates for alcohol](#).

(ii) Working out quantities of excisable goods

Duty for excisable alcohol products is levied on the alcohol by volume and not on the total volume of the product – that is, you do not pay duty on the water contained within the product.

Alcohol is measured in total litres of alcohol (LALs), which is calculated by measuring the total volume and multiplying it by the strength.

Example 8C

On 18 August 2025 following a stocktake, My Duty-Free Shop identified 2 cartons of Australian brandy and one carton of Australian gin missing. The brandy is classified under subitem 3.1 of the Schedule and the gin is an 'other excisable beverages exceeding 10% by volume of alcohol' classified under subitem 3.2.

The dutiable quantity of alcohol in the 2 cartons of brandy, each containing 12 × 700 ml bottles, at 37.2% alcohol by volume is:

$$2 \text{ cartons} \times 12 \text{ bottles} \times 0.7 \text{ litres} = 16.8 \text{ litres} \times 37.2\% = 6.24 \text{ LALs.}$$

The dutiable quantity of alcohol in the one carton of gin, which contains 12 × 700 ml bottles at 40.0% alcohol by volume is:

$$1 \text{ carton} \times 12 \text{ bottles} \times 0.7 \text{ litres} = 8.4 \text{ litres} \times 40\% = 3.36 \text{ LALs.}$$

Precision requirements for calculations and reporting

The acceptable level of precision for working out LALs is 2 decimal places.

When completing your '[duty-free operator return](#)', the dutiable quantity in LALs for goods classified to a particular tariff item or sub-item in the Schedule may be truncated to one decimal place. Truncation to one decimal place means that anything after the first decimal place is disregarded.

Example 8D

The dutiable total for missing goods identified by My Duty-Free Shop under sub-item 3.1 of the Schedule is 6.24 LALs, plus 3.36 LALs for goods under subitem 3.2.

On the duty-free operator return, My Duty-Free Shop reports the dutiable totals as:

Sub-item 3.1: 6.2 LALs

Sub-item 3.2: 3.3 LALs.

Excise duty is worked out on the basis of the truncated totals.

(iii) Calculating duty payable on excisable goods

The rates of duty are set in the table in the Schedule. The rates of duty on excisable alcohol is subject to change. They are indexed twice a year in accordance with increases in the CPI (in February and August).²¹⁷ For ease of reference, we provide tables with up-to-date duty rates, incorporating indexation changes, at [Excise duty rates for alcohol](#).

The rate of duty you use is the rate contained in the working tariff for the sub-item.

Example 8E

On 18 August 2025, My Duty-Free Shop discovers a shortage of [underbond](#) brandy and underbond gin.

The brandy is classified to sub-item 3.1 of the Schedule. The gin is an 'other excisable beverages exceeding 10% by volume of alcohol', classified to sub-item 3.2.

The rate of duty that applies is the rate in force at the time the stocktake was conducted on 18 August 2025:

Sub-item 3.1: \$98.97 per litre of alcohol

²¹⁷ Section 6A of the Excise Tariff Act.

Sub-item 3.2: \$105.98 per litre of alcohol.



The amount of duty payable is then calculated by multiplying the quantity of excisable product by the applicable rate of duty.

Example 8F

Continuing on from the previous examples in this Chapter, on 18 August 2025, My Duty-Free Shop discovers a shortage of 2 cartons, each containing 12 × 700ml bottles of brandy at 37.2% alcohol by volume, and one carton containing 12 × 700ml bottles of gin at 40.0% alcohol by volume.

The brandy is classified to sub-item 3.1 of the Schedule and has a duty rate of \$98.97 per litre of alcohol (as at 4 August 2025).

Therefore, the duty payable is calculated as:

2 cartons × 12 bottles × 0.7 litres each = 16.8 litres

16.8 litres × 37.2% = 6.24 LALs

6.24 LALs truncated to one decimal point = 6.2 LALs

6.2 LALs × \$98.97 = \$613.614

The duty of \$613.614 is truncated to 2 decimal points = \$613.61.

The gin is classified to sub-item 3.2 of the Schedule and has a duty rate of \$105.98 per litre of alcohol (as at 4 August 2025).

Therefore, the duty payable is calculated as:

1 carton × 12 bottles × 0.7 litres each = 8.4 litres

8.4 litres × 40.0% = 3.36 LALs

3.36 LALs truncated to one decimal point = 3.3 LALs

3.3 LALs × \$105.98 = \$349.734

The duty of \$349.734 is truncated to 2 decimal points = \$349.73.

(iv) Calculating total duty payable

Duty payments are notified to us by including details on your duty-free operator return. Excisable goods classified to different items or sub-items in the Schedule must be shown separately on your duty-free operator return on what are referred to as 'lines'.

Example 8G

My Duty-Free Shop needs to report deliveries for the period ended 31 August 2025.

On their duty-free operator return, My Duty-Free Shop reports their duty liability as per Table 2 of this Guide.

Table 2: Duty liability reported by My Duty-Free Shop

Line	Tariff item	Quantity	Units	Duty rate	Excise amount
1	3.1	6.2	LALs	\$98.97	\$613.61
2	3.2	3.3	LALs	\$105.98	\$349.73

The total excise amount was \$963.34.

8.3.3 DISPUTES AS TO THE DUTY

You may deposit with us the amount of duty demanded if you dispute²¹⁸:

- the amount of duty
- the rate of duty, or
- the liability of goods to duty (for example, whether the goods are excisable).

The deposit of this duty is to be made on a duty-free operator return. The duty-free operator return should be accompanied by a letter which sets out the details of the dispute.



These disputes do not apply to changes brought about by a tariff proposal.

The deposit you make will be the proper duty, unless you commence court action against us within 6 months after you make the deposit and that action is determined in your favour.

If any action is determined in your favour, any excess of the deposit over the proper duty will be refunded to you along with payment of interest, calculated at 5% per annum, unless we are of the opinion that any evasion under the Excise Act has been committed or attempted.

If the action is not commenced within 6 months or the court does not find in your favour, the amount deposited is taken to be the correct amount of duty.

However, if you have received a private ruling and subsequently lodge an objection that relates to the amount or rate of duty, or the liability of goods to duty, you cannot commence court action to recover your deposit on grounds that are, or could have been, in your objection²¹⁹

²¹⁸ Section 154 of the Excise Act.

²¹⁹ Section 155 of the Excise Act and section 359-60 of Schedule 1 to the TAA.

8.4 PROCEDURES

8.4.1 DESTRUCTION OF DETERIORATED STOCK

If excisable goods under your control need to be destroyed for any reason (for example, old stock or damaged), there are special procedures that must be followed.



For more information, refer to [Chapter 9](#) Remissions and exemptions.

8.4.2 LODGING DUTY-FREE OPERATOR RETURNS AND PAYING EXCISE DUTY

You can find information on how to complete and lodge your duty-free operator return at [Duty-free operator return](#). Alternatively, phone **1300 137 290** to obtain a paper copy of the duty-free operator return.

You can pay excise duties:

- by electronic funds transfer, including direct credit and BPAY
- in person at a post office
- by credit card, or
- by mail (cheque or money order).

If you pay the excise duty at a post office, you must use a payment advice. To obtain a payment advice booklet, phone us on **13 72 26** or **1800 815 886** – you will need your Australian business number (or Excise identification number) and client account number.

8.4.3 MORE INFORMATION

If you need more information on excise as it relates to duty-free shops, contact us via [ATO Online Services](#) or the other options listed on [Contact us about excisable alcohol](#).

We will ordinarily respond to written information requests within 28 days. If we cannot respond within 28 days, we will contact you within 14 days to obtain more information or negotiate an extended response date.

8.5 PENALTIES THAT CAN APPLY IN RELATION TO ACCOUNTING FOR EXCISABLE GOODS

The following are the penalties that may apply after conviction for an offence.

Move, alter or interfere

If you move, alter or interfere with excisable goods that are subject to excise control, without permission, the penalty is a maximum of 2 years in prison or the greater of 500 '[penalty units](#)' and 5 times the amount of duty on the excisable goods.²²⁰

Note: this includes moving underbond excisable goods from your premises to any other location or for export.

Deliver

If you deliver excisable goods into the Australian domestic market contrary to your permission, the penalty is a maximum of 2 years in prison or the greater of 500 penalty units and 5 times the amount of duty on the excisable goods.²²¹

Records

If you do not keep, retain and produce records in accordance with a '[direction under section 50](#)' of the Excise Act, the penalty is a maximum of 30 penalty units.

Evade

If you evade payment of any duty which is payable, the maximum penalty is 5 times the amount of duty on the excisable goods or, where a court cannot determine the amount of that duty, the penalty is a maximum of 500 penalty units.²²²

False or misleading statements

If you make a false or misleading statement to us, the penalty is a maximum of 50 penalty units.²²³

²²⁰ Section 61 of the Excise Act.

²²¹ Section 61C of the Excise Act.

²²² Paragraphs 120(1)(iv) and (2)(b) of the Excise Act.

²²³ Section 120 of the Excise Act.

8.6 TERMS USED

Deliver into the Australian domestic market

Deliver into the Australian domestic market²²⁴ is the term we use in this Guide for when excisable goods are released into domestic consumption. The term used in the legislation is 'deliver for home consumption'.

Normally, this will be by delivering the goods away from premises covered by a licence but includes using those goods yourself (for example, sales to staff).

The term 'home consumption' is not defined in the Excise Act and there is no definitive case law that looks at the issue in question. However, there are several cases where issues closely related to it are considered.²²⁵

The conclusion drawn from those cases is that 'home consumption' refers to the destination of goods as being within Australia as opposed to exporting them.

Duty-free operator return

A duty-free operator return is a document that you use if you operate a duty-free store that is:

- on-airport – to report stocktake shortages or surpluses of excisable alcohol goods
- outwards off-airport – to report missed or found dockets and stocktake shortages or surpluses of excisable alcohol goods, or
- where you also hold a licence to store excisable alcohol goods at a site that is not a duty-free store – to report any shortages or surpluses of stock at your storage site.

Excisable goods

Excisable goods are goods on which excise duty is imposed. Excise duty is imposed on goods that are listed in the Schedule, and manufactured or produced in Australia.

For operators of duty-free shops, this will include:

- alcohol goods that are produced or manufactured in Australia and are subject to excise, and
- imported alcohol goods that have undergone a process of manufacture or production in Australia – for example, high-strength imported whisky which has been reduced by

²²⁴ Note the legislation uses the term 'delivered for home consumption' (see, for example, sections 61 and 61C of the Excise Act).

²²⁵ See *R v Lyon* [1906] HCA 17; *Collector of Customs (NSW) v Southern Shipping Co Ltd* [1962] HCA 20; *Carmody v F C Lovelock Pty Ltd* [1970] HCA 35; *Caltex Australia Petroleum Pty Ltd v Commissioner of Taxation* [2008] FCA 1951 and *Moama Refinery Pty Ltd v Chief Executive Officer of Customs* [2001] FCA 1287.

adding water (in Australia) before it is bottled, constitutes manufacture or production for excise purposes. Vodka imported in bulk and repackaged in Australia, does not constitute manufacture for excise purposes.

This will not include:

- other imported alcohol goods (because these goods are subject to customs duty)
- wine (which is generally subject to wine equalisation tax), and
- cigarettes and other tobacco goods as there is currently no licensed manufacture of tobacco in Australia.



For more information about customable alcoholic beverages, refer to Chapter 22 of Schedule 3 to the *Customs Tariff Act 1995*.

Examples of excisable goods include Australian-made:

- beer
- spirits, and
- pre-mixed drinks known as ready-to-drink beverages.

Excise control

Section 7 of the Excise Act refers to the CEO as having 'general administration of this Act'. In this Guide, we will also refer to this general administration as excise control.

Goods are subject to excise control from the point of manufacture until they have been delivered into the Australian domestic market (referred also as to home consumption²²⁶) or for export.

Goods subject to excise control cannot be moved, altered or interfered with except as authorised by the Excise Act.

Penalty units

The value of a penalty unit is contained in section 4AA of the *Crimes Act 1914*, and is indexed regularly. The dollar amount of a penalty unit is available at [Penalties](#).

Relevant traveller

A relevant traveller is:

- for outwards duty-free shop purposes – a person who intends to make an international flight or international voyage, whether as a passenger on, or as a member of the crew (or the pilot or master) of an aircraft or ship²²⁷

²²⁶ The term used in section 58 of the Excise Act is 'entry for home consumption'.

²²⁷ Subsection 61D(1) of the Excise Act.

- for inwards duty-free shop purposes – a person who has arrived in Australia on an international flight, whether as a passenger on, or as a member of the crew (or the pilot) of, an aircraft and has not been questioned, for the purposes of the *Customs Act 1901*, by an officer of Customs, in respect of goods carried on that flight.²²⁸

Remission

A remission of excise duty extinguishes the liability for duty that was created at the point of manufacture, in prescribed circumstances.



For more information about remissions, refer to [Chapter 9](#) Remissions and exemptions.

Section 50 direction

This is a written instruction issued under section 50 of the Excise Act to a licensed manufacturer, or proprietor of premises covered by a storage licence, to keep specified records, furnish specified returns, retain records for a specified period and produce those records on demand by us. The written instruction is incorporated into the licence conditions.

Underbond

This is an expression not found in excise legislation but it is widely used to describe goods that are subject to excise control. Excisable goods that are subject to excise control are commonly referred to as 'underbond goods' or as being 'underbond'. This includes goods that have not yet been delivered into the Australian domestic market and goods moving between premises under a movement permission.

Amendment history

1 October 2025

Part	Comment
Throughout	Content checked for technical accuracy and currency. Updated in line with current ATO style and accessibility requirements.

²²⁸ Subsection 61E(1) of the Excise Act.

9 REMISSIONS AND EXEMPTIONS

9.1 PURPOSE

9.2 INTRODUCTION

9.3 POLICY AND PRACTICE

9.3.1 APPLYING FOR A REMISSION OF EXCISE DUTY

9.3.2 WHEN EXCISABLE GOODS ARE EXEMPT FROM EXCISE DUTY

9.4 PROCEDURES

9.4.1 APPLYING FOR A REMISSION

9.4.2 OBTAINING A PERIODIC SETTLEMENT PERMISSION TO DELIVER GOODS TO DIPLOMATIC MISSIONS AND CONSULAR PERSONNEL

9.4.3 REQUIREMENTS THAT APPLY TO DIPLOMATIC AND CONSULAR PERSONNEL SALES

9.4.4 MORE INFORMATION

9.5 PENALTIES THAT CAN APPLY IN RELATION TO REMISSIONS AND EXEMPTIONS

9.6 TERMS USED

9 REMISSIONS AND EXEMPTIONS

9.1 PURPOSE

This Chapter deals with:

- when you can apply for a remission
- when excisable goods are exempt from excise duty
- who can access excisable goods free of excise duty
- how to apply for a remission
- how to obtain permission to deliver goods to diplomatic and consular personnel
- what requirements must be met to make sales to diplomatic and consular personnel, and
- penalties that can apply to offences in relation to remissions and exemptions.

9.2 INTRODUCTION

A '[remission](#)' of excise duty extinguishes the liability for duty that was created at the point of manufacture. Where a remission circumstance validly applies on '[excisable goods](#)', no excise duty will ever be paid on those goods.

In some circumstances, the excise duty liability may be subject to a complete or partial remission.²²⁹

9.3 POLICY AND PRACTICE

9.3.1 APPLYING FOR A REMISSION OF EXCISE DUTY

You can apply for a remission of excise duty payable on your excisable goods if the following circumstances apply while the goods are subject to '[excise control](#)'²³⁰:

- where the excisable goods have deteriorated or been damaged, pillaged, lost or destroyed, or become unfit for human consumption²³¹

²²⁹ Section 78 of the Excise Act.

²³⁰ Section 8 of the Excise Regulation.

²³¹ Section 8 and table item 1 of clause 1 of Schedule 1 to the Excise Regulation.

- where the goods are not worth the amount of excise duty payable on the goods.²³²
 - 'Pillage' means 'to strip of money or goods by open violence, as in war; plunder'.²³³ This does not cover simple cases of theft.
 - For more information about payment of duty, refer to [Chapter 8](#) Accounting for excisable goods.
-

Example 9A

A carton of bottled brandy is dropped inside the duty-free shop, damaging the contents. The duty-free shop applies for a remission of duty on the damaged goods. On receiving approval, the duty-free shop destroys the damaged goods and retains records of the destruction.

Example 9B

Other excisable beverages containing milk products remain unsold in a duty-free shop and have deteriorated to a point where they are unfit for human consumption. The duty-free shop applies for a remission of duty on the beverages. On receiving approval, the duty-free shop destroys the unsaleable stock and retains records of the destruction.

Example 9C

A carton of spirits is water damaged and the packaging and labels of the bottles is severely affected. They are only able to be sold at a greatly reduced price, which is less than the excise duty that is payable on the spirits. The duty-free shop applies for a remission of duty on the beverages. On receiving approval, the duty-free shop destroys the unsaleable stock and retains records of the destruction.

9.3.2 WHEN EXCISABLE GOODS ARE EXEMPT FROM EXCISE DUTY

Excisable goods are exempt from duty if they are:

- sold for use as ship's or aircraft's stores²³⁴, or
- subject to remission without application.²³⁵

²³² Section 8 and table item 2 of clause 1 of Schedule 1 to the Excise Regulation.

²³³ Pan Macmillan Australia (2025) *The Macquarie Dictionary* online, www.macquariedictionary.com.au, accessed 8 September 2025.

²³⁴ Section 160A of the Excise Act.

²³⁵ Clause 2 of Schedule 1 to the Excise Regulation.

Ship's and aircraft's stores

Ship's and aircraft's stores are goods for the use of passengers or crew on international journeys or for the service of ships or aircraft on international journeys (for example, alcohol for sale to passengers on board a cruise liner).

There are limits on the quantities of excisable products that are not liable to excise duty as ship's or aircraft stores.²³⁶

Excisable alcohol beverages (other than beer) must be sold to passengers or crew by the glass or nip.²³⁷

If you supply ship's or aircraft's stores '[underbond](#)', you must obtain a movement permission to move the goods from the premises covered by your licence to the place of export.

When excisable goods are subject to remission without application

Excisable goods may be subject to remission without application²³⁸ (effectively meaning they are exempt from duty) when they are sold by duty-free shops:

- to diplomatic missions and foreign consular posts for official use but not for trade²³⁹ (refer to [Section 9.3.1](#) Applying for a remission of excise duty), and
- for use by the personnel of sea-going vessels of the Australian Defence Force.²⁴⁰

Some restrictions apply to excisable goods for the Australian Defence Force. The goods must be for consumption by the personnel of sea-going vessels of the Royal Australian Navy or Australian Military Forces when:

- such vessels are in full commission, and
- the products are consumed on such vessels.²⁴¹

Only certain excisable goods are eligible for this concession, including:

- ale, port and other beer
- brandy
- whisky
- rum
- gin

²³⁶ Section 55 of the Excise Regulation.

²³⁷ Subsection 55(2)(a) of the Excise Regulation.

²³⁸ Clause 2 of Schedule 1 to the Excise Regulation.

²³⁹ Item 8 of Clause 2 of Schedule 1 to the Excise Regulation.

²⁴⁰ Item 6 of Clause 2 of Schedule 1 to the Excise Regulation.

²⁴¹ Item 6(b) of Clause 2 of Schedule 1 to the Excise Regulation.

- liqueurs, and
- tobacco goods.



Ready-to-drink beverages (for example, pre-mixed rum and cola or other mixers in bottles or cans) do not qualify for this concession.

To supply excisable goods under these circumstances, you must first ensure the receiver meets the relevant criteria. For example, you should only accept orders, stating that the goods are for official use, on the official stationery, or official order, of eligible people or organisations. You must keep a copy of this documentation.



You do not have to apply for a remission in these circumstances and you do not have to include these transactions on a [‘duty-free operator return’](#).

9.4 PROCEDURES

9.4.1 APPLYING FOR A REMISSION

An application for a remission must be submitted in writing. Records to substantiate your claims must be maintained and produced when requested.²⁴²

We may inspect or supervise the disposal of goods to ensure that excisable goods do not find their way into the Australian domestic market.

If underbond goods must be destroyed off site, you must apply for a movement permission to move them from the premises covered by the licence to the place of destruction.



Unless excisable goods have been accidentally destroyed, you should contact us before moving or destroying any that are subject to remission. We will provide you with direction and advise if the goods are to be inspected or the destruction supervised.



For more information about movement permissions, refer to [Chapter 5](#) Movement permissions.



To apply for a remission, send us a completed [Excise remission](#). You can use the Excise remission instructions to help you complete this form.

The easiest way to apply for a remission is by using [ATO Online services](#). Alternatively, to apply for a remission, send us a completed [Excise remission](#). Help to complete this form is available at [Help completing the PDF form](#).

²⁴² Section 10 of the Excise Regulation.

If you are not satisfied with our decision to refuse your remission, you can request a review of our decision by lodging an objection within 60 days of our decision.



For information about your review rights, refer to [Chapter 10](#) Reviews and objections.

9.4.2 OBTAINING A PERIODIC SETTLEMENT PERMISSION TO DELIVER GOODS TO DIPLOMATIC MISSIONS AND CONSULAR PERSONNEL

Duty-free shops are only allowed to sell underbond goods to diplomatic missions (embassies) and consular posts and claim a remission without application, providing that they have applied for and been granted a separate permission to deliver goods for home consumption 'without entry' to diplomatic and consular personnel.²⁴³

A periodic settlement permission (PSP) is the most common arrangement for the recurrent delivery of goods subject to excise into the Australian domestic market. A PSP allows the reporting of deliveries and payment of duty owed on a periodic basis **after** the goods have been '[delivered into the Australian domestic market](#)'.²⁴⁴

Your PSP will be conditioned to only allow duty-free deliveries to diplomatic missions and consular posts.²⁴⁵ As sales to diplomatic missions and consular posts are not liable to excise duty, the period for lodging returns can be set for any period (for example, weekly, monthly, quarterly or annually).²⁴⁶ Your PSP requires you to lodge an excise return (even a nil return) following the end of the set period.²⁴⁷

If you apply for a storage licence with permission to sell duty-free, you can use your application form to indicate whether you need permission to deliver goods to diplomatic and consular missions. You do not need to complete a separate application.

If you originally chose not to apply for permission to deliver goods to diplomatic and consular missions, contact us and provide, in writing, your:

- licence details (if you have one), and
- reasons for applying for this permission.



Permission to deliver goods to diplomatic and consular missions is not transferable to another person and remains in force until revoked.

²⁴³ Item 8 of Clause 2 of Schedule 1 to the Excise Regulation.

²⁴⁴ Section 61C of the Excise Act.

²⁴⁵ Subsection 61C(3)(h) of the Excise Act.

²⁴⁶ Subsection 61C(3A) of the Excise Act.

²⁴⁷ Subsections 61C(3)(c) and 61C(3A) of the Excise Act.


We may also:

- refuse to grant a PSP
- impose further conditions on your PSP, or
- revoke your PSP.

Failure to comply with a condition may result in the revocation of the PSP.²⁴⁸ In such an instance, we would take into account a variety of factors, including your compliance history.

A decision to refuse, impose conditions on, or to revoke a PSP is a reviewable decision.²⁴⁹

 For information about your review rights, refer to [Chapter 10](#) Reviews and objections.

 For more information about diplomatic and consular sales, phone us on **1300 137 295**.

9.4.3 REQUIREMENTS THAT APPLY TO DIPLOMATIC AND CONSULAR PERSONNEL SALES

When making diplomatic and consular sales, you are required to:

- only make sales after receiving official orders from appropriate diplomatic mission or consular post personnel
- only deliver goods to diplomatic mission or consular posts or authorised personnel
- ensure each order is accompanied by an appropriate invoice and retain appropriate records
- only accept orders on the official stationery, or official order, of eligible people or organisations. You must keep a copy of this documentation.

Example 9D

A duty-free shop receives an order on the official stationery from an officer at a diplomatic mission for alcohol, with a statement that it is for official use. The duty-free shop delivers the alcohol free of duty, into the Australian domestic market (to the diplomatic mission), under the terms of their PSP.

The duty-free shop needs to retain copies of the order, invoice and all other relevant documentation for their records.

²⁴⁸ Subsection 61C(7) of the Excise Act.

²⁴⁹ Paragraphs 162C(1)(d), (e) and (f) of the Excise Act.

9.4.4 MORE INFORMATION

If you need more information on excise, as it relates to duty-free shops, contact us via:

- [ATO Online Services](#)
- phone **1300 137 290**, or
- write to us at
Australian Taxation Office
PO Box 3514
ALBURY NSW 2640

We will ordinarily respond to written information requests within 28 days. If we cannot respond within 28 days, we will contact you within 14 days to obtain more information or negotiate an extended response date.

9.5 PENALTIES THAT CAN APPLY IN RELATION TO REMISSIONS AND EXEMPTIONS

The following are the penalties that may apply after conviction for an offence.

Deliver

If you deliver excisable goods into the Australian domestic market contrary to your permission, the penalty is a maximum of 2 years in prison or the greater of 500 '[penalty units](#)' and 5 times the amount of duty on the excisable goods.²⁵⁰

Evade

If you evade payment of any duty which is payable, the maximum penalty is 5 times the amount of duty on the excisable goods or where a court cannot determine the amount of that duty the penalty is a maximum of 500 penalty units.²⁵¹

²⁵⁰ Section 61C of the Excise Act.

²⁵¹ Paragraphs 120(1)(iv) and 120(2)(b) of the Excise Act.

False or misleading statements

If you make a false or misleading statement, or an omission from a statement in respect of duty payable on particular goods, to us, a penalty not exceeding the sum of 50 penalty units and twice the amount of duty payable on those goods.²⁵²

9.6 TERMS USED**Deliver into the Australian domestic market**

Deliver into the Australian domestic market²⁵³ is the term we use in this Guide for when excisable goods are released into domestic consumption. The term used in the legislation is 'deliver for home consumption'.

Normally, this will be by delivering the goods away from premises covered by a licence but includes using those goods yourself (for example, sales to staff).

The term 'home consumption' is not defined in the Excise Act and there is no definitive case law that looks at the issue in question. However, there are several cases where issues closely related to it are considered.²⁵⁴

The conclusion drawn from those cases is that 'home consumption' refers to the destination of goods as being within Australia as opposed to exporting them.

Duty-free operator return

A duty-free operator return is a document that you use if you operate a duty-free store that is:

- on-airport – to report stocktake shortages or surpluses of excisable alcohol goods
- outwards off-airport – to report missed or found dockets and stocktake shortages or surpluses of excisable alcohol goods, or
- where you also hold a licence to store excisable alcohol goods at a site that is not a duty-free store – to report any shortages or surpluses of stock at your storage site.

²⁵² Section 120 of the Excise Act.

²⁵³ Note the legislation uses the term 'delivered for home consumption' (see, for example, sections 61 and 61C of the Excise Act).

²⁵⁴ See *R v Lyon* [1906] HCA 17; *Collector of Customs (NSW) v Southern Shipping Co Ltd* [1962] HCA 20; *Carmody v F C Lovelock Pty Ltd* [1970] HCA 35; *Caltex Australia Petroleum Pty Ltd v Commissioner of Taxation* [2008] FCA 1951 and *Moama Refinery Pty Ltd v Chief Executive Officer of Customs* [2001] FCA 1287.

Excisable goods

Excisable goods are goods on which excise duty is imposed. Excise duty is imposed on goods that are listed in the Schedule, and manufactured or produced in Australia.

For operators of duty-free shops, this will include:

- alcohol goods that are produced or manufactured in Australia and are subject to excise, and
- imported alcohol goods that have undergone a process of manufacture or production in Australia – for example, high-strength imported whisky which has been reduced by adding water (in Australia) before it is bottled, constitutes manufacture or production for excise purposes. Vodka imported in bulk and repackaged in Australia, does not constitute manufacture for excise purposes.

This will not include:

- other imported alcohol goods (because these goods are subject to customs duty)
- wine (which is generally subject to wine equalisation tax), and
- cigarettes and other tobacco goods as there is currently no licensed manufacture of tobacco in Australia.



For more information about customizable alcoholic beverages, refer to Chapter 22 of Schedule 3 to the *Customs Tariff Act 1995*.

Examples of excisable goods include Australian-made:

- beer
- spirits, and
- pre-mixed drinks known as ready-to-drink beverages.

Excise control

Section 7 of the Excise Act refers to the CEO as having 'general administration of this Act'. In this Guide, we will also refer to this general administration as excise control.

Goods are subject to excise control from the point of manufacture until they have been delivered into the Australian domestic market (referred also as to home consumption²⁵⁵) or for export.

Goods subject to excise control cannot be moved, altered or interfered with except as authorised by the Excise Act.

²⁵⁵ The term used in section 58 of the Excise Act is 'entry for home consumption'.

Penalty units

The value of a penalty unit is contained in section 4AA of the *Crimes Act 1914*, and is indexed regularly. The dollar amount of a penalty unit is available at [Penalties](#).

Remission

A remission of excise duty extinguishes the liability for duty that was created at the point of manufacture, in prescribed circumstances.

Underbond

This is an expression not found in excise legislation but it is widely used to describe goods that are subject to excise control. Excisable goods that are subject to excise control are commonly referred to as 'underbond goods' or as being 'underbond'. This includes goods that have not yet been delivered into the Australian domestic market and goods moving between premises under a movement permission.

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10 REVIEWS AND OBJECTIONS

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10 REVIEWS AND OBJECTIONS

10.1 PURPOSE

This Chapter deals with:

- the types of review you can ask for
- what decisions you can object to
- when you can seek an external review
- how to request an internal review
- how to lodge an objection,
- how to request an external review, and
- private rulings.

10.2 INTRODUCTION

We will provide you with a clear explanation of any decision we make about your excise affairs. If you need more information about our decisions, contact us using the details we provide when we advise you of our decision.

If you're not satisfied with a decision we've made, you can ask for it to be reviewed by:

- internal review²⁵⁶
- objection²⁵⁷, or
- external review.²⁵⁸

Where there is more than one review option, we will explain how these differ. For example, some reviews look at questions of law and others involve checking that we followed the correct process in reaching our decision. Which review option is best will depend on your situation.

²⁵⁶ For example, a decision not to issue a movement permission under section 61A of the Excise Act.

²⁵⁷ Objections are governed by Part IVC of the TAA.

²⁵⁸ These are usually conducted in the Administrative Review Tribunal (ART) or the Federal Court.

10.3 POLICY AND PRACTICE


10.3.1 INTERNAL REVIEWS

Under the ATO Charter, you can request an internal review where you believe that we have made a mistake, not complied with the law, or interpreted or applied the law incorrectly.

Your dissatisfaction with our decision may be treated as an internal review, both prior to or after receiving notification of the decision in writing.

An internal review does not waive or defer your rights to object to the decision.

However, if you choose to pursue an internal review, the time allowed to lodge an objection may have expired by the time an internal review is finalised. This would consequently affect your right for external review by the Administrative Review Tribunal (ART) or Federal Court.

 This is particularly crucial if the original decision attracts only a 60-day objection period.

10.3.2 OBJECTING AGAINST DECISIONS

You can only lodge an objection against the decisions contained in sections 39Q and 162C of the Excise Act. These include decisions:

- made under the licensing provisions of the Excise Act²⁵⁹ such as
 - refusal to grant a licence
 - imposing and varying conditions on a licence, or
 - suspension, cancellation or refusal to vary a licence
- to demand an amount in relation to goods not satisfactorily accounted for²⁶⁰, or
- relating to a '[remission](#)' of duty.²⁶¹

You may still request an internal review of other decisions. If we have made a mistake, we want to fix it at the least cost to both of us.

10.3.3 SEEKING AN EXTERNAL REVIEW

Where there is no right of objection, you may be able to apply to the Federal Court or Federal Magistrates Court under the *Administrative Decisions (Judicial Review) Act 1977*.

²⁵⁹ Section 39Q of the Excise Act.

²⁶⁰ Paragraph 162C(1)(c) of the Excise Act.

²⁶¹ Paragraphs 162C(1)(i) and (j) of the Excise Act.

Where you have lodged an objection and are dissatisfied with an objection decision, you can appeal against the decision to the Federal Court. If the objection decision is a reviewable objection decision, you may either appeal to the Federal Court or, alternatively, apply to have the decision reviewed by the ART. In either case, you must lodge your application within 60 days of the objection decision being served on you. The ART may extend this period for applications for review, upon your request.

10.4 PROCEDURES

10.4.1 REQUESTING AN INTERNAL REVIEW

To request an internal review, use the contact details we provide to contact the person or area of the ATO handling your case. The review will be conducted by a tax officer who was not involved in making the original decision.

We will advise you of the outcome of our review within 28 days of receiving all the information we need. If we cannot finalise the review within 28 days or we need more information from you, we will contact you within 14 days to obtain the information we need or negotiate an extended reply date.

10.4.2 FACILITATION PROCESS

Facilitation is a process where an impartial ATO facilitator meets with you (or your representative, or as well as) and the ATO case officer or officers to identify the issues in dispute, develop options, consider alternatives and attempt to reach a resolution. The ATO facilitator will be an officer that has not been involved in the dispute and who is independent and impartial.

A facilitator will not establish facts, take sides, give advice, make a decision or decide who is 'right or wrong'. The facilitator guides the parties through the process and ensures open lines of communication.

You can make a request for facilitation (including via your representative) by emailing facilitation@ato.gov.au. Alternatively, the ATO may offer you facilitation to help resolve a dispute.

10.4.3 LODGING AN OBJECTION

You can lodge an objection by completing an objection form or writing your own objection document. Your objection must:

- be in writing
- be lodged within 60 days after you receive the notice of the decision, and
- set out a full and detailed account of the grounds for the objection.²⁶²

²⁶² Section 14ZU of the TAA.

If you are a registered user, you can lodge your objection through the business portal using ATO Online Services.

You can also lodge your objection by:

- fax to **1300 139 031**
- email to ExcAdvice@ato.gov.au, or
- post to
Australian Taxation Office
PO Box 3514
ALBURY NSW 2640

If you do not lodge your objection within 60 days, we will not consider your objection, unless you provide the reasons for late lodgment. We will consider these reasons before continuing with the objection process.

If we refuse additional time to lodge an objection, you may have this decision reviewed by the ART.

We will make a decision about your objection after receiving all the necessary information. If we need more information or we cannot make a decision, we will contact you within 14 days to obtain the information we need or to negotiate an extended reply date.

If you are dissatisfied with the objection decision, there are further review rights available to you. You can:

- apply to the ART for a review of the decision, or
- appeal against the decision to the Federal Court.



To obtain a copy of our objection forms and for more information about how to lodge an objection, refer to [Object to a decision](#).

For more information about what to do if you believe your legal rights or the standards outlined in the ATO Charter have not been met, refer to [Steps to take if you are not satisfied with our service](#).

10.4.4 REQUESTING AN EXTERNAL REVIEW

The ART is an independent body that reviews decisions made by Australian Government agencies, departments, and ministers. To apply for a review, individuals can submit applications regarding decisions made under more than 400 Commonwealth Acts and laws, including decisions made under the Excise Act. If a party is dissatisfied with a decision made by the Tribunal, they may appeal to the Federal Court on a question of law. For more information, refer to [Administrative Review Tribunal](#).

We suggest you obtain legal advice if you are considering using external review options provided by the ART or Federal Court.

10.4.5 MORE INFORMATION

If you need more information on reviews and objections, contact us via:

- phone **1300 137 290**
- email us at ExcAdvice@ato.gov.au, or
- write to us at
Australian Taxation Office
PO Box 3514
ALBURY NSW 2640

We will ordinarily respond to written information requests within 28 days. If we cannot respond within 28 days, we will contact you within 14 days to obtain more information or negotiate an extended response date.

10.5 PRIVATE RULINGS

A private ruling is binding advice that sets out how a tax law applies to you in relation to a specific scheme or circumstance.²⁶³

You can apply for a private ruling when you want to be certain how a tax law applies to your particular circumstances.



For more information on private rulings and how to apply for one is available at [Applying for a private ruling](#).

10.6 TERMS USED

Remission

A remission of excise duty extinguishes the liability for duty that was created at the point of manufacture, in prescribed circumstances.



For more information about remissions, refer to [Chapter 9](#) Remissions and exemptions.

²⁶³ Section 359-5 of Schedule 1 to the TAA.

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11 OFFENCES

11.1 PURPOSE

11.2 INTRODUCTION

11.3 OFFENCES

11.4 PENALTIES

11.5 INFRINGEMENT NOTICES

11.6 APPLICATION OF THE CRIMINAL CODE

11.7 TERMS USED

11 OFFENCES

11.1 PURPOSE

This Chapter deals with:

- offences under the Excise Act
- penalties
- infringement notices, and
- application of the Criminal Code.

11.2 INTRODUCTION

This Chapter is a general discussion on offences. It is not meant as legal advice and you are encouraged to seek independent legal advice in relation to your own individual circumstances.

There are a number of acts or omissions under the Excise Act that are offences.

A conviction for an offence may result in a penalty as provided for within the Excise Act. The penalty provided may be in the form of ['penalty units'](#), a term of imprisonment or an amount of money calculated by a set formula.

11.3 OFFENCES

Certain acts or omissions are offences under the Excise Act for which penalties are prescribed.

For penalties to apply to an offence (except where an infringement notice has been issued), you must first be convicted of the offence in a court of law following prosecution.

Certain offences under the excise legislation are strict liability offences as defined in section 6.1 of the Criminal Code. Essentially, strict liability means that the offence consists of the physical act or omission only. It is not necessary for the court to find that you knowingly committed or were reckless or negligent in relation to the act or omission.

Some sections of the Excise Act prescribe the following 2 levels of offence for similar conduct:

- a higher penalty applies to an act or omission intentionally or recklessly committed (that is, where there is a 'fault' element), and
- a lower penalty applies to the same act or omission on a strict liability basis (that is, where no 'fault' element needs to be proven).

For example, section 26 of the Excise Act prescribes that licensed manufacturers are to manufacture in accordance with the Act and their licence.

- (1) A licensed manufacturer must not intentionally manufacture excisable goods knowing, or being reckless as to whether, the manufacture contravenes this Act or the manufacturer licence.
Penalty: 2 years imprisonment or 500 penalty units.
- (2) A licensed manufacturer must not manufacture excisable goods in contravention of this Act or the manufacturer licence. Strict liability applies.
Penalty: 100 penalty units.
- (3) Strict liability applies to subsection (2).

11.4 PENALTIES

The Excise Act contains many provisions that include a penalty at the foot of the section or subsection. This means that if you are convicted of an offence against the particular provision, you can receive a penalty not exceeding the penalty mentioned.²⁶⁴ The penalty listed is thus the maximum penalty, but the Courts can impose a lesser penalty.

As indicated, certain offences provide for alternative penalties, for example, subsection 33(1) of the Excise Act provides for a penalty of 2 years imprisonment or 500 penalty units.

In some cases the courts can impose both penalties upon conviction.²⁶⁵



Where an offence also causes goods to be forfeited,²⁶⁶ conviction by the courts results in the forfeited goods being condemned.²⁶⁷ This means they are no longer your property and we can dispose of the goods as we see fit.

11.5 INFRINGEMENT NOTICES

We may issue an infringement notice²⁶⁸ as an alternative to prosecution for unlawfully possessing, or unlawfully selling excisable goods.²⁶⁹ An infringement notice imposes a penalty of 20 penalty units.

²⁶⁴ Section 5 of the Excise Act and section 4D of the Crimes Act.

²⁶⁵ Section 127A of the Excise Act.

²⁶⁶ Section 116 of the Excise Act.

²⁶⁷ Section 151 of the Excise Act.

²⁶⁸ Part XA of the Excise Act.

²⁶⁹ Subsections 117(2) and 117B(2) of the Excise Act.

To issue an infringement notice, we must have a reasonable belief that you have committed the offence. Notices must be issued within 12 months of the commission of the offence.²⁷⁰

The penalty is payable on the day specified in the infringement notice which must be at least 28 days after the day the notice was issued.²⁷¹

If you do not pay the penalty, we may withdraw the infringement notice and prosecute you.

You cannot be prosecuted for the same offence where an infringement notice has been issued unless the infringement notice is withdrawn.

If we withdraw an infringement notice after you have paid the penalty, we will refund it to you.

11.6 APPLICATION OF THE CRIMINAL CODE

Chapter 2 of the Criminal Code applies to offences against the Excise Act. However, Parts 2.5 and 2.6 of the Criminal Code, which are in Chapter 2, do not apply.²⁷² In some courts, Excise prosecutions are able to be treated as criminal matters while in other courts they are treated as civil matters. This has an effect on issues such as the burden and standard of proof required.



You are encouraged to seek independent legal advice in relation to your own individual circumstances.

11.7 TERMS USED

Penalty units

The value of a penalty unit is contained in section 4AA of the *Crimes Act 1914*, and is indexed regularly. The dollar amount of a penalty unit is available at [Penalties](#).

²⁷⁰ Section 129B of the Excise Act.

²⁷¹ Section 129D of the Excise Act.

²⁷² Section 6B of the Excise Act.

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