

SOUTH AUSTRALIA



STATE TAXATION OFFICE

Tobacco Products (Licensing)

Circular No. 136

**TOBACCO PRODUCTS (LICENSING) (MISCELLANEOUS)
AMENDMENT ACT 1995**

The Tobacco Products (Licensing) (Miscellaneous) Amendment Act 1995 came into effect on 7 December 1995.

The information set out below is a summary only. The full legal intent must be taken from reading the amending legislation in conjunction with the Tobacco Products (Licensing) Act 1986.

Value of Tobacco Products

Licence fees will be payable on all tobacco sold by licensed wholesale tobacco merchants including products distributed for retail sale under the guise of promotional stock or in lieu of cash rebates. The definitions of “**tobacco merchandising**” and “**tobacco merchant**” have been amended to include all dealing in tobacco products. The definitions of “**sale**” and “**purchase**” have been amended to include (but are not limited to), the exchange or supply of tobacco product whether paid for or not.

Unlicensed Tobacco Merchants

The Act has been amended to also require tobacco merchants who are required to notify the Commissioner of Stamps of their intention to commence business in this State without the holding of a licence to supply further details prescribed by regulation. The Act will also now require unlicensed tobacco merchants to give on-going notice of their business activities.

Seized tobacco products

The Act has also been amended to allow any seized tobacco product forfeited to the Crown to be sold by public tender. This provision has been included to prevent loss of value of the seized product through deterioration. The proceeds will be held in trust pending the outcome of legal proceedings.

Improved inspectorial powers

The powers of inspectors have been widened to allow entry to premises where those premises are being used for tobacco merchandising or contain or are reasonably suspected of containing records of tobacco merchandising; copies of records are also able to be made.

Public Register

The Act now provides for a Public Register to be kept of licensees. The register will be kept at the Office of the Commissioner of Stamps.

Secrecy Provisions

The secrecy provisions have been amended to allow information to be provided to the Comptroller-General of the Australian Customs Service.

Keeping of Records

Records must be kept for a minimum of 5 years in relation to tobacco merchandising and the transportation of tobacco products prior to sale. Failure to comply may lead to a penalty of up to \$10,000.

Wholesaler to provide invoices

A person selling tobacco products by wholesale is now required under the Act to provide the purchaser with an invoice containing particulars prescribed in regulations under the Act. Failure to do so may result in a penalty of up to \$10,000.

Evidentiary Provisions

Persons found to be in possession of tobacco products, that exceed a prescribed quantity, will be taken to be in possession of the tobacco products for the purposes of sale unless proof to the contrary is established.

Enquiries

Enquiries on the above provisions may be made by telephoning the State Taxation Office on **(08) 226 3739**.

December 1995

COMMISSIONER OF STAMPS