

SOUTH AUSTRALIA



STATE TAXATION OFFICE

Tobacco Products (Licensing)

Circular No. 98

**TOBACCO PRODUCTS (LICENSING) ACT, 1986
RETAILERS OF TOBACCO PRODUCTS
DEALINGS WITH UNLICENSED TOBACCO MERCHANTS**

The State Taxation Office has become aware of information suggesting that a person or persons may be conducting business as unlicensed tobacco merchants in South Australia.

This circular is issued to bring to the attention of retailers of tobacco products and/or their agents the requirements of the legislation and penalties that apply in respect to some offences. It is not intended to be a complete statement of the law and must not be construed to waive or modify any legal obligation provided in the Act.

LICENCES

It is common in South Australia for retailers to hold a restricted licence and purchase tobacco products from wholesalers issued with unrestricted licences.

The Act places a clear obligation on the holder of a restricted licence to ensure when purchasing tobacco products for sale in pursuance of that licence that the vendor is a licensed tobacco merchant. The Act does this by providing that restricted licences are subject to a condition that the holder of the licence must not during this period for which the licence remains in force, sell tobacco products except tobacco products purchased from licensed tobacco merchants.

Section 30 of the Act requires licensed tobacco merchants to endorse every invoice that they issue in respect to the sale of tobacco products by wholesale with the following:-

SOLD BY LICENSED TOBACCO MERCHANT -

LICENCE NO.
(quote licence no.)

Licensed Merchants failing to quote their licence number are liable upon conviction to a penalty of \$10,000.

Retailers should be aware of the consequences that may follow where a person offering to supply tobacco to them on a wholesale basis does not provide an invoice bearing the above endorsement.

PENALTIES FOR RETAILERS

The Act provides that the merchant must not sell tobacco products except tobacco products purchased from licensed tobacco merchants. A merchant who breaches the condition of a restricted licence may be prosecuted in respect of that breach and/or be subjected to reassessment of licence fees based on the value of tobacco products sold that were purchased in that manner at a rate of 105 percent.

Furthermore, if an offence against the provisions of the Act is suspected the tobacco products in the merchant's possession or on or adjacent to the merchant's premises may be seized.

If tobacco products are purchased from an unlicensed tobacco merchant for personal consumption it will be necessary for the person making the purchase to hold a Consumption Licence in terms of Part II of the Act.

ENQUIRIES

Any merchant who is in doubt about the licence status of a vendor or person offering to supply tobacco products should feel welcome to contact the State Taxation Office to discuss the matter or clarify the merchant's licence status.

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COMMISSIONER OF STAMPS

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