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ONTARIO REGULATION

to be made under the

TOBACCO TAX ACT: A CONSULTATION DRAFT

RAW LEAF TOBACCO

INTERPRETATION

Interpretation, “related party”

1. (1) The following persons and entities are related parties to an applicant or registrant:

1. If the applicant or registrant is a corporation,

- i. the directors and officers of the applicant or registrant,
- ii. an affiliate of the applicant or registrant,
- iii. the directors and officers of any corporation affiliated with the applicant or registrant,
- iv. the person or persons who control the applicant or registrant, and
- v. a person who, alone or with one or more persons, has the ability in any manner whatsoever to direct or influence the management or policies of the applicant or registrant.

2. If the applicant or registrant is an individual,
 - i. all the members of a partnership if the applicant or registrant is a member of a partnership,
 - ii. the parent, sibling, child or spouse of the applicant or registrant,
 - iii. a relative other than an individual mentioned in subparagraph ii who has the same residence as the applicant or registrant, and
 - iv. a person who, alone or with one or more persons, has the ability in any manner whatsoever to direct or influence the management or policies of the applicant or registrant.

(2) For the purposes of subsection (1), a person controls a corporation if,

- (a) the person, either alone or with one or more persons, directly or indirectly owns, beneficially or otherwise, other than by way of security only, voting shares of the corporation carrying more than 50 per cent of the votes for the election of directors; and
- (b) the votes carried by such shares are sufficient, if exercised, to elect a majority of the board of directors of the corporation.

(3) In this section,

“affiliate” with respect to a corporation, has the same meaning as in the *Business Corporations Act*;

“spouse” has the same meaning as in section 29 of the *Family Law Act*.

APPLICATION

Application

2. This Regulation applies with respect to registration certificates that may be issued under section 2.2 of the Act for raw leaf tobacco producers, raw leaf tobacco processors, raw leaf tobacco dealers, raw leaf tobacco importers and raw leaf tobacco exporters.

EXEMPTIONS FROM PROHIBITIONS

Personal use exemptions

3. (1) Subsection 2.3 (1) of the Act does not apply to an individual who produces raw leaf tobacco if both of the following circumstances exist:

1. The individual only produces raw leaf tobacco for his or her own personal use.
2. The individual does not produce more than 15 kilograms of raw leaf tobacco a year.

(2) Subsection 2.3 (2) of the Act does not apply to an individual described in subsection (1) who processes the raw leaf tobacco that he or she produced for his or her own personal use.

Research exemptions

4. (1) Subsections 2.3 (1), (2) and (10) of the Act do not apply with respect to raw leaf tobacco produced by an educational institution for use in teaching and research.

(2) Despite subsection (1), subsections 2.3 (1), (2) and (10) of the Act apply to the raw leaf tobacco if it is sold to or comes into the possession of a person who holds or is required to hold a registration certificate under section 2.2 or 7 of the Act.

(3) Subsection 2.3 (4) of the Act does not apply with respect to raw leaf tobacco sold to an educational institution for use in teaching and research.

(4) Despite subsection (3), subsection 2.3 (4) of the Act applies to the raw leaf tobacco if it is sold to or comes into the possession of a person who holds or is required to hold a registration certificate under section 2.2 or 7 of the Act.

(5) Subsections 2.3 (5) and (10) of the Act do not apply with respect to raw leaf tobacco purchased by an educational institution for use in teaching and research.

(6) Despite subsection (5), subsections 2.3 (5) and (10) of the Act apply to the raw leaf tobacco if it is sold to or comes into the possession of a person who holds or is required to hold a registration certificate under section 2.2 or 7 of the Act.

(7) Subsection 2.3 (7) and (10) of the Act do not apply to raw leaf tobacco imported by an educational institution for use in teaching and research.

(8) Despite subsection (7), subsections 2.3 (7) and (10) of the Act apply to the raw leaf tobacco if it is sold to or comes into the possession of a person who holds or is required to hold a registration certificate under section 2.2 or 7 of the Act.

(9) For the purposes of this section, research does not include agronomic research related to the manufacturing of tobacco products.

(10) In this section,

“educational institution” means a university or college of applied arts and technology in Ontario, whose enrolment is counted for the purposes of calculating annual operating grants entitlements from the Government of Ontario.

Exemption for certain other uses

5. (1) Section 2.3 of the Act does not apply with respect to raw leaf tobacco if the raw leaf tobacco is produced using seeds with a novel trait that are released under an authorization under Part V of the Seeds Regulations made under the *Seeds Act* (Canada).

(2) Despite subsection (1), section 2.3 of the Act applies to the raw leaf tobacco if it is sold to or comes into the possession of a person who holds or is required to hold a registration certificate under section 2.2 or 7 of the Act.

(3) In this section,

“novel trait” has the same meaning as in subsection 107 (1) of the Seed Regulations made under the *Seeds Act* (Canada);

“release” has the same meaning as in subsection 107 (1) of the Seed Regulations made under the *Seeds Act* (Canada);

“seed” has the same meaning as in section 2 of the *Seeds Act* (Canada).

ISSUANCE, SUSPENSION AND CANCELLATION OF REGISTRATION CERTIFICATES

Criteria for issuance of certificate

6. (1) The Minister is authorized by subsection 2.2 (7) of the Act to issue a registration certificate to an applicant for the certificate if all of the following criteria are satisfied:

1. The applicant holds any other license, registration certificate or permit required under federal or provincial legislation to engage in the activity for which the applicant has applied for the registration certificate under section 2.2 of the Act.
2. The applicant has provided all the information specified by the Minister under subsection 2.2 (6.1) of the Act in support of the applicant’s application.

(2) However, despite subsection (1), the Minister is not authorized to issue the registration certificate to the applicant if any of the following circumstances exist:

1. There are reasonable grounds to believe that the applicant will not comply with the Act and the regulations, based on information provided to the Minister and based on the past conduct of the applicant or a related party.
2. The information provided in support of the applicant’s application is false or misleading.
3. In the preceding two years, the Minister cancelled a registration certificate issued to the applicant under section 2.2 of the Act. However, this does not apply,
 - i. if the registration certificate was cancelled under paragraph 5 of subsection 7 (1) because the registrant stopped carrying on the business or activity for which the certificate was issued, or

- ii. if the registration certificate was cancelled at the request of the registrant under subsection 7 (2).

Grounds for suspension and cancellation

7. (1) The Minister is authorized by subsection 2.2 (8) of the Act to suspend or cancel a registration certificate in any of the following circumstances:

1. The information provided by the registrant in connection with the application for the registration certificate was false or misleading.
2. If the registrant has been issued another permit or certificate under the Act,
 - i. the registrant has failed to comply with a condition or restriction imposed with respect to the permit or certificate, or
 - ii. the permit or certificate has been suspended or cancelled.
3. If the registrant has been designated under subsection 4 (1) or (1.3) of the Act to collect tax,
 - i. the registrant has failed to comply with a condition or restriction imposed with respect to the designation, or
 - ii. the designation has been suspended or cancelled.
4. The registrant fails to provide the information required by the Act or this Regulation, or the information provided by the registrant is false or misleading.
5. The registrant stops carrying on the business or activity for which the registration certificate was issued.
6. The registrant fails to comply with the Act or the regulations.
7. The registrant fails to pay a penalty assessed against the registrant under the Act.

8. The registrant or a related party is convicted of an offence under the Act or an offence under federal or provincial legislation in relation to raw leaf tobacco or tobacco products.
9. The registrant or a related party is convicted of an offence for fraud or tax evasion.
10. There are reasonable grounds to believe that the registrant will not comply with the Act and the regulations, based on the past conduct of someone who is a related party of the registrant but was not a related party when the registrant applied for the registration certificate.

(2) The Minister is authorized by subsection 2.2 (8) of the Act to cancel a registration certificate at the request of the registrant.

MISCELLANEOUS

Report re intent to destroy raw leaf tobacco

8. If a person who is required to hold a registration certificate under section 2.2 of the Act and who is an owner of raw leaf tobacco intends to destroy any raw leaf tobacco, the person must notify the Minister of the following at least three days before the intended destruction of the raw leaf tobacco:

1. The date on which the raw leaf tobacco is to be destroyed.
2. The quantity, by type, of raw leaf tobacco to be destroyed.
3. The current location of the raw leaf tobacco and the location where it is to be destroyed.
4. The method to be used to destroy it.
5. The reason for destroying it.

Notice of changes

9. If a person gives to the Minister any information relating to raw leaf tobacco, the person must promptly notify the Minister of any changes to the information.

COMMENCEMENT

Commencement

10. This Regulation comes into force on [commencement].