



Memorandum D4-3-2

Ottawa, October 28, 2015

Duty Free Shop – Licensing

In Brief

1. This memorandum incorporates the information previously contained in Memorandum D4-3-3, *Duty-Free Shop – Security* dated May 5, 2009 and replaces Memorandum D4-3-2, *Duty-Free Shop – Licensing* dated May 1, 2009.
2. This memorandum has been revised to reflect organizational changes resulting from the restructuring of the Canada Border Services Agency (CBSA) on April 1, 2010, to include a service standard for processing new Duty Free Shop applications, and to provide general updates and updates as a result of the strategic review of the Duty Free Shop program.
3. In addition to the above, the Commercial Registration Unit (CRU) and Border Information Services contact information has been added.

This memorandum explains the policies and procedures related to the licensing requirements needed to operate a Duty Free Shop (DFS) in Canada.

Legislation

[Duty Free Shop Regulations](#).

Guidelines and General Information

1. Note that the [Customs Act](#), Subsection 24 (1), provides the Minister of Public Safety with discretion when considering whether to issue a DFS licence. The Minister has the discretion to consider matters that are relevant to the overall intent of the program and government policy in the choice of a suitable licensee.
2. The DFS licence issued by the CBSA is a licence to acquire goods free of certain duties and taxes (other taxes, such as excise taxes, may be applicable) for sale to travellers who will immediately export the goods from Canada. The licence holds no monetary value and it does not express an implied guarantee of income in its own right, nor does it grant the licensee privileges in other government programs or jurisdictions where other licences, permits or contracts are required.
3. The Commercial Registration Unit (CRU) will strive to process applications for a new DFS within 90 calendar days from the deadline for application submissions. Only complete applications that meet all of the program requirements, as set out in the [Duty Free Shop Regulations](#), and that include all required supporting documentation will be considered.

Application and Selection Process

4. The eligibility requirements for a licence to operate a DFS vary depending upon whether it is located at a land border crossing or at an airport. Refer to the [Duty Free Shop Regulations](#).
5. Anyone interested in establishing a DFS at a site where there is no existing DFS or where an adequate range of goods is not available at an existing DFS, shall submit a completed [Form BSF664, Duty Free Shop Application/Amendment](#) indicating their interest in operating a DFS to the [CRU by e-mail](#).

6. The CRU will review the initial request, and determine if the local CBSA office is able to provide service and monitor the proposed DFS operation and, for land border locations, that the establishment of a DFS will not impede the flow of traffic in the vicinity in which the proposed DFS is to be located.

Land Border Location

7. If the proposed land border crossing point is deemed acceptable, the CRU will inform the Frontier Duty Free Association (FDFA) and the Association of Canadian Airport Duty Free Operators (ACADFO) that applications will be invited by means of national advertisements undertaken by the CBSA. A call for applications may include more than one site; however, a separate application is required for each location. Interested parties must submit a completed land border DFS application package to the CRU.

Airport Location

8. For the establishment of a DFS at an airport, lease applications may be invited through a tendering process administered by Transport Canada or the individual airport authority. Once a successful candidate has been selected by the airport authority, the interested party must then submit a completed airport DFS application to the CRU.

Application Package

9. The application package is comprised of [Form BSF664, Duty Free Shop Application/Amendment](#) and schedules that must be completed in their entirety and supported by all the required documentation in order for the application to be recommended for further consideration. Application packages can be requested from the CRU.

10. For land-border DFSs, the successful applicant is determined by the Minister on the basis of an evaluation. If more than one application qualifies, preference is given to an applicant that qualifies as a small or medium-size business and an eligibility list is created, ranking the applications in order of their final scores. Proposals are evaluated against specific selection criteria in four main groupings: management capabilities and retail/allied experience, site and building proposal, business plan and proposed level of local employment.

11. The CRU will advise all applicants of the results of the selection process. Unsuccessful applicants may make a written request for feedback on the evaluation of their application within 90 days after the licence has been awarded.

12. Before the licence is issued, the successful applicant must ensure that all required documentation and financial security has been submitted to the CRU, otherwise, their application may be disqualified.

Security Requirements

13. A DFS licensee is liable for applicable taxes on its domestic goods and for all duties and taxes on imported goods unless the licensee can prove that the goods have been sold for export, are still in the DFS, have been destroyed or have been lawfully removed. To protect the interests of the Crown, DFS licensees must post financial security against their inventory in order to operate. In the event the DFS licensee fails to pay duties and taxes owed, action may be taken against the security in order to recover any outstanding amounts.

14. The amount of financial security will be based on 25 percent of the highest total projected value of the total inventory of the DFS and any off-site locations for the first year of operation. The amount of financial security for subsequent years will be based on 25 percent of the highest total value of inventory for the previous year.

15. The minimum amount of security is CAN\$10,000 for each DFS licence.

16. General policies and procedures for posting and filing financial security are outlined in [Memorandum D1-7-1, Posting Security for Transacting Bonded Operations](#). The original customs bond or other acceptable form of financial security is managed by the CRU.

Adjustments to Financial Security

17. The CRU will review the amount of financial security no less than once a year to ensure it is adequate for the value of the inventory on hand.

18. If it is determined that an increase in financial security is required, the licensee is to submit amended financial security to reflect the revised amount within 60 days of being advised to do so by the local CBSA office.
19. A licensee can voluntarily change the surety company or financial institution for its customs DFS bond or other form of financial security at any time by submitting a suitable replacement. At no time may a DFS operate without coverage. Whenever the financial security posted by a licensee is to be amended, [Form BSF664, Duty Free Shop Application/Amendment](#) is to be completed by the DFS licensee and submitted to the CRU for review.
20. The licensee may apply to have the amount of financial security decreased after the initial year of operation. [Form BSF664, Duty Free Shop Application/Amendment](#) requesting a reduction relative to the value of the inventory on hand must clearly state the reasons for the proposed adjustment.

Licence Renewal

21. The Minister, or authorized delegate has the sole discretion to determine whether to renew an existing licence. A DFS licence is issued for a maximum of 10 years. The DFS licensee must request renewal of its licence at least two months prior to the date of expiry of the existing licence, by submitting [Form BSF664, Duty Free Shop Application/Amendment](#) to the CRU.
22. The licensee must provide the names, titles, telephone numbers, residential addresses, dates of birth, share allocation by percentage and citizenship of the company's board of directors and owners.
23. The licensee must also include a copy of financial security for the DFS and, where applicable, the required provincial liquor authority to sell alcohol. When the permit cannot be acquired prior to the renewal of the DFS licence, the licensee is not to sell alcohol products until the permit is received and a copy forwarded to the CBSA.
24. When a request for a licence renewal has been submitted, the CRU will conduct a review of the entire licensing period for the DFS operation and will confirm that the licensee continues to meet all program requirements.
25. If the CBSA is satisfied with the outcome of the review, the licence will be renewed for a further 10 year period or for a shorter period at the Minister's discretion.
26. If a DFS licence runs its full term and is not renewed, it will be deemed to have expired and to be no longer valid.

Cancellation, Suspension or Expiration of Licences

27. Pursuant to the provisions of the [Duty Free Shop Regulations](#), the CBSA has the sole discretion to cancel or suspend an existing licence at any given location. If the CBSA cancels or suspends a licence, the CRU will advise the licensee by registered mail of the reasons this action is proposed and the effective date of suspension or cancellation. The DFS will be locked and secured by the local CBSA office.
28. In the case of cancellation, the DFS will remain locked and sealed until the inventory has been properly disposed of. In the case of suspension, the DFS will remain locked and sealed by the local CBSA office until a decision is made by the CBSA either to reinstate or cancel the licence.
29. In the case where the DFS operator has failed to apply for and obtain a renewal of their DFS licence before the expiry date of the licence, the DFS will be locked and sealed by the local CBSA office until a decision is made by the Minister either to reinstate or cancel the licence.
30. Regardless of whether a DFS licence has been cancelled, suspended or has expired, immediately after the effective date, the local CBSA office will conduct a complete audit of the DFS inventory to ensure that records are maintained and up to date.
31. When a licensee requests the Minister to cancel its licence to operate a DFS, the notice of cancellation should include an outline of the licensee's plans for disposing of the assets. A licence, once cancelled by the Minister will not be reinstated. Refer to the [Duty Free Shop Regulations](#), Sections 8 to 12.

Receivership or Bankruptcy

32. When it is expected that a DFS will be placed under the control of a receiver or may go bankrupt, the DFS licensee must notify the CBSA immediately in writing by sending an e-mail to the CRU.

33. The trustees and the licensee may be given limited access to the DFS but no sale or movement of goods is to take place without prior approval of the local CBSA office. In the case of a receivership, the licensee may request that the receivers be allowed to continue the day-to-day operations of the shop providing they meet the requirements of the DFS program. In the case of a bankruptcy, the DFS licence is automatically cancelled.

34. In both cases, the local CBSA office will conduct a complete audit of the DFS inventory and ensure that records are up to date.

Licence Amendment

35. A DFS licensee is responsible for informing the CRU immediately of any impending changes to the DFS:

- (a) Legal or operating name;
- (b) Ownership structure; or,
- (c) Operation of the DFS (i.e. off-site outlets, hours of operation, expansion of operation, change in location etc.)

36. Each submission should be made using [Form BSF664, Duty Free Shop Application/Amendment](#) outlining the reason(s) for the change. Supporting documentation may also be required. The CBSA must be allowed sufficient time to review the proposal before the impending change is due to take effect.

Change in Name or Ownership Structure

37. For clarification purposes, a change in ownership structure may involve:

- (a) contraction – where one or more of a group of shareholders decide to withdraw from the entity that holds the DFS licence;
- (b) expansion – where one or more new shareholders are added;
- (c) redistribution – where shares are transferred between existing shareholders; or,
- (d) shares up for sale – where all shareholders sell their shares to another legal entity.

38. Proposals for a change to the ownership structure are to include the existing ownership structure and the proposed ownership structure including the names, addresses, dates of birth and percentage of share ownership. For land border DFSs, new shareholders must provide proof of citizenship.

39. Proposals to change the name by which the DFS is known or to change the company name in which the licence was issued must outline the reasons for the change and be accompanied by a certified copy of the amendment to the article of corporation if applicable.

40. If it is determined that the licensee would no longer qualify under the [Duty Free Shop Regulations](#) as a result of the transfer of shares, the CRU will give notice that an amended licence could not be issued and that such a transfer could result in the cancellation of the existing licence.

Death of a Sole Proprietor

41. In the event of the death of a sole proprietor, the executor of the estate must inform the CRU immediately in writing. The DFS is to be locked and sealed by the local CBSA office.

42. The beneficiary or the executor will be granted 30 days from the date that the notification is received to submit a request to amend the ownership structure in accordance with the procedures outlined in paragraph 37.

43. In such an event, the local CBSA office will conduct a complete audit of the DFS upon receiving such notification and ensure all inventory records are up to date. The representative (estate) will be held responsible for

all deficiencies or other discrepancies noted in the inventory audit. The beneficiary or executor will be given limited access to the DFS but no sale or movement of goods is to take place without prior approval of the CBSA.

44. If the beneficiary does not wish to make an application for the continued operation of the DFS, or the application made by the beneficiary is rejected, goods in the DFS inventory are to be disposed of in accordance with the provisions of [Memorandum D4-3-5, Duty-Free Shop – Inventory Control and Sales Requirements](#) and the DFS licence will be cancelled.

Transfer of a Licence

45. A licence to operate a DFS is not transferable. If an existing DFS licensee wishes to terminate the licence by disposing of their interests through the sale of the shop, the licensee is to submit a notice of cancellation to the CRU, as outlined in paragraph 31. A prospective purchaser must meet the eligibility requirements of the program and submit an application for a licence to operate in accordance with the procedures set out in paragraphs 8 through 10. The DFS may become the subject of a public call for applications at the discretion of the Minister.

Additional Information

46. For additional information, contact the [CRU by e-mail](#), or by regular mail at:

Commercial Registration Unit
Canada Border Services Agency
191 Laurier Avenue West, 12th Floor
Ottawa, ON K1A 0L8

47. For more information, within Canada call the Border Information Service at **1-800-461-9999**. From outside Canada call 204-983-3500 or 506-636-5064. Long distance charges will apply. Agents are available Monday to Friday (08:00 – 16:00 local time / except holidays). TTY is also available within Canada: **1-866-335-3237**.

References	
Issuing Office	Trade and Anti-dumping Programs Directorate
Headquarters File	
Legislative References	Customs Act Duty Free Shop Regulations
Other References	D1-7-1 and D4-3-5 Form BSF664
Superseded Memorandum D	D4-3-2 dated May 1, 2009 D4-3-3 dated May 5, 2009