



Ottawa, August 29, 2013

MEMORANDUM D13-4-7

In Brief

ADJUSTMENTS TO THE PRICE PAID OR PAYABLE

The editing revisions made in this memorandum do not affect or change any of the existing policies or procedures.





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This memorandum briefly outlines and explains the adjustments which are to be made to the price paid or payable of imported goods, under subsection 48(5) of the *Customs Act*, in order to determine a transaction value.

Legislation

Section 48 of the *Customs Act*:
<http://laws-lois.justice.gc.ca/eng/acts/C-52.6/index.html>.

GUIDELINES AND GENERAL INFORMATION

1. Subsection 48(5) of the *Customs Act* (the Act) sets out the adjustments which are to be made to the price paid or payable for imported goods when determining the transaction value. These adjustments include additions to and deductions from the price paid or payable and are summarized below.

Additions to the Price Paid or Payable

2. To the extent that they are not already included in the price paid or payable of the imported goods, certain amounts are to be added thereto in determining the transaction value.

Commissions and Brokerage (Subparagraph 48(5)(a)(i) of the Act)

3. Commissions and brokerage incurred in respect of the goods by the purchaser are to be included in the transaction value. If such amounts are not included in the invoiced price for the imported goods, they must be added when calculating the transaction value.

4. The exception to the above-mentioned requirement are fees paid by the purchaser to his agent for the service of representing him abroad in respect of the purchase of the goods. These fees, usually referred to as “buying commissions,” need not be included in the transaction value of the goods.

5. For example, if the purchaser engaged the services of a person to locate and purchase certain goods for export to Canada on the purchaser’s behalf, the buying agent’s fee paid for this service is not dutiable and thus may be excluded when determining the transaction value of the goods.

6. It should be noted that the term “brokerage” does not refer to charges by a customs broker for services rendered in respect of the clearance of the imported goods. For more information, refer to Memorandum D13-4-12, *Commissions and Brokerage*.

Packing (Subparagraph 48(5)(a)(ii) of the Act)

7. The following costs and charges or expenses, incurred by the purchaser in respect of the imported goods, are to be included in the transaction value:

(a) packing costs and charges, including the cost of cartons, cases, and other containers and coverings that are treated for customs purposes as being part of the imported goods; and

(b) all expenses of packing incident to placing the goods in the condition in which they are shipped to Canada.

8. It should be noted that both labour and material costs are to be considered in determining the expenses of packing incident to placing the goods in the condition in which they are shipped to Canada.

Assists (Subparagraph 48(5)(a)(iii) of the Act)

9. The term “assist” does not appear in the Act. However, it is a convenient term to describe the value of any of the goods and services referred to in subparagraph 48(5)(a)(iii).

10. In determining the transaction value under section 48, the value of any assist, determined in accordance with section 4 of the *Valuation for Duty Regulations* and apportioned in a reasonable manner and in accordance with generally accepted accounting principles, is to be included in the transaction value (refer to Memorandum D13-3-12, *Treatment of Assists in the Determination of the Value for Duty*).

Royalties and Licence Fees (Subparagraph 48(5)(a)(iv) of the Act)

11. The amount of any payment for a royalty or licence fee in respect of the imported goods is to be included in the transaction value, provided this payment is a condition of the sale of the goods for export to Canada.

12. However, payments for the right to reproduce the imported goods in Canada are not to be added to the price paid or payable in determining the transaction value of the goods (refer to Memorandum D13-4-9, *Royalties and Licence Fees*).

**Subsequent Proceeds
(Subparagraph 48(5)(a)(v) of the Act)**

13. If some portion of the proceeds of the subsequent resale, disposal, or use of the imported goods by the purchaser accrues to the vendor, directly or indirectly, then the value of that portion is to be included in the transaction value (refer to Memorandum D13-4-13, *Post-importation Payments or Fees (Subsequent Proceeds)*).

Transportation and Associated Costs, and Insurance Costs (Subparagraph 48(5)(a)(vi) of the Act)

14. Any of the costs referred to in subparagraph 48(5)(a)(vi), if they arise prior to and at the place from which the goods begin their direct and uninterrupted journey to Canada, are to be included in the transaction value of the goods (refer to Memorandum D13-3-3, *Transportation and Associated Costs*, and Memorandum D13-3-4, *Place of Direct Shipment*).

Deductions From the Price Paid or Payable

15. To the extent that they are included in the price paid or payable for the imported goods, certain amounts are to be deducted therefrom in determining the transaction value.

Transportation and Associated Costs, and Insurance Costs (Subparagraph 48(5)(b)(i) of the Act)

16. Any of the costs referred to in subparagraph 48(5)(b)(i), if they arise after the place from which the goods begin their direct and uninterrupted journey to Canada, would not be included in the transaction value of the goods. Any amounts for Canadian customs brokerage fees which are included in the price paid or payable may be deducted as associated costs and as such are not included in the transaction value of the goods (refer to memoranda D13-3-3 and D13-3-4).

**Costs Arising After the Goods Have Been Imported
(Clause 48(5)(b)(ii)(A) of the Act)**

17. Any reasonable cost, charge, or expense that is incurred for specified services provided after importation, if identified separately from the price paid or payable for the goods, is not to be included in the transaction value of the goods. The specific services are:

- (a) construction,
- (b) erection,
- (c) assembly,
- (d) maintenance, and
- (e) technical assistance.

18. It should be noted that a “reasonable cost, charge, or expense” is an amount which the importer is able to substantiate with documentary evidence.

**Import Duties and Taxes
(Clause 48(5)(b)(ii)(B) of the Act)**

19. Duties and taxes such as those levied under the *Customs Tariff*, the *Excise Tax Act*, the *Excise Act*, the *Special Import Measures Act* or any other law relating to the Canada Border Services Agency (CBSA) mandate would, if they form a part of the price paid or payable and are identified separately, be deducted from that price. The amount for those duties and taxes may be identified separately on the invoice presented to the CBSA or expressed as a percentage of the price paid or payable. In all cases the amount to be deducted from the price paid or payable must be the actual amount of Canadian duties and taxes levied.

Post-importation Reductions

20. Paragraph 48(5)(c) of the Act indicates that any rebate of, or other decrease in, the price paid or payable for the imported goods effected after importation is to be disregarded, and is not to be deducted from the price paid or payable for the goods when determining the transaction value.

Additional Information

21. 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

<p>ISSUING OFFICE – Trade Programs Directorate</p>	<p>HEADQUARTERS FILE – 79070-4-4</p>
<p>LEGISLATIVE REFERENCES – <i>Customs Act</i> <i>Customs Tariff</i> <i>Excise Tax Act</i> <i>Excise Act</i> <i>Special Import Measures Act</i> <i>Valuation for Duty Regulations</i></p>	<p>OTHER REFERENCES – D13-3-3, D13-3-4, D13-3-12, D13-4-9, D13-4-12, D13-4-13</p>
<p>SUPERSEDED MEMORANDA “D” – D13-4-7, March 28, 2001</p>	

Services provided by the Canada Border Services Agency are available in both official languages.

