



Ottawa, April 30, 2013

# MEMORANDUM D2-3-1

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## In Brief

### PERSONAL EXEMPTIONS FOR RESIDENTS RETURNING TO CANADA

This memorandum has been reviewed and updated to include changes to the minimum duty for tobacco products that were enacted in the 2013 Federal Budget. **These changes came into effect March 22, 2013.**



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## PERSONAL EXEMPTIONS FOR RESIDENTS RETURNING TO CANADA

This memorandum outlines and explains the personal exemptions entitlements under heading No. 98.04 of the *Customs Tariff*, for persons returning to Canada.

### Legislation

Tariff Item No. 98.04 as set out in the schedule of the *Customs Tariff* reads:

Goods acquired abroad by a resident or temporary resident of Canada or by a former resident who is returning to Canada to resume residence, for the personal or household use of that person or as souvenirs or gifts, but not bought on commission or as an accommodation for any other person or for sale, and reported by that person at time of return to Canada.

#### 9804.10.00

Valued at not more than eight hundred dollars and included in the baggage accompanying the person returning from abroad after an absence from Canada of not less than forty-eight hours.

For the purpose of this tariff item, goods may include either wine not exceeding 1.5 litres or any alcoholic beverages not exceeding 1.14 litres, and tobacco not exceeding fifty cigars, two hundred cigarettes, two hundred tobacco sticks and two hundred grams of manufactured tobacco.

#### 9804.20.00

Valued at not more than eight hundred dollars, whether or not included in the baggage accompanying the person returning from abroad after an absence from Canada of not less than seven days.

For the purpose of this tariff item:

(a) goods may include either wine not exceeding 1.5 litres or any alcoholic beverages not exceeding 1.14 litres, and tobacco not exceeding fifty cigars, two hundred cigarettes, two hundred tobacco sticks and two hundred grams of manufactured tobacco if included in the baggage accompanying the person at the time of return to Canada; and

(b) if goods (other than alcoholic beverages, cigars, cigarettes, tobacco sticks and manufactured tobacco) acquired abroad are not included in the baggage accompanying the person, they may be classified under this tariff item if they are reported by the person at time of return to Canada.

#### 9804.30.00

Valued at not more than three hundred dollars and included in the baggage accompanying the person returning from abroad after an absence from Canada of not less than forty-eight hours.

For the purpose of this tariff item, goods shall not include those which could otherwise be imported into Canada free of duties, or alcoholic beverages, cigars, cigarettes, tobacco sticks or manufactured tobacco.

#### 9804.40.00

Valued at not more than two hundred dollars and included in the baggage accompanying the person returning from abroad after an absence from Canada of not less than twenty-four hours.

For the purpose of this tariff item, goods shall not include alcoholic beverages, cigars, cigarettes, tobacco sticks or manufactured tobacco.

### Reduced Value for Duty

Section 83 of the *Customs Tariff* reads:

83. In the case of goods that are imported by a traveller, that are reported in accordance with regulations made under paragraph 133(f) prescribing conditions for the classification of goods under heading No. 98.04 and that, but for the fact that their value for duty as determined under section 46 of the *Customs Act* exceeds the maximum value specified under tariff item No. 9804.10.00, 9804.20.00 or 9804.30.00, would be classified under one of those tariff items,

(a) in the case of goods that would have been classified under tariff item No. 9804.10.00 or 9804.20.00, the value for duty of the goods shall be reduced by an amount equal to that maximum specified value and, in the case of alcoholic beverages and tobacco, the quantity of those goods shall, for the purposes of assessing duties other than a duty under subsection 21(2), be reduced by the quantity of alcoholic beverages and tobacco up to the maximum quantities specified in tariff item No. 9804.10.00 or 9804.20.00, as the case may be;

(b) in the case of goods that would have been classified under tariff item No. 9804.30.00

(i) the value for duty of the goods shall be reduced by an amount equal to the maximum value specified under tariff item No. 9804.10.00 or 9804.20.00, as the case may be, and

(ii) the first \$300 of the value for duty shall be assessed duties under tariff item No. 9804.30.00; and

(c) the goods shall be classified under tariff items in any of Chapters 1 to 97 and heading No. 98.26, as the case may be. (1997, c. 36, s. 83; 2001, c. 16, s. 4; 2002, c. 22, s. 348)

## Chapter 98

### Special Classification Provisions – Non Commercial

#### Notes

4. For the purpose of this Chapter, “duties” means duties or taxes levied or imposed on imported goods under Part 2 of the Act (other than subsection 21(2)), the *Excise Act*, the *Excise Act, 2001*, the *Special Import Measures Act* or any other Act of Parliament relating to customs.

5. Goods entitled to be classified under heading 98.01, 98.02, 98.03, 98.04 (other than tariff item No. 9804.30.00) or 98.05 shall be relieved from all duties, other than the customs duties imposed under Part 2 of this Act with respect to tariff item No. 9804.30.00, notwithstanding the provisions of this or any other Act of Parliament.

#### Subheading Notes

1. For the purpose of subheading 9804.20, the relief from payment of duties granted shall not be combined with any relief from payment of duties granted under subheading 9804.10 with respect to the same trip abroad.

2. For the purpose of subheading 9804.40, the relief from payment of duties granted shall be extended only to a person who, at time of return to Canada, is not importing goods under another subheading of heading 98.04.

Paragraph 133 (f) of the *Customs Tariff* reads:

133. The Governor in Council may, on the recommendation of the Minister of Public Safety and Emergency Preparedness, make regulations

(f) for the purposes of heading No. 98.04 or of tariff item No. 9807.00.00, 9813.00.00, 9814.00.00, 9816.00.00, 9938.00.00 or 9989.00.00, prescribing conditions under which goods may be imported.

## Regulations

### Returning Persons Exemptions Regulations

#### Interpretation

1. In these Regulations, “exemption” means the benefit of free rates of customs duty given to goods that are classified under heading No. 98.04 where the value of the goods does not exceed the applicable amount set out in a tariff item under heading No. 98.04. (*exemption*)

## Reporting

2. (1) Subject to subsections (2) and (3), any person returning to Canada shall, at the time of person’s return, report in writing the goods in respect of which an exemption is claimed and express the value of those goods in Canadian dollars.

(2) The person returning to Canada may make an oral report in respect of the goods referred to in subsection (1) if the goods are in the actual possession of the person, or form part of the person’s baggage carried on board the same conveyance as the person, and

(a) the person is returning to Canada on board a non-commercial passenger conveyance or a bus; or

(b) the person is returning to Canada on board a highway conveyance at a land border crossing at a designated customs office and is authorized under the *Presentation of Persons (2003) Regulations* to present themselves in an alternate manner under subparagraph 11(d)(ii) of those Regulations.

(3) Where the goods referred to in subsections (1) and (2) are intended for the exclusive use or benefit of a child who is too young to make a report, the report may be made on behalf of the child by the parent or guardian of the child. (SOR/2005-388, S. 1)

## Conditions

3. (1) It is a condition of importing goods that are classified under tariff item No. 9804.10.00, 9804.20.00 or 9804.30.00 and that have a combined value in excess of the amount of the exemption that the exemption be applied to those goods that are subject to the highest rate of customs duties.

(2) The exemption does not apply to

(a) alcoholic beverages imported by a person who has not attained the minimum age at which a person may lawfully purchase alcoholic beverages in the province where the customs office through which the alcoholic beverages are imported is located; or

(b) tobacco imported by a person who has not attained 18 years of age. (SOR/2008-271)

## Coming Into Force

4. These Regulations came into force on January 1, 1998.

*Excise Act, 2001*,  
2002, c. 22

Section 32.(2)(j) and 35.(2)(c) as set out in the *Excise Act, 2001* reads:

(j) an individual who has imported the product for their personal use in quantities not in excess of prescribed limits; or

(c) a tobacco product that is imported by an individual for their personal use in quantities not in excess of prescribed limits;

### ***Stamping and Marking of Tobacco Products Regulations***

5. (1) for the purposes of paragraphs 32(2)(j) and 35(2)(c) of the Act, the prescribed limit is five units of tobacco products.

(2) For the purposes of subsection (1), a unit of tobacco products consists of

- (a) 200 cigarettes;
- (b) 50 cigars;
- (c) 200 tobacco sticks; or
- (d) 200 g of manufactured tobacco.

(SOR/2003-288)

### **GUIDELINES AND GENERAL INFORMATION**

1. Any person residing in Canada returning from a trip abroad can qualify for a personal exemption. The traveller must declare all articles acquired for importation into Canada, whether purchased or received as gifts, or purchased at a duty free shop, either abroad or in Canada, on returning to Canada.
2. Children are eligible for their own exemption in accordance with tariff heading 98.04. Where a child is not old enough to report goods, a parent or guardian may make the report on behalf of the child. Where a parent or guardian makes the report, the parent or guardian may only report those goods that are for the exclusive use or benefit of the child. A child who is too young to report may only benefit from the exemption under tariff heading 98.04, to the extent that the goods reported by the parent or guardian are for that child's exclusive use or benefit.

### **Minimum Duty – Tobacco Products**

3. A minimum duty applies to cigarettes, tobacco sticks, and manufactured tobacco that travellers include in their personal exemptions (tariff item Nos. 9804.10.00 and 9804.20.00). The duty rates are:

Cigarettes – \$17 per carton of 200/(8.5 cents each)

Tobacco Sticks – \$17 per carton of 200/(8.5 cents each)

Manufactured Tobacco – \$5.3125 per 50 grams or fraction of 50 grams contained in a package

**Note:** This minimum duty does not apply to products that have an excise stamp “**DUTY PAID CANADA DROIT ACQUITTE**”. Canadian made products sold at duty free shops are marked in this manner.

### **Declarations – General**

4. Travellers claiming goods in a personal exemption entitlement must declare them to the Canada Border Services Agency (CBSA) office when they return to Canada. The exemption declaration has to include goods that accompany the person on arrival, as well as those that were shipped separately.

#### **Oral Declarations – 9804.10.00 or 9804.40.00**

5. Travellers arriving by private conveyance or bus can make an oral declaration for goods claimed in the 24-hour or 48-hour exemption.

#### **Oral Declarations – 9804.20.00**

6. Travellers arriving by private conveyance at highway border crossings can make an oral declaration for goods claimed in the \$800 exemption only when the goods accompany the traveller. If unaccompanied goods are declared, a written declaration on Form E24, *Personal Exemption CBSA Declaration*, is required.

7. Written declarations are required:

- (a) in cases other than paragraph 5 or 6;
- (b) if “unaccompanied goods” are claimed in the \$800 exemption; or
- (c) if the traveller requests a receipt.

8. Passengers arriving by rail, commercial vessel or aircraft must complete Form E311, *CBSA Declaration Card*, which includes a segment for claiming a personal exemption. At some locations, Form E311 may also be used for bus traffic.

9. A traveller can claim an exemption under only one of the tariff items No. 9804.10.00, 9804.20.00 or 9804.40.00 with respect to the same trip abroad. A personal exemption cannot be pooled with another person's exemption to cover an article that is valued in excess of the exemption limit. Neither can a person's exemption be transferred to another person.

10. Travellers claiming exemptions should be prepared to produce some personal identification, as well as invoices for goods purchased. Accommodation and transportation receipts are helpful in establishing the duration of absence from Canada.

11. The rate of duty applicable for the *Most Favoured Nation Tariff* (MFNT) and *United States Tariff* (UST) is mentioned in the tariff items below:

#### **Tariff Item No. 9804.10.00**

Maximum Amount: \$800

Minimum Absence: 48 hours

MFNT: Free

UST: Free

Alcoholic beverages: Specified quantities only

Tobacco products: Specified quantities only -  
Minimum duty may apply

**Note:** Goods claimed in this tariff item must accompany the traveller in hand or checked baggage to qualify. Unaccompanied goods are not eligible under this tariff item.

**Tariff Item No. 9804.20.00**

Maximum Amount: \$800  
Minimum Absence: Seven days  
MFNT: Free  
UST: Free  
Alcoholic beverages: Specified quantities only  
Tobacco products: Specified quantities only -  
Minimum duty may apply

**Note 1:** Goods claimed in this tariff item, other than alcoholic beverages and tobacco products, do not have to accompany the traveller on arrival. However, unaccompanied goods must be declared on Form E24 when the traveller arrives. For more information, refer to paragraphs 20 to 22.

**Note 2:** To calculate the seven days' absence, exclude the date of departure and include the date of return. For example, leave Friday the 21st, and return Friday the 28th. It is dates, not times, that are relevant.

**Tariff Item No. 9804.30.00**

Maximum Amount: \$300  
Minimum Absence: 48 hours  
MFNT: 7%  
UST: Free  
Alcoholic beverages: Not allowed  
Tobacco products: Not allowed

**Note 1:** It should be noted that tariff item No. 9804.30.00 provides a "beneficial" duty rate of 7% (for goods eligible under the most favoured nation tariff rate), which travellers can claim after an absence from Canada of at least 48 hours. All articles claimed in this tariff item must accompany the traveller on return to Canada. The provisions of this tariff item do not apply to alcoholic beverages or tobacco products.

**Note 2:** This beneficial rate applies to the next \$300 worth of goods valued in excess of an exemption claimed in tariff item Nos. 9804.10.00 and 9804.20.00.

**Note 3:** While goods imported under tariff item No. 9804.30.00 are exempted from the payment of excise tax, the Goods and Services Tax (GST) applies in all cases, regardless of the nature of the goods claimed.

**Tariff Item No. 9804.40.00**

Maximum Amount \$200  
Minimum Absence 24 hours  
MFNT Free  
UST Free  
Alcoholic beverages Not allowed  
Tobacco products Not allowed

**Note 1:** Tariff item No. 9804.40.00 can be claimed any time a person returns to Canada after an absence of at least 24 hours; however, the tariff item can be claimed only if the total value of goods being imported by a traveller does not exceed CAN\$200. If the total value of goods imported exceeds \$200, the exemption cannot be claimed and regular duties apply on the entire value.

**Note 2:** No alcoholic beverages or tobacco products can be included in this exemption.

**Limitations**

12. An exemption can include goods bought by the claimant as a gift for a person in Canada or given to the claimant by a person residing abroad as a gift to a person in Canada. An exemption **cannot** include goods bought on commission or as an accommodation for any other person or for sale.

13. Residents of Canada can include in their personal exemption, duty and tax-free, all of the following tobacco products that accompany them upon their return to Canada, if they **have** an excise stamp "**DUTY PAID CANADA DROIT ACQUITTE**":

- (a) 200 cigarettes;
- (b) 50 cigars;
- (c) 200 grams of manufactured tobacco; and
- (d) 200 tobacco sticks.

14. Cigarettes, tobacco sticks and manufactured tobacco that **do not have** an excise stamp "**DUTY PAID CANADA DROIT ACQUITTE**" are subject to a special duty, even though the quantity is within their personal exemption limit. For more information, refer to paragraph 3. Canadian-made products sold at duty-free shops are marked in this manner. An example of a situation where the minimum duty applies is in the case of a returning resident who has purchased U.S. cigarettes in the United States or at a U.S. duty-free shop and who is including these cigarettes within the 48-hour or 7-day personal exemption.

15. The *Excise Act, 2001* limits the amount of tobacco products that may be imported (or possessed) by an individual for personal use if the tobacco product is not packaged and **does not have** an excise stamp "**DUTY PAID CANADA DROIT ACQUITTE**". The limit is currently **five** units. One unit of tobacco products consists of one of the following:

- (a) 200 cigarettes;
- (b) 50 cigars;
- (c) 200 grams of manufactured tobacco; or
- (d) 200 tobacco sticks.

16. Only persons who have attained 18 years of age can import tobacco products within their 48-hour or 7-day personal exemption.

17. Alcoholic beverages can be imported only by those persons who have attained the legal age as prescribed by the provincial or territorial authority where they arrive. These are beverages that exceed 0.5% alcohol by volume. As part of their personal exemption, travellers can include:

- (a) 1.5 litres of wine;
- (b) a total of 1.14 litres of alcoholic beverages; or,
- (c) up to 8.5 litres of beer or ale.

**Note:** “Cooler” products are classified according to the alcoholic beverage they contain. For example, beer coolers are considered to be beer; wine coolers are considered to be wine. Beer/wine products not exceeding 0.5% alcohol by volume are not considered to be alcoholic beverages, and as such, no quantity limits apply.

18. The minimum legal ages for the importation of alcoholic beverages under the laws of the province or territory are:

- (a) 18 years for Alberta, Manitoba and Quebec; and
- (b) 19 years for Yukon, the Northwest Territories, Nunavut, British Columbia, Saskatchewan, Ontario, Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland and Labrador.

19. The quantities of alcohol a traveller can bring in must be within the limit set by the province or territory where that person will enter Canada. If the value of the goods is more than the personal exemption, the traveller will have to pay both duty and taxes, as well as provincial/territorial assessments on the excess amount. In Nunavut and the Northwest Territories, it is not permitted to exceed the limits allowed. For more information, the appropriate provincial or territorial liquor control authority where the person enters the country should be contacted before arrival back in Canada.

### **Unaccompanied Goods**

20. The total value of unaccompanied goods must be declared at the time of arrival and must be documented on Form E24, even if such goods were reported on Form E311. If the traveller is not present when the goods arrive at the Port of Entry and the goods are stored in a bonded customs warehouse, the traveller will have to present the receipt copy of the E24 to the CBSA within 40 days of being told of the goods' arrival, to obtain release of these goods.

21. The traveller may authorize another person to clear unaccompanied goods by means of an agent status or a short form of power of attorney. The person to whom agent status or power of attorney is given must also present the traveller's completed copy of Form E24, indicating that

unaccompanied goods formed part of the traveller's original declaration. For more information about an agent status, refer to Memorandum D1-6-1, *Authority to Act as an Agent*.

22. Unaccompanied goods that are sent by mail will be delivered in the normal manner. If duty and taxes have been calculated, the carrier will require payment and a processing fee. As the recipient, you have two options. You can accept delivery on payment of the applicable assessments and file a claim with the CBSA for a refund of the amounts paid. Alternatively, you can refuse to accept delivery, in which case the carrier will return the packages to the CBSA and ask you to provide a telephone number where the CBSA can reach you to discuss the assessment. You will be given a copy of the assessment notice for your reference. Once it is determined that the goods are indeed eligible for free importation as unaccompanied goods that were previously declared on Form E24, they will be released for delivery to you without assessment.

### **Exchange of Merchandise**

23. Articles imported under an exemption can be returned for free exchange within 60 days of the date of importation if they are found to be defective or unsatisfactory. The traveller must present the articles to the CBSA office at the point of exportation with the sales slip or invoice. If the goods were originally documented on Form E24, a copy of the form should also be presented. The articles will be identified and listed on a CBSA control document showing their value and the date of the original importation. When the replacement articles are imported, the control document will be presented to the border services officer and cancelled.

24. This procedure can also apply to articles that were declared orally or on Form E311, provided the border services officer is satisfied that the goods were properly imported.

### **Obtaining a Copy of Your Declaration**

25. As explained in paragraph 20, travellers making a declaration on Form E24 are given a receipt copy of the form. If they request a copy of their declaration after the fact, they will be informed that it is not possible to retrieve declarations based on the name and address of the traveller.

26. Travellers making their declaration using the Form E311 do not receive a copy when they present their declaration. However, if they want a copy after the fact, they can make a request. The following information is necessary to enable the CBSA to proceed. It is: the name of the traveller and the address, the date of birth, the country of birth and if possible, the arrival date, the provenance (arriving from) the air transport and flight number. The CBSA maintains a declaration retrieval program for the data contained on the declarations for a period of 6 years + the current year.

27. Travellers finding it essential to obtain such information must file a formal request in accordance with the provisions of the *Access to Information Act*. The CBSA will initiate a search of relevant files to locate and provide the requested information. For assistance and details on how to proceed, contact the nearest CBSA office.

### **Penalty Information**

28. A false declaration or failure to comply with the conditions of importation under heading No. 98.04 may result in the assessment of duties, penalties and/or seizure action.

**REFERENCES**

<p><b>ISSUING OFFICE –</b></p> <p>Traveller Border Programs Division          Border Programs Directorate          Programs Branch</p>	<p><b>HEADQUARTERS FILE –</b></p> <p>H.S. 9804-0</p>
<p><b>LEGISLATIVE REFERENCES –</b></p> <p><i>Customs Tariff</i>, heading No. 98.04, sections 21, 83, paragraph 133(f), and Notes 4 and 5 – Special Classification Provisions – Non commercial; SOR 98 61; <i>Order in Council P.C. 1997 2033</i>, December 29, 1997; SOR 2008-271; Canada Gazette vol. 142, No. 19 – September 17, 2008; <i>Excise Act, 2001</i></p>	<p><b>OTHER REFERENCES –</b></p> <p>D1-6-1</p>
<p><b>SUPERSEDED MEMORANDA “D” –</b></p> <p>D2-3-1, May 29, 2012</p>	

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

