



Ottawa, January 7, 2014

MEMORANDUM D13-4-3

IN BRIEF

Customs Valuation: Price Paid or Payable

1. The editing revisions made in this memorandum do not affect or change any of the existing policies or procedures.
2. This memorandum provides new information on the treatment of a warranty payment made to a third party.
3. This memorandum also includes new paragraphs addressing the treatment of foreign sales taxes and discounts when calculating the value for duty of imported goods.





Ottawa, January 7, 2014

MEMORANDUM D13-4-3

Customs Valuation: Price Paid or Payable

This memorandum outlines and explains the types of payments which are to be included as part of the price paid or payable for the purpose of determining a transaction value under the [Customs Act](#).

Legislation

Sections 45 and 48 of the [Customs Act](#).

Guidelines and General Information

1. Subsection 48(1) of the [Customs Act](#) (the Act) stipulates the requirements which must be met in order to value imported goods in accordance with the provisions of the transaction value method.
2. Subsection 48(1) of [the Act](#) reads in part: "... the value for duty of goods is the transaction value of the goods if the goods are sold for export to Canada to a purchaser in Canada and the price paid or payable for the goods can be determined...".
3. This memorandum lists the types of payments that, although they are not included in the invoiced price for the goods, nevertheless form part of the price paid or payable. The following items are not exhaustive, and importers are responsible for declaring, as part of the price paid or payable, any payment which meets the definition of price paid or payable.

Price Paid or Payable

4. Subsection 45(1) of [the Act](#) defines "price paid or payable" as the aggregate of all payments made or to be made, directly or indirectly, in respect of the goods by the purchaser to or for the benefit of the vendor.
5. Price paid or payable is defined in this way to ensure that all payments which a purchaser makes to or for the benefit of a vendor are included in the transaction value even when they are not included in the price shown on the commercial invoice or contract covering the imported goods.
6. The following are examples of settlements, whether made directly or indirectly, which are considered to be to or for the benefit of the vendor of the goods, and which must be included as part of the price paid or payable in determining the transaction value under section 48 of [the Act](#).

Storage Expenses

7. Storage expenses paid by the purchaser either directly or indirectly to or for the benefit of the vendor for goods stored abroad at the time of the sale for export to Canada are part of the price paid or payable. Two examples of this are:

- (a) if a vendor invoices storage costs separately from the price of the goods, then these costs are added to the price paid or payable; and
- (b) if a vendor agrees to sell goods to a purchaser for a specified price, provided that the purchaser also pays to an independent warehouse operator the cost of storage for the goods which accrued before the sale. Since this storage payment is for the benefit of the vendor, it is included in the price paid or payable for the goods.

Credits in Respect of Earlier Transactions

8. After the price paid or payable for the imported goods has been identified, a vendor may agree to provide a purchaser with a credit or other compensation in certain circumstances (for example, for a manufacturing fault in goods previously supplied). A calculation of value for duty cannot include the amount of a credit that is in respect of any earlier transaction.

Warranty Payments

9. Where the selling price of imported goods includes a payment for a warranty, or a purchaser pays a warranty payment separately to the vendor in respect of the imported goods, or the vendor requires the purchaser to obtain a warranty from a third party for the imported goods, such a charge is considered to be part of the price paid or payable for the goods and is included in the transaction value.

Settlement of a Debt

10. Where a purchaser settles a debt on behalf and for the benefit of the vendor, that debt is included as part of the price paid or payable for the imported goods.

11. For example, a vendor agrees to sell goods to a purchaser for a certain price provided that the purchaser also pays to a third party an outstanding debt of the vendor. The price paid or payable for the goods includes the amount paid to settle the debt, and that amount should, therefore, be included as part of the price paid or payable in determining a transaction value.

Price Escalation Clauses

12. A price escalation clause is a clause inserted in a contract of sale which permits, under specified conditions, upward adjustments in price. If the price paid or payable increases, due to the existence of a price escalation clause, after the goods are sold for export, the increase is to be reflected in the price paid or payable for the goods.

13. For example, an importer contracts to purchase 1000 units of product X at a price of \$100 per unit. Before the purchase order is filled, however, the costs of production increase. As is permitted under the agreement with the purchaser, the vendor adjusts the price upwards to \$105 per unit. The importer should declare \$105 as the total price payable for each unit of the goods.

14. If, in the example above, the importer was for some reason unaware at the time of importation that the vendor had applied the escalation clause, the importer should submit an amending entry to the Canada Border Services Agency (CBSA), as soon as the facts are known, to reflect the change in the value for duty.

Export Duties and Taxes

15. The amount of any duties and taxes, that are paid or payable to the government of the country of export in respect of the imported goods by reason of the goods having been exported, is to be treated as part of the price paid or payable for those goods in determining the value for duty under section 48 of [the Act](#).

16. The following is an example to illustrate the treatment of export duties and taxes under section 48 of [the Act](#):

A Canadian firm purchases and imports product X from a foreign firm located in country A. The transaction meets the requirements of the transaction value method and can therefore be valued under section 48 of [the Act](#). Each unit of product X imported has a selling price of \$50. The government of country A, levies a 10% export tax on the selling price of these goods upon their export. This is paid by the purchaser. The amount of the export tax is treated as part of the price paid or payable for the goods, yielding a total price paid or payable of $\$50 + (\$50 \times 10\%) = \$55$.

Foreign Sales Tax

17. When goods have been purchased in a sale transaction and imported to Canada, any foreign tax amounts collected by the vendor on the sale should be included in the importer's calculation of value for duty. These amounts would include local or state sales taxes, or value added tax or any other foreign tax calculated on the sale and not refunded, or to be refunded, to the purchaser prior to the importation of the goods to Canada.

Discounts

18. If a discount is granted prior to, or at time of importation, the amount of that discount should be considered when calculating the price paid or payable for the imported goods. However, in accordance with paragraph 48(5)(c) of [the Act](#), any rebate or decrease in the price paid or payable occurring after importation must be disregarded. For more information on discounts, refer to [Memorandum D13-4-10, Discounts](#).

Goods and Services Tax

19. The goods and services tax (GST), to the extent that it has been charged by the vendor, is not to be included in the price paid or payable for the purposes of determining the value for duty of imported goods.

Additional Information

20. 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 Programs Directorate	HEADQUARTERS FILE – 79070-4-4
LEGISLATIVE REFERENCES – <u>Customs Act</u>	OTHER REFERENCES – <u>D13-4-10</u>
SUPERSEDED MEMORANDA “D” – D13-4-3, dated April 17, 2001	

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



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