



Ottawa, July 2, 2014

# Memorandum D8-2-14

## Tariff Item 9936.00.00 Apparel Samples

### In Brief

The revisions made in this memorandum explain the circumstances whereby the importer is deemed to have specified the use of the apparel sample at the time of reporting the goods in accordance with the [Customs Act](#).

This memorandum outlines the conditions under which apparel samples qualify for customs duty-free entry under tariff item 9936.00.00.

### Legislation

#### [Customs Tariff](#)

Tariff item 9936.00.00:

Apparel samples (excluding samples of footwear, headwear, handwear, belts, ties, scarves, hosiery or other accessories, unless committed by design to form an integral part of the sample) imported for use in the development of sketches or patterns, or in determining the technical elements of manufacturing apparel, by a person in Canada in the business of designing apparel and selling apparel or apparel designs, on condition that

- (a) the importer specifies the use of the apparel sample at the time of reporting the goods under the [Customs Act](#);
- (b) the importer develops the sketches or patterns, or determines the technical elements of manufacturing apparel; and
- (c) the apparel sample shall not be exchanged, sold or traded in either the wholesale or retail markets in Canada.

## Guidelines and General Information

### Definitions

1. For the purpose of tariff item 9936.00.00:

“apparel” means goods referred to in Chapters 61 and 62 of the Schedule to the [Customs Tariff](#), excluding footwear, headwear, handwear, belts, ties, scarves, hosiery or other accessories, unless committed by design to form an integral part of the sample.

“person” means an individual, a partnership, a corporation, a trust, the estate of a deceased individual or a body that is a society, a union, a club, an association, a commission or other organization of any kind.

“determining the technical elements of manufacturing” includes activities such as studying the composition and content of the fabric; the diameter, length and smoothness of the fibres; the force and elongation of the fibres; the dimensional change with whitening, water and heat; the regularity of the threads and pilosities; the resistance to aging, heat, abrasion and bursting, tearing, pilling, solvents and dry cleaning; the elasticity; and the thermal resistance. It also includes activities such as studying the cut and shape of the sample, the colors and decorations, the size, the texture, softness and thickness, the fashion tendencies, the print and embroidery, the weight of the clothing, the form and look, and the comfort. This list of activities is not exhaustive.

## Accounting

2. The *Customs Tariff* requires goods of Chapter 99 to be classified under a dual classification system. Therefore, when accounting for apparel samples that qualify for duty free entry under tariff item 9936.00.00, the applicable Chapter 61 or 62 ten-digit classification number is entered in field 27 of the Form [B3-3, Canada Customs Coding Form](#) while only the first four-digits of the eight-digit Chapter 99 tariff item is entered in field 28.
3. For example, classification number “6101.20.00.00” would be entered in field 27 of the Form [B3-3, Canada Customs Coding Form](#) for men’s cotton overcoats of Chapter 61, and “9936” would be entered in field 28 for qualifying apparel samples classified under the Chapter 99 tariff item 9936.00.00.

## Conditions

4. Importers are required to keep a signed statement on file certifying the qualifying use of an eligible apparel sample and are thereby deemed to have specified the use of the apparel sample at the time of reporting the goods under the [Customs Act](#). In the case of a company, an authorized signing officer must sign the written statement. Clients are to keep a copy of this record on file for the period of six years following the importation of the commercial goods and be prepared to present it to the CBSA when requested to do so. Following is a sample of a suitable statement.

### Sample of a suitable statement:

This is to certify that apparel imported by [insert name of importer] and classified under tariff item 9936.00.00 is imported for use in the development of sketches or patterns, or in determining the technical elements of manufacturing apparel.

\_\_\_\_\_  
signature of the user

Name:

Address:

Occupation:

Telephone:

Facsimile:

5. The Canada Border Services Agency (CBSA) officer must be satisfied that the importer is in the business of designing and selling apparel, designing and selling apparel designs or designing and selling both apparel and apparel designs.
6. The design work must be done in Canada by the importer and cannot be contracted out to a third party. The apparel sold by the importer or produced based on the design work of the importer does not have to be manufactured, in whole or in part, in Canada.
7. Pre-production samples qualify under this tariff item. Pre-production samples are apparel samples based on designs developed in Canada. The designs are sent abroad to be produced and the pre-production sample is returned to Canada for approval before production. The pre-production sample does not have to be based on a design developed from an imported apparel sample.
8. If only parts of the apparel sample are used in the development of sketches or patterns, or in determining the technical elements of manufacturing apparel, the apparel sample is still eligible under tariff item 9936.00.00. For example, the importer may decide to use only the collar, sleeves or buttons of the sample. The design does not have to be an exact copy of the imported apparel sample.
9. Where there is any doubt as to the eligibility of the goods, the importer must pay any applicable duties and taxes at the time of accounting.

## Acceptable Proof of Use and Disposal

10. It is incumbent on the importer to retain proof that the goods were not diverted to a non-qualifying use for four years after the goods are accounted for. The importer should be prepared to present proof of how the apparel sample was used and disposed of.
11. If the goods are diverted to a non-qualifying use the importer must, within ninety days of the diversion, correct the declaration of the tariff classification and pay any duties and taxes owed. For example, duties and taxes are owed if the importer decides to exchange, sell or trade the apparel sample in either the wholesale or retail markets in Canada within four years after the goods were accounted for. Any non-qualifying use of the goods within four years from the date of accounting, where conditional relief was claimed, constitutes a diversion.
12. Proof of disposal is required to confirm that the apparel sample was not exchanged, sold or traded in either the wholesale or retail markets in Canada. Acceptable proof of disposal includes, but is not limited to, a completed Form [E15, Certificate of Destruction/Exportation](#), certified by a CBSA officer.
13. Internal inventory control documents and copies of reports, sketches or patterns can also be used to confirm that the imported goods met the conditions of the tariff item. Additional information is available in [Memorandum D17-1-21, Maintenance of Records in Canada by Importers](#).
14. To correct a declaration of tariff classification, a fully completed Form [B2, Canada Customs – Adjustment Request](#), must be submitted to the appropriate regional CBSA office. For instructions on the coding and completion of a B2, please refer to [Memorandum D17-2-1, Coding of Adjustment Request Forms](#).
15. The obligation to make a correction in respect of diverted samples ends four years after the goods were accounted for.

## Goods and Services Tax/Harmonized Sales Tax (GST/HST)

16. The GST/HST applies to goods imported under tariff item 9936.00.00.

## Additional Information

17. For certainty regarding the tariff classification of a particular good, importers may request an advance ruling. Details on how to make such a request are found in CBSA [Memorandum D11-11-3, Advance Rulings for Tariff Classification](#).
18. 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	
<b>Issuing Office</b>	Trade and Anti-dumping Programs Directorate
<b>Headquarters File</b>	HS9936.00
<b>Legislative References</b>	<a href="#">Customs Act</a> <a href="#">Customs Tariff</a>
<b>Other References</b>	<a href="#">D11-11-3</a> <a href="#">D17-1-21</a> , <a href="#">D17-2-1</a> Forms <a href="#">B2</a> , <a href="#">B3-3</a> and <a href="#">E15</a>
<b>Superseded Memorandum D</b>	D8-2-14 dated November 11, 2005