

MEMORANDUM D10-15-18

Ottawa, February 26, 1998

SUBJECT

TARIFF ITEM NOS. 9967.00.00 AND 9968.00.00

This Memorandum outlines and explains the Department's interpretation of tariff item Nos. 9967.00.00 and 9968.00.00 which relate to commodities in the aviation industry.

Legislation

Tariff item No. 9967.00.00 reads:

Goods, other than seat covers of textile fabric, for use in aircraft, ground flying trainers, aircraft engines or airborne aircraft equipment, and parts thereof.

Tariff item No. 9968.00.00 reads:

Goods of Section XV or XVI or of Chapter 15, 25, 28, 32, 34, 37, 38, 39, 40, 48, 68, 69, 90, or 94, for the manufacture, repair, maintenance, rebuilding, modification or conversion of aircraft, ground flying trainers or aircraft engines, and parts thereof.

Section 2 of the Customs Tariff reads, in part:

"For use in", wherever it appears in a tariff item, in respect of goods classified in the tariff item, means that the goods must be wrought or incorporated into, or attached to, other goods referred to in that tariff item.

GUIDELINES AND GENERAL INFORMATION

Glossary

1. The following glossary is applicable to tariff item Nos. 9967.00.00 and 9968.00.00. The terms or definitions should not necessarily be interpreted as having application in other areas of the Customs Tariff.

Articles – Products that are semi-manufactured or manufactured from any material and have a definite shape. They may be in the rough without any designated use or they may be in semi-finished or completely finished form which would render them suitable for a specific purpose.

Materials – Products that may be natural or synthetic substances and mixtures thereof. They may be manufactured to a degree. They may be without specific shape and must not be cut to size to render them suitable for a specific purpose. Examples are moulding pellets, pigments, paint and paper, metal, plastic materials in sheet, tube or rod form.

Goods – Products that may be in either material or article form. Thus, the term goods encompass both terms, i.e., materials or articles.

"For use in" – The words "wrought or incorporated into" as found in section 2 of the Customs Tariff are interpreted to mean that there must be a degree of permanency. The words "or attached to, other goods" are interpreted to mean fastened or affixed. The connections should be substantial or permanent in nature. In all three instances, i.e., wrought into, attached to, or incorporated into, the imported goods must form an integral component of the aircraft, ground flying trainers, aircraft engines, airborne aircraft equipment, or parts thereof. The words "for use in" would exclude goods that may be attached to aircraft at the beginning or during the flight, but are removed at any ground point or at the finishing point of the flight.

Civil Aircraft – The term "civil aircraft" includes all aircraft except military aircraft. The term also includes balloons (free or captive), dirigibles, gliders, hang gliders, other non-powered aircraft, helicopters, airplanes, and other aircraft.

Repair – The adjustment or the replacement of parts to aircraft, aircraft engines, or parts of all the foregoing to restore the article to its original operating conditions. Servicing functions carried out to the aircraft while stationed for the embarking and disembarking of passengers, such as, refueling, sanitary servicing, water servicing, replenishing food and beverage supplies are not included within the meaning of repair and maintenance for the purpose of tariff item No. 9968.00.00.

Tariff item No. 9967.00.00

2. This tariff item covers a broad range of goods that, generally speaking, form part of civil or military aircraft or are attached to it. There are, however, two specific criteria that must be met, i.e., the good must:

(a) not be seat covers of textile fabric;

(b) must meet the definition of the term "for use in" as defined in section 2 of the Customs Tariff and be subject to the Department interpretation of the words "wrought into," "attached to," and "incorporated into." See glossary.

3. Consumable goods are subject to section 2 of the Customs Tariff wherever the expression "for use in" occurs. Generally, consumable goods do not meet the definition of section 2. Examples of such goods are grease and fuel oil.

Note: Some articles and materials of aircraft may be duty-free under a specific provision of the Customs Tariff. Consequently, it may not be necessary to classify them under tariff item No. 9967.00.00.

4. Examples of goods eligible for classification under tariff item No. 9967.00.00 are:

(a) Various materials (including paint, lacquers, and glue) and articles of glass, metal (including bolts and fittings), plastic, textile fabric, and paper fabric normally used in the construction or repair of aircraft, ground flying trainers, aircraft engines, airborne aircraft equipment, and parts thereof;

(b) Gauges of various types, electronic equipment, computer devices, and communicating head gear (of the kind used in the cockpit) which are permanently attached to the aircraft;

(c) Ovens that are fastened to the aircraft;

(d) Life rafts (which may also be used as chutes) that are fastened to the aircraft;

(e) Portable hand-held global positioning systems specifically designed for use on aircraft. Specifically designed means in part that the goods at issue must have built-in assists to aviation such as aviation software, Jeppeson aviation data bases and mapping helps, and aviation installation and mounting kits. All other positioning systems are excluded from the provisions of tariff item No. 9967.00.00.

5. Examples of goods not qualified for classification under tariff item No. 9967.00.00 are as follows:

(a) Goods utilized on the aircraft but not permanently attached thereto such as dishes, pillows, blankets, life jackets, life rafts (of the type not attached to the aircraft), aviation fuel, emergency flashlights, and galley carts used to serve meals and beverages;

(b) Goods that may be temporarily connected to the aircraft during flight but are removed at destination such as cargo containers, portable food boxes, inflight headphones of the type distributed to passengers, certain geophysical instruments of heading 90.15, and cameras of heading 90.07.

Tariff item No. 9968.00.00

6. This tariff item covers a large range of goods for use in the manufacture, repair, maintenance, rebuilding, modification, or conversion of aircraft, ground flying trainers or aircraft engines, and parts thereof. There are a number of specific criteria that must be met in order to classify goods under tariff item No. 9968.00.00. The goods must:

(a) be classified in Section XV or XVI or in Chapter 15, 25, 28, 32, 34, 37, 38, 39, 40, 68, 69, 91, or 94 of the Customs Tariff;

(b) be used directly in the manufacturing or repairing operation (in accordance with the Department's interpretation of the term "directly" as indicated below) of aircraft, ground flying trainers or aircraft engines, and parts thereof.

Note: For the purpose of administering tariff item No. 9968.00.00, the word "directly" means there must be a close connection or link between the machinery or apparatus used in the process of production or repair of the aircraft, ground flying trainers or aircraft engines or parts thereof. Consequently, machinery and apparatus used in the planning and designing process of a manufacturing operation would not be included.

7. Examples of goods classified under tariff item No. 9968.00.00 are:

- production equipment such as stationary or other non-mechanical holding jigs, moulds, air tools;
- scaffolding;
- non-mechanical hand tools owned by the company (excluding the hand tools owned by the mechanics or technicians);
- test equipment used to evaluate/analyze the quality and characteristics of production or repair;
- consumable tools e.g., tumbling media, abrasive stones and wheels, and cutting blades;
- cleaning powders, cutting oils, etching compounds used directly or consumed in the production or repair process;
- chemicals for treating aircraft skins;
- non-mechanical chemical tanks;
- operable prototypes that are actually used in test flights.

8. The following goods are not considered to be used directly in the repair or manufacture of aircraft, ground flying trainers, aircraft engines, and parts thereof and/or are not classified in the Sections or Chapters specified in tariff item No. 9968.00.00.

Consequently, they are not classified under this tariff item:

- goods for administrative operations associated with production facilities (office equipment, paper, furniture, etc.);
- computer design equipment (such as CAD/CAM) and other goods for use in the research, development, and design of aircraft, ground flying trainers, aircraft engines, and parts thereof, rather than in the production of these goods;
- non-operable prototypes;
- inventory handling equipment such as lift trucks, dollies, cradles, pallets, and containers;
- structural, heating, cooling, plumbing, fire extinguishing, general electrical distribution equipment, and other similar equipment found in production facilities but not directly associated with the production processes;

- test equipment other than that used directly in the repair and manufacture of aircraft, aircraft engines; and parts thereof;
- fuel and lubricating oils for machinery and other plant equipment;
- sweeping machines that sweep the production area.

Note: Some goods may be used directly in the production or repair of aircraft, ground flying trainers, aircraft engines, or parts thereof, but are not classified under tariff item No. 9968.00.00 since they do not fall within one of the Sections or Chapters specified in the tariff item, for example, engine transport stands classified under heading 87.16. In addition, the following goods are not qualified under tariff item No. 9968.00.00 as they are servicing equipment and are classified under Chapter 87: fuel trucks, lavatory service trucks, baggage wagons, and tractors.

10. Any questions concerning the above should be directed to:

Transportation, Plastics and Specialty Products
Trade Policy and Interpretation Directorate
Revenue Canada
Ottawa ON K1A 0L5

REFERENCES

ISSUING OFFICE —

Trade Policy and Interpretation Directorate

LEGISLATIVE REFERENCES —

Customs Tariff, section 2

HEADQUARTERS FILE —

HS 9967.00, HS 9968.00

SUPERSEDED MEMORANDA "D" —

N/A

OTHER REFERENCES —

N/A

SERVICES PROVIDED BY THE DEPARTMENT ARE AVAILABLE IN BOTH OFFICIAL LANGUAGES.

THIS MEMORANDUM IS ISSUED UNDER THE AUTHORITY OF THE DEPUTY MINISTER OF NATIONAL REVENUE.