



# Memorandum D10-14-51

Ottawa, August 28, 2020

## Tariff Classification Policy: Tariff Item 9948.00.00

### In Brief

This memorandum is updated to reflect legislative changes to tariff item 9948.00.00 of the *Customs Tariff*.

This memorandum outlines the Canada Border Services Agency's policy as it relates to the tariff classification of articles under tariff item 9948.00.00 of the *Customs Tariff*.

### Legislation

[Customs Tariff, Subsection 2\(1\)](#)

[Departmental Consolidation of the Customs Tariff, Tariff item 9948.00.00](#)

[Refund of Duties Regulations](#)

[Imported Goods Records Regulations](#)

### Guidelines and General Information

- Note 4 to Chapter 99 states that the **“Words and expressions used in this Chapter have the same meaning as in Chapters 1 to 97”**. This legal note requires that, the words and expressions which are found in Chapter 1 to 97 of the *Customs Tariff*, must have the same meaning in Chapter 99. This includes any reference to a definition of those words and expressions found in Chapters 1-97.
- Subsection 2(1) of the *Customs Tariff* defines the term “for use in” as meaning that **“...the goods must be wrought or incorporated into, or attached to, other goods referred to in that tariff item”**.
- In order to qualify for conditional relief under tariff item 9948.00.00, an article must be “for use in”: (i) a good listed in the tariff item (“listed good”), (ii) a part of a listed good or (iii) an accessory to a listed good.
- The Canadian International Trade Tribunal (CITT) has established jurisprudence regarding the interpretation and scope of tariff item 9948.00.00.
- With respect to the “attached to” aspect of the definition of “for use in”, the CITT has established that the term “attached to” requires that the article be “functionally joined” to a host listed good in tariff item 9948.00.00.
- The CITT found that, in order to satisfy the “functionally joined” standard, an article must be connected to the host good; and:
  - enhance, contribute to, or complement the function of that host good; or
  - provide the host good with additional capabilities.
- The connection may be physical or, in the case of the electronic transmission of data, wireless, such as Bluetooth technology.
- Examples of articles that are capable of meeting the conditions of relief include:

- (a) CD or Blu-Ray discs used with an optical reader, whether or not the optical reader is installed in another good of heading 84.71, sound/video recording or reproducing apparatus (e.g., CD player).
- (b) Televisions equipped with audio/video interface (e.g., High-Definition Multimedia Interface - HDMI) for connecting to a good of heading 84.71.
- (c) Speakers connectable to a good of heading 84.71.

9. There is no requirement for an article that qualifies for the benefits of tariff item 9948.00.00 to be primarily used with or to remain permanently attached to the listed good.

10. After initial accounting, in addition to the capability to satisfy the specific conditions for relief under tariff item 9948.00.00, importers must be able to demonstrate to the satisfaction of the CBSA that the conditions of relief have actually been met. Refer to Memorandum D11-8-5 - Conditional Relief Tariff Items for further details.

11. Section 3 of the *Imported Goods Records Regulations* (see Memorandum D11-8-6, Interpretation of Section 3 of the Imported Goods Records Regulations), provides important information regarding the record-keeping obligations with respect to the use of tariff item 9948.00.00.

12. The *Refund of Duties Regulations*, Part 8, addresses the documentary requirements related to requests for refunds under a condition imposed by a tariff item of the *Customs Tariff*.

### Legislative Changes to 9948

13. As of January 1, 2019, the following amendments to tariff item 9948.00.00 came into force:

- (a) The reference to **“Automatic data processing machines and units thereof, magnetic or optical readers, machines for transcribing data onto data media in coded form and machines for processing such data”** was replaced with **“Goods of heading 84.71”**; and
- (b) The reference to **“Power supplies of automatic data processing machines and units thereof”** has been replaced with **“Power supplies of automatic data processing machines, and units thereof, of heading 84.71.”**

14. The change to tariff item 9948.00.00 now states that, in order for articles and power supplies to be eligible for tariff item 9948, they must be for use with goods classified in heading 84.71. Heading 84.71 provides for:

**“Automatic data processing machines and units thereof; magnetic or optical readers, machines for transcribing data onto data media in coded form and machines for processing such data, not elsewhere specified or included.”** Examples of goods classified in heading 84.71 are: desktop, laptop or tablet computers.

15. Articles and power supplies, which are not for use with goods of heading 84.71, are no longer eligible for tariff item 9948.

16. Prior to January 1, 2019, in order for articles to be eligible for tariff item 9948.00.00, they had to be for use with goods which met the definition of “Automatic data processing machines” as defined by Note 5 to Chapter 84. Many goods, which were not classified in heading 84.71, met the definition of an ADP such as: smartphones (Heading 85.17) and Smart Televisions (Heading 85.28). Although these goods may still meet the definition of an ADP, they are not classified in heading 84.71. Therefore, the articles and power supplies for use with those goods no longer qualify for tariff item 9948.

17. Goods imported prior to January 1, 2019, would be subject to the most current version of the Tariff at the time of importation.

### Additional Information

18. For certainty regarding the tariff classification of a product, importers may request an advance ruling on tariff classification. Details on how to make such a request are found in Memorandum D11-11-3, Advance Rulings for Tariff Classification.

19. For more information, call the Border Information Service (BIS) at **1-800-461-9999** (accessible within Canada and the United States). If calling outside Canada and the United States, call 204-983-3500 or 506-636-5064. Long distance charges will apply. Our automated telephony service provides general information in English and French

on CBSA programs, services and initiatives through recorded scripts. Live agents are also available to assist you from 6 am to 10 pm (eastern daylight time), 7 days a week. TTY is also available within Canada: **1-866-335-3237**. Alternatively, you may send your enquiries to the following address: [contact@cbsa.gc.ca](mailto:contact@cbsa.gc.ca).

<b>References</b>	
<b>Issuing Office</b>	Trade and Anti-dumping Programs Directorate
<b>Headquarters File</b>	HS 9948.00
<b>Legislative References</b>	<a href="#"><i>Customs Tariff</i></a> <a href="#"><i>Departmental Consolidation of the Customs Tariff</i></a> <a href="#"><i>Refund of Duties Regulations</i></a> <a href="#"><i>Imported Goods Records Regulations</i></a>
<b>Other References</b>	<a href="#">D11-8-5</a> , <a href="#">D11-8-6</a> , <a href="#">D11-11-3</a> CITT Appeals: <a href="#">AP-2001-097</a> ; <a href="#">AP-2005-006</a> ; <a href="#">AP-2009-004</a> ; <a href="#">AP-2013-004</a> ; <a href="#">AP-2015-034/035</a> & <a href="#">AP-2016-001</a> Federal Court of Appeal: <a href="#">2005 FCA 414</a> ; <a href="#">2007 FCA 210</a>
<b>Superseded Memorandum D</b>	D10-14-51 dated April 17, 2015