

Memorandum D16-1-1: Information pertaining to the application, collection, and adjustment of a surtax

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Ottawa, October 31, 2024

Plain language summary

Target audience: General

Key concepts: describes the administration and enforcement of surtax and safeguard orders under sections 53, 55(1), 60, 63, 68(1), or 78 of the *Customs Tariff*.

Keywords: surtax, Customs Tariff, order in council, special measures, emergency measures, safeguard measures, surtax order, self-adjustment, re-determination, Customs Act

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Updates made to this D-memo

This D-memo has been updated to:

- reflect the adoption of the CBSA Assessment and Revenue Management (CARM) portal
- include a link to [onboarding support documentation](#)
- include a link to the [CARM Web page](#)

These changes do not affect or change any of the existing policies or procedures.

Guidelines

1. A surtax is a duty imposed by Order in Council under sections 53(2), 55(1), 60, 63(1), 68(1), 77.1(2), 77.6(2) or 78(1) of the [Customs Tariff](#). The Order in Council (surtax order) sets out the amount of the surtax, the goods to which it applies, and, sometimes, its duration. A surtax can be levied in addition to customs duties imposed under the Customs Tariff.
2. Imported goods may be subject to a surtax applied in accordance with the following special measures and emergency measures (collectively referred to as surtax measures) as well as safeguards measures:
 - (a) Subsection 53(2) can be used to impose a surtax in addition to customs duties on any goods to enforce Canada's rights under a trade agreement or to respond to acts of the government of a country that adversely affect trade in Canadian goods or services.
 - (b) Subsection 55(1) can be used to impose a surtax as an emergency measure of a temporary nature, usually on imported goods causing or threatening serious injury to Canadian producers of like or directly competitive goods. Where imports from a free trade partner are excluded from a global surtax action, section 60 provides that such imports may subsequently be included, if there is a surge in the importation of these goods during the course of the action.
 - (c) Subsection 63(1) provides for the extension of a surtax order where it is necessary to prevent or remedy serious injury to Canadian producers.
 - (d) Subsection 68(1) can be used to impose a surtax on prescribed agricultural goods. Before such an order is made, certain conditions of the [Agreement on Agriculture](#) of the World Trade Organization must be met.
 - (e) Subsection 77.1(2) can be used to impose a surtax on goods originating in the People's Republic of China that are being imported in such increased quantities or under such conditions as to cause or threaten to cause market disruption to domestic producers of like or directly competitive goods.

(f) Subsection 77.6(2) can be used to impose a surtax on goods originating in the People's Republic of China at any time it appears that an action causes or threatens to cause a significant diversion of trade into the domestic market in Canada.

(g) Section 78(1) can be used to impose a surtax, in addition to the customs duties, on goods that originate in a specific country when Canada's financial position and its balance of payments require special measures for imports of goods from that country.

3. The administration of a surtax order is the responsibility of the Canada Border Services Agency (CBSA).

4. Section 17 of the [Customs Act](#) provides the CBSA the authority to assess a surtax, which is a duty within the meaning of the Customs Act.

Notification of a surtax

5. Every surtax order made by the Governor in Council is published in the Canada Gazette.

6. The CBSA will issue a [customs notice](#) that will provide information about the imported goods subject to the surtax order, the information required to calculate the amount of surtax and any other relevant information, including the surtax or safeguard measure code for the purposes of the CBSA Assessment and Revenue Management (CARM) system.

Accounting for goods subject to a surtax order

7. The importer becomes liable to pay surtax on imported goods subject to a surtax order upon the importation of the goods.

8. Payment of surtax is made in the same way and within the same prescribed time that customs duties and taxes are paid.

9. Importers must declare imported goods as subject to a surtax when completing a Commercial Accounting Declaration (CAD) via CARM Client Portal (CCP), Electronic Data Interchange (EDI) or Application Programming Interface (API) and declare the applicable surtax or safeguard code. The surtax code can be found in the applicable Customs Notice. The amount of surtax owing is entered in field 85 "Surtax" of the Commercial Accounting Declaration. If importers elect to use the self-declare option in CARM, the amount of surtax owing must be calculated by the importer and entered in the Surtax field. Refer to [Memorandum D17-1-5: Accounting for Commercial Goods](#), for additional information on accounting for the importation of goods. Refer to [Memorandum D17-1-10: Coding of Customs Accounting Documents](#), for additional information on completing a CAD. Refer to [Memorandum D8-4-1: Information Pertaining to Remission Orders](#), for additional information on remission orders.

Reviews, self-adjustments, and re-determinations

10. The imposition of a surtax is not subject to appeal under the *Customs Tariff* or the *Customs Act*. Accounting documents are normally reviewed by the CBSA to ensure that the correct amount of surtax was self-assessed by the importer. Determinations, re-determinations or further re-determinations made by the CBSA may be subject to appeal under the *Customs Act*.

11. The CBSA may re-determine or further re-determine the origin, tariff classification, and/or value for duty on its own initiative or in response to a self-adjustment. In so doing, as with customs duties and taxes, the CBSA may assess any undeclared amount of surtax.

12. If an importer identifies that surtax is payable, they must submit a self-adjustment and declare the applicable surtax code. For more information on an importer's obligation to submit self-adjustments refer to [Memorandum D11-6-6: Reason to believe and corrections to the declaration of origin, tariff classification or value for duty](#). For more information on how to submit an adjustment refer to [Memorandum D17-2-1: Adjusting Commercial Accounting Declarations](#).

13. Where there is overpayment of surtax, an importer may submit an adjustment to request a refund of the amount overpaid. For instructions on how to submit an adjustment for commercial goods, please refer to [Memorandum D17-2-1: Adjusting Commercial Accounting Declarations](#). For instructions on how to submit a refund for casual goods, please refer to [Memorandum D6-2-6 Refund of Duties and Taxes on Non-Commercial Importations](#).

14. Where an amount of surtax is to be refunded to the importer or is payable by the importer, the CBSA will issue a statement via CARM. This statement serves as a notice of assessment or refund by the CBSA in response to an adjustment request, or a review or re-determination initiated by the CBSA.

References

Consult these resources for further information.

Applicable legislation

- [Customs Act](#)
- [Customs Tariff](#)

Related D memoranda

- [Memorandum D6-2-3: Refund of Duties](#)
- [Memorandum D6-2-6: Refund of Duties and Taxes on Non-commercial Importations](#)
- [Memorandum D8-4-1: Information Pertaining to Remission Orders](#)
- [Memorandum D11-6-6: Reason to believe and corrections to the declaration of origin, tariff classification or value for duty](#)
- [Memorandum D17-1-5: Accounting for Commercial Goods](http://www.cbsa-asfc.gc.ca/publications/dm-md/d17/d17-1-5-eng.html)
- [Memorandum D17-1-10: Coding of Customs Accounting Documents](#)
- [Memorandum D17-2-1: Adjusting Commercial Accounting Declarations](#)

Superseded D memoranda

D16-1-1 dated August 17, 2018

Issuing office

SIMA Policy and Advisory Unit
Trade Programs and Anti-dumping Directorate
Commercial and Trade Branch

Contact us

[Contact border information services](#)

Related links

- [CARM: The new way to assess and pay duties and taxes on imported commercial goods \(cbsa-asfc.gc.ca\)](#)
- [Onboarding documentation](#)
- [Customs Notice](#)