

Ottawa, April 12, 2001

SUBJECT

**VALUE FOR DUTY OF CERTAIN
INFORMATION-BASED PRODUCTS
(CUSTOMS ACT, SECTIONS 48 TO 53)**

This Memorandum outlines and explains the manner in which the value for duty of certain information-based products is to be determined under the *Customs Act*.

**GUIDELINES AND
GENERAL INFORMATION**

1. "Information-based products" consist of information in one form or another (including sound and image recordings) together with the physical medium on which that information is carried.
2. For customs purposes, "information-based products" include the following:
 - (a) positive moving picture film prints;
 - (b) plans, drawings, and blueprints;
 - (c) printing plates and images used for printing;
 - (d) television and radio commercials;
 - (e) recorded magnetic tape; and
 - (f) pre-recorded tapes and records used in broadcasting or in the production of other material for broadcasting.
3. This Memorandum does not apply to goods which are distributed through normal marketing channels for sale in the consumer market. Such products would generally include musical recordings, books, recorded video cassettes, standard plans freely offered for sale without further adaptation, etc. The methods of determining value for duty under sections 48 to 53 of the *Customs Act* are applicable to these goods.
4. This Memorandum does not cover the method of determining the value for duty of computer software. For information concerning computer carrier media, refer to Memorandum D8-3-15, *Computer Carrier Media Remission Order*.
5. If a consideration is associated with importations of information-based products, it may be comprised of two components:
 - (a) an amount for the physical medium and the cost of transcribing the information onto the physical medium (i.e. the medium processed or containing information); and
 - (b) an amount for the information contained on the physical medium or rights for use thereof (usually referred to as a royalty, copyright, licence fee, etc.).
6. Importations of information-based products may involve a sale whereby the purchaser acquires ownership of all information contained on the medium. If a bona fide sale occurs, value for duty is determined under the transaction value method (section 48 of the *Customs Act*).

7. For example, a television commercial is made in a foreign country for broadcasting in Canada. It is sold by the foreign supplier to a party in Canada who acquires ownership of and exclusive rights to the commercial. The value for duty of the commercial is equal to the price paid or payable by the party for the physical product and the rights associated to that product.

8. This principle of valuation is also applicable where a party in Canada makes a television commercial in a foreign country for broadcasting in Canada. Value for duty must take into account the total production costs incurred by the agency to produce the commercial in the foreign country. Production costs would include elements such as talent fees, travel, production facilities, etc.

9. Information-based products may be acquired free of charge or by a consideration being paid for the right to use the information on the physical medium. In these circumstances, value for duty is determined under the residual basis of appraisal method (section 53 of the *Customs Act*) on the basis of the value of the processed physical medium (containing the information).

10. As an example of this method of valuation, if a pre-recorded tape is acquired free of charge for reference or broadcasting purposes, then value for duty is the value of the medium plus the cost of transcribing the information onto the medium. Similarly, where a radio commercial is imported and payment is made only for the right to broadcast the commercial, value for duty is equal to the value of the processed physical medium (containing the information).

REFERENCES

ISSUING OFFICE –

Origin and Valuation Policy Division
Trade Policy and Interpretation Directorate

LEGISLATIVE REFERENCES –

Customs Act, sections 48 to 53

HEADQUARTERS FILE –

7034-5-45

SUPERSEDED MEMORANDA “D” –

D13-11-2, June 1st, 1986

OTHER REFERENCES –

D13-3-15

Services provided by the Canada Customs and Revenue Agency are available in both official languages.

This Memorandum is issued under the authority of the Commissioner of Customs and Revenue.