

# MEMORANDUM D13-4-7

Ottawa, March 28, 2001

## SUBJECT

### ADJUSTMENTS TO THE PRICE PAID OR PAYABLE (*CUSTOMS ACT*, SECTION 48)

This Memorandum briefly outlines and explains the adjustments which are to be made to the price paid or payable of imported goods, under subsection 48(5) of the *Customs Act*, in order to determine a transaction value.

### TABLE OF CONTENTS

	Page
<b>Guidelines and General Information</b>	2
Additions to the Price Paid or Payable	2
Commissions and Brokerage (Subparagraph 48(5)(a)(i) of the <i>Customs Act</i> )	2
Packing (Subparagraph 48(5)(a)(ii) of the <i>Customs Act</i> )	3
Assists (Subparagraph 48(5)(a)(iii) of the <i>Customs Act</i> )	3
Royalties and Licence Fees (Subparagraph 48(5)(a)(iv) of the <i>Customs Act</i> )	4
Subsequent Proceeds (Subparagraph 48(5)(a)(v) of the <i>Customs Act</i> )	4
Transportation and Associated Costs, and Insurance Costs (Subparagraph 48(5)(a)(vi) of the <i>Customs Act</i> )	4
Deductions From the Price Paid or Payable	4
Transportation and Associated Costs, and Insurance Costs (Subparagraph 48(5)(b)(i) of the <i>Customs Act</i> )	5
Costs Arising After the Goods Have Been Imported (Clause 48(5)(b)(ii)(A) of the <i>Customs Act</i> )	5
Import Duties and Taxes (Clause 48(5)(b)(ii)(B) of the <i>Customs Act</i> )	5
Post-Importation Reductions	6

---

### GUIDELINES AND GENERAL INFORMATION

1. Subsection 48(5) of the *Customs Act* sets out the adjustments which are to be made to the price paid or payable for imported goods when determining the transaction value. These adjustments include additions to and deductions from the price paid or payable and are summarized below.

#### ADDITIONS TO THE PRICE PAID OR PAYABLE

2. To the extent that they are not already included in the price paid or payable of the imported goods, certain amounts are to be added thereto in determining the transaction value.

### **Commissions and Brokerage (Subparagraph 48(5)(a)(i) of the *Customs Act*)**

3. Commissions and brokerage incurred in respect of the goods by the purchaser are to be included in the transaction value. If such amounts are not included in the invoiced price for the imported goods, they should be added when calculating the transaction value.

4. The exception to the above-mentioned requirement are fees paid by the purchaser to his agent for the service of representing him abroad in respect of the purchase of the goods. These fees, usually referred to as “buying commissions,” need not be included in the transaction value of the goods.

5. For example, if the purchaser engaged the services of a person to locate and purchase, on the purchaser’s behalf, certain goods for export to Canada, the buying agent’s fee paid for this service is not dutiable and thus may be excluded when determining the transaction value of the goods.

6. It should be noted that the term “brokerage” does not refer to charges by a customs broker for services rendered in respect of the clearance of the goods through customs.

### **Packing (Subparagraph 48(5)(a)(ii) of the *Customs Act*)**

7. The following costs and charges or expenses, incurred by the purchaser in respect of the goods imported, are to be included in the transaction value:

(a) packing costs and charges, including the cost of cartons, cases, and other containers and coverings that are treated for customs purposes as being part of the imported goods; and

(b) all expenses of packing incident to placing the goods in the condition in which they are shipped to Canada.

8. It should be noted that both labour and material costs are to be considered in determining the expenses of packing incident to placing the goods in the condition in which they are shipped to Canada.

### **Assists (Subparagraph 48(5)(a)(iii) of the *Customs Act*)**

9. The term “assist” does not appear in the *Customs Act*. However, it is a convenient term to describe the value of any of the goods and services referred to in subparagraph 48(5)(a)(iii).

10. In determining the transaction value under section 48, the value of any assist—determined in accordance with section 4 of *the Valuation for Duty Regulations* and apportioned in a reasonable manner and in accordance with generally accepted accounting principles—is to be included in the transaction value (see Memorandum D13-4-8, *Assists (Customs Act, Section 48)*).

### **Royalties and Licence Fees (Subparagraph 48(5)(a)(iv) of the *Customs Act*)**

11. The amount of any payment for a royalty or licence fee in respect of the imported goods is to be included in the transaction value, provided this payment is a condition of the sale of the goods for export to Canada.

12. However, payments for the right to reproduce the imported goods in Canada are not to be added to the price paid or payable in determining the transaction value of the goods (see Memorandum D13-4-9, *Royalties and Licence Fees (Customs Act, Section 48)*).

### **Subsequent Proceeds (Subparagraph 48(5)(a)(v) of the *Customs Act*)**

13. If some portion of the proceeds of the subsequent resale, disposal, or use of the imported goods by the purchaser accrues to the vendor, directly or indirectly, then the value of that portion is to be included in the transaction value.

**Transportation and Associated Costs, and Insurance Costs (Subparagraph 48(5)(a)(vi) of the Customs Act)**

14. Any of the costs referred to in subparagraph 48(5)(a)(vi), if they arise prior to and at the place from which the goods begin their direct and uninterrupted journey to Canada, are to be included in the transaction value of the goods (see Memorandum D13-3-3, *Transportation and Associated Costs (Customs Act, Sections 48 to 54)*, and Memorandum D13-3-4, *Place of Direct Shipment (Customs Act, Sections 48 to 53)*).

**DEDUCTIONS FROM THE PRICE PAID OR PAYABLE**

15. To the extent that they are included in the price paid or payable for the imported goods, certain amounts are to be deducted therefrom in determining the transaction value.

**Transportation and Associated Costs, and Insurance Costs (Subparagraph 48(5)(b)(i) of the Customs Act)**

16. Any of the costs referred to in subparagraph 48(5)(b)(i), if they arise after the place from which the goods begin their direct and uninterrupted journey to Canada, would not be included in the transaction value of the goods. Any amounts for Canadian customs brokerage fees which are included in the price paid or payable may be deducted as associated costs and as such are not included in the transaction value of the goods (see Memorandum D13-3-3 and Memorandum D13-3-4).

**Costs Arising After the Goods Have Been Imported (Clause 48(5)(b)(ii)(A) of the Customs Act)**

17. Any reasonable cost, charge, or expense that is incurred for specified services provided after importation, if identified separately from the price paid or payable for the goods, is not to be included in the transaction value of the goods. The specific services are:

- (a) construction,
- (b) erection,
- (c) assembly,
- (d) maintenance, and
- (e) technical assistance.

18. It should be noted that a “reasonable cost, charge, or expense” is an amount which the importer is able to substantiate with documentary evidence.

**Import Duties and Taxes (Clause 48(5)(b)(ii)(B) of the Customs Act)**

19. Duties and taxes such as those levied under the *Customs Tariff*, the *Excise Tax Act*, the *Excise Act*, and the *Special Import Measures Act* would, if they form a part of the price paid or payable and are identified separately, be deducted from that price. The amount for those duties and taxes may be identified separately on the invoice presented to customs or expressed as a percentage of the price paid or payable. In all cases the amount to be deducted from the price paid or payable must be the actual amount of Canadian duties and taxes levied.

**POST-IMPORTATION REDUCTIONS**

20. Any anticipated rebate of, or other decrease in, the price paid or payable for the imported goods which will not be effected until after the goods are imported is not to be deducted from the price paid or payable for the goods when determining the transaction value.

## **REFERENCES**

### **ISSUING OFFICE –**

Origin and Valuation Policy Division  
Trade Policy and Interpretation Directorate

### **LEGISLATIVE REFERENCES –**

*Customs Act*, subsection 48(5)

### **HEADQUARTERS FILE –**

7034-5-1

### **SUPERSEDED MEMORANDA “D” –**

D13-4-7, January 1, 1991

### **OTHER REFERENCES –**

D13-3-3, D13-3-4, D13-4-8, D13-4-9

**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.**