

MEMORANDUM D13-4-8

Ottawa, March 7, 2001

SUBJECT
ASSISTS
(CUSTOMS ACT, SECTION 48)

This Memorandum outlines and explains the manner in which the goods and services referred to in subparagraph 48(5)(a)(iii) of the *Customs Act* are to be treated in determining the transaction value of imported goods.

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GUIDELINES AND GENERAL INFORMATION

Explanation of Terms

1. The term “assist” does not appear in the *Customs Act*. It is used here to describe any of the goods and services outlined in subparagraph 48(5)(a)(iii) of the Act.

Determination of the Value of an Assist

2. Section 4 of the *Valuation for Duty Regulations* describes in detail the manner in which the value of each of the various types of assists is to be determined. These Regulations are contained in Memorandum D13-1-1, *Valuation for Duty Regulations*.

3. Clause 48(5)(a)(iii)(D) of the *Customs Act* deals with engineering, development work, etc., “undertaken elsewhere than in Canada.” In order to minimize the burden for both the importer and customs in determining the values to be added in respect of the goods and services referred to in clause 48(5)(a)(iii)(D), data readily available in the buyer’s commercial record system would be used in so far as possible (see also paragraph 8).

Apportionment of the Value of an Assist

4. Subparagraph 48(5)(a)(iii) requires that the value of an assist be apportioned to the imported goods in a reasonable manner and in accordance with generally accepted accounting principles. For more information, see Memorandum D13-3-8, *Generally Accepted Accounting Principles (Customs Act, Sections 48 to 53)*. Further guidelines regarding the apportionment of each type of assist are given in paragraphs 5 to 10.

Clause 48(5)(a)(iii)(B) of the Customs Act: Tools, Dies, Moulds, Etc.

5. Once a value has been determined for this type of assist, it will be necessary to apportion that value to the imported goods. Various possibilities exist. For example, the value might be apportioned to the first shipment if the importer wishes to pay duty on the entire value at one time. As another example, the importer may apportion the value over the number of units produced up to the time of the first shipment. As a third example, the value may be apportioned over the entire anticipated production if a firm contract exists for the total production.

6. To illustrate the above, a Canadian importer purchases a mould for the production of a plastic toy and arranges for a foreign company to produce 10,000 such toys. The purchaser furnishes the mould free of charge. The value of that mould is \$1,000. By the time the first shipment of 1,000 toys has arrived, the producer has already manufactured 4,000 toys. The importer may apportion the value of the assist over 1,000 units, 4,000 units, or 10,000 units. Under the first example, \$1 would be added to the price paid or payable of each of the 1,000 units and no addition would be made to the remaining 9,000 units. Under the second example, 25 cents would be added to the price paid or payable of each of the 4,000 units and nothing added to the balance of 6,000 units. Taking the third example, 10 cents would be added to the price paid or payable of each of the 10,000 units.

7. The method of apportionment chosen is subject to review by customs. The importer should be prepared to furnish documentation which establishes the appropriateness of the method chosen and a record of the imported units to which the value of the assist has been apportioned.

Clause 48(5)(a)(iii)(D) of the Customs Act: Engineering, Development Work, Etc., “Undertaken Elsewhere Than in Canada”

8. An individual firm’s structure and management practice, as well as its accounting methods may determine the ease with which the values of the elements, in this clause, may be calculated. For example, it is possible that a firm which imports a variety of products from several countries maintains the records of its design centre outside Canada in such a way as to show accurately the costs attributable to a given product. In such cases, a direct adjustment may be appropriately made under the provisions of subparagraph 48(5)(a)(iii). In another case, a firm may carry the cost of the design centre outside Canada as a general overhead expense without allocation to specific products. In this instance, an appropriate adjustment could be made under the provisions of subparagraph 48(5)(a)(iii) with respect to the imported goods by apportioning total design centre costs over total production benefiting from the design centre and adding such apportioned cost on a unit basis.

9. Variations in the above circumstances will, of course, require different factors to be considered in determining the proper method of allocation.

Clauses 48(5)(a)(iii)(A) and (C) of the Customs Act: Materials, Components, Parts and Other Goods Incorporated in or Consumed in the Production of the Imported Goods

10. In the case of assists referred to in clauses (A) and (C), the apportionment of the value would usually be based upon the number of components or the quantity of material incorporated in or consumed in the production of the imported goods.

11. For example, a Canadian manufacturer of semi- conductors contracts with a foreign manufacturer to buy electronic equipment at \$100 each unit for which he supplies, free of charge, the semi-conductors from his Canadian production. The semi-conductors constitute an assist and are valued at \$10 each. Each unit manufactured incorporates three semi-conductors. In this case, \$30 would be added to the price paid or payable of each unit of the finished goods imported into Canada.

REFERENCES

ISSUING OFFICE –

Origin and Valuation Policy Division
Trade Policy and Interpretation Directorate

LEGISLATIVE REFERENCES –

Customs Act, subparagraph 48(5)(a)(iii)
Valuation for Customs Regulations, section 4

HEADQUARTERS FILE –

7034-5-18

SUPERSEDED MEMORANDA “D” –

D13-4-8, June 1, 1986

OTHER REFERENCES –

D13-1-1, D13-3-8

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.