

MEMORANDUM D10-14-11

September 22, 1989

SUBJECT

CANADIAN GOODS AND GOODS ONCE ACCOUNTED FOR, EXPORTED AND RETURNED

This Memorandum outlines and explains the provisions of tariff items 9813.00.00 and 9814.00.00

Legislation

Tariff items 9813.00.00 and 9814.00.00 read as follows:

9813.00.00

Goods, including containers or coverings filled or empty, originating in Canada, after having been exported there from, if the goods are returned without having been advanced in value or improved in condition by any process of manufacture or other means, or combined with any other article abroad, under such regulations as the Minister may make.

Most-Favoured-Nation Tariff	Free
General Preferential Tariff	Free
United States Tariff	Free

9814.00.00

Goods, including containers or coverings filled or empty, which have once been released and accounted for under section 32 of the Customs Act and have been exported, if the goods are returned without having been advanced in value or improved in condition by any process of manufacture or other means, or combined with any other article abroad, under such regulations as the Minister may make.

Most-Favoured-Nation Tariff	Free
General Preferential Tariff	Free
United States Tariff	Free

Notes

Note 11 to Chapter 98 of the Customs Tariff provides that for the purpose of heading Nos. 98.13 and 98.14:

(a) goods on which a refund of duties or allowance of drawback has been made shall not be classified under heading Nos. 98.13 and 98.14 except upon payment of the duties equal to the refund or drawback allowed;

(b) goods manufactured in bond or under excise regulations in Canada and exported shall not be classified under heading Nos. 98.13 and 98.14 except upon payment of the customs duties to which they would have been liable had they not been exported from Canada; and

(c) the Minister, when satisfied that a quantity of containers in a usable condition has previously been exported from Canada, may by regulation permit the importation free of customs duties of a like quantity of similar containers which do not originate in Canada.

Regulations

REGULATIONS RESPECTING THE IMPORTATION OF CANADIAN GOODS AND GOODS ONCE ACCOUNTED FOR UNDER THE CUSTOMS ACT

Short Title

1. These Regulations may be cited as the *Importation of Goods once Exported from Canada Regulations*.

Interpretation

2. In these Regulations, "chief officer of customs", with respect to an area or place, means the manager of the customs office or customs offices that serve that area or place. (*agent en chef des douanes*)

Importation of Goods

3. (1) When an importer accounts for goods, including containers or coverings filled or empty, under tariff item No. 9813.00.00 or 9814.00.00 of the Customs Tariff, and the importer is not exempted from accounting in writing under the Accounting for Imported Goods and Payment of Duties Regulations, the importer shall

(a) attach to the customs accounting document relating to the goods a copy of the export report relating to those goods; and

(b) insert on the customs accounting document relating to the goods the statement set out in Schedule I.

(2) Where a copy of an export report is not available and there is a reasonable explanation for its unavailability, the following documents may be accepted in lieu of the copy of the export report:

- (a) validated Canada customs documents;
- (b) transportation company documents;
- (c) customs accounting documents of a foreign country; or
- (d) a declaration made by the exporter or importer of the goods from or into Canada identifying the goods as having originated in Canada or as having been previously accounted for under section 32 of the Customs Act.

Containers

4. (1) Containers referred to in Note 11(c) to Chapter 98 of the Customs Tariff may be classified under tariff item No. 9813.00.00 or 9814.00.00 if

- (a) a like quantity of similar containers in a usable condition has been exported from Canada and the importer provides the chief officer of customs with proof of their exportation;
- (b) the containers that are imported are being shipped to the person who exported the containers referred to in paragraph (a) and the importer inserts on the customs accounting documents the statement set out in Schedule II; and
- (c) a record is kept in relation to all containers exported and imported by the person who exported the containers referred to in paragraph (a).

(2) Where containers that are imported in accordance with subsection (1) are not imported at the customs office at which a like quantity of similar containers in a usable condition were exported by the exporter for whom the containers are being imported, the importer may, to prove that a quantity of similar containers equal to the quantity imported has been exported, apply in writing to the chief officer of customs in the area or place where the similar containers were exported for proof of the quantity of containers exported.

(3) For the purposes of subsection (1), where containers are imported as ships' stores, the Ships' Stores Declaration and Clearance Certificate relating to the containers referred to in subsection (1) that is provided, under subsection 82(4) of the Customs Act, as evidence in support of an application for a drawback pursuant to the Goods for Ships and Aircraft (Excise) Drawback Regulations and that is validated by an officer, may be considered to be satisfactory proof that the containers were exported from Canada as ships' stores.

SCHEDULE I

(Section 3)

"The

(Description of Goods)

to which this customs accounting document relates were exported during the month(s) of 19., and no exemption from or refund or drawback of customs duties or excise taxes has been granted or will be claimed except as follows:

....."

SCHEDULE II

(Section 4)

"No exemption from or refund or drawback of customs duties and excise taxes has been granted or will be claimed in respect of the containers imported except as follows:

....."

GUIDELINES AND GENERAL INFORMATION

1. In order to achieve a more efficient administration of tariff items 9813.00.00 and 9814.00.00, the following information is supplied to assist Customs Officers in determining eligibility of goods for importation under these items.
2. Importation under these tariff items is contingent upon repayment of any customs duties remitted, or set aside, or allowed by refund or drawback at the time of exportation of the goods from Canada. The Customs accounting document, Canada Customs Coding Form, B 3, covering goods that qualify for free importation of customs duties under these tariff items must bear the statement prescribed in paragraph 3(1)(b) of the Importation of Goods Once Exported from Canada Regulations.
3. The *Excise Tax Act* makes no provisions for exemption on goods imported under tariff items 9813.00.00 and 9814.00.00. Accordingly, the fact that good exported from Canada are returned, Canadian goods or goods previously released and accounted for under section 32 of the *Customs Act* does not in itself mean that the goods are not subject to the taxes imposed by the *Excise Tax Act* unless they are enumerated and an exemption is specifically provided for in that Act.

Upon importation of goods once exported that are subject to customs duties, sales tax or both, the importer/owner has the option to repay the full amount of refund allowed at time of exportation or he may pay the customs duties, taxes or both, on the appraised value under the regular provisions of the *Customs Tariff* as determined at the time of importation. Repayment of customs duties, taxes or both, is made on form B 3. In the description field of this form, a notation is to be inserted specifying the repayment of any refund or drawback allowed at the time of exportation from Canada.

4. The following are some examples of situations when tax would be applicable on goods imported under tariff items 9813.00.00 and 9814.00.00:

(a) Goods returned to Canada that had been previously exported in a new and unused condition.

Explanation

Where a licensed manufacturer exports directly taxable goods of his manufacture, no tax will have been paid. Consequently, such goods are subject to tax upon return to Canada unless they are specifically exempted under the provisions of Schedule III of the *Excise Tax Act*. Where a licensed manufacturer sells taxable goods to an unlicensed person in Canada, sales tax will have been paid and if the goods are subsequently exported in a new and unused condition, they are eligible for a refund of the tax paid. Should the goods be subsequently returned to Canada, they are subject to tax unless the importer/owner can provide evidence no refund was paid.

(b) Goods imported by an unlicensed person that were exported from Canada by a licensed person.

(c) Motor vehicles, tractors, aircraft, ships or other marine vessels, or machines or tools for operation by a motor vehicle or tractor, or a part or equipment for an aircraft of ship or other marine vessel, as outlined under the provisions of subsection 50(7) of the *Excise Tax Act* that are returned to Canada within 5 years of original importation or purchase, unless satisfactory evidence can be provided that these items were previously used under taxable conditions in Canada.

5. The following are some examples of situations when **tax would not be applicable** on goods imported under tariff items 9813.00.00 and 9814.00.00:

(a) Goods that are unconditionally exempt from sales and excise taxes as provided by the *Excise Tax Act*.

(b) Goods that qualify for exemption because of conditional end use when supported by the appropriate exemption certificate.

(c) Goods that qualify for exemption because of the class of user or purchaser (e.g., manufacturers, licensed or unlicensed) supported by an exemption certificate.

(d) Goods, where exemption from sales and excise taxes is extended to persons operating under manufacturers sales and/or excise tax licenses and/or wholesalers sales tax licenses and the status code is indicated on the relevant form B 3 Customs accounting document.

(e) Goods exported in a new and unused condition other than for purpose of sale, when the proof of export indicates no sales tax or drawback was or will be claimed at

time of export and gives some reason why the goods were shipped abroad. Refer to paragraph 6 of this Memorandum for the type of proof which may be considered.

(f) When satisfactory documentary evidence is presented by the importer/owner showing that tax has been paid on the goods and they were used in Canada prior to exportation without the tax having been recovered.

(g) When satisfactory evidence is presented by the importer/owner that, prior to exportation from Canada, the goods were used in Canada under tax exempt conditions in such a manner and for such a period of time as to comply with the exempting provisions of the *Excise Tax Act*. This does not apply to goods falling within subsection 50(7) of the *Excise Tax Act*. (See paragraph 4(c) of this Memorandum.)

(h) When the importer/owner is the original manufacturer or producer of the goods and quotes his licence number and certificate of further manufacture. (This would be acceptable for such importations even though the goods may be fully finished.)

SUPPORTING EVIDENCE

6. In addition to the normal invoicing requirements, evidence must be supplied that the goods being imported were Canadian goods or had previously been released and accounted for under section 32 of the Customs Act. This evidence may include the following:

(a) validated Canada Customs documents;

(b) transportation company documents;

(c) Customs accounting documents of a foreign country;

(d) a declaration made by the exporter or importer of the goods from or into Canada identifying the goods as having originated in Canada or as having been previously released and accounted for under section 32 of the Customs Act, supported by sales invoices to the foreign purchaser, purchase orders, shipping or delivery instructions, foreign registration of exported goods (e.g. state registration of an automobile), or invoices from Customs brokers which relate to the exported goods or shipments.

GENERAL INFORMATION

7. Goods may be classified under tariff item 9813.00.00 or 9814.00.00 only if the importer/owner pays the duties equal to any refund or drawback that was allowed, on the goods previously exported from Canada.

8. When it is known by an importer/owner that drawback or a tax refund has been allowed on goods being returned to Canada and the importer/owner is unable to provide documentary evidence, e.g., Drawback Claim, form K 32, Certificate for Drawback on Consumable Goods Laden on Commercial Aircraft, form K 36B or Refund Claim — Federal Sales and/or Excise Taxes, form N 15, or any other supporting document, the amount of Customs duties and taxes paid by drawback or refund are to be verified with the District Drawback Office, Regional Excise Office or both prior to accepting the accounting document. If the importer/owner requires the goods immediately and verification will take some time, full Customs duties and taxes imposed under the Excise Tax Act are to be collected subject to refund. It should be noted that for verification purposes, the name of the exporter of the goods from Canada is required and it is the importer's/owner's responsibility to supply this evidence to Customs by presenting the documents indicated in paragraph 6 of this Memorandum.

9. In cases where the importer/owner paid goods and services tax, excise tax or both at the time of accounting and the importer/owner considers that these taxes should not have been paid, application for recovery of the taxes would be by way of claim on form B 2, Canada Customs – Adjustment Request document and filed within two years after the goods are accounted for under section 32 of the *Customs Act* as outlined in section 74 of that Act. Information regarding the completion of form B 2 is contained in Memorandum D17-2-1, Coding of Adjustment Request Forms.

CONTAINER BANKS

Purpose

10. The purpose of this policy is to facilitate the accounting for and movement of containers exported from and returned to Canada under tariff item 9813.00.00 or 9814.00.00 of the Customs Tariff, through the establishment of container banks with Customs.

Interpretation

11. For the purpose of this Memorandum:

(a) "company" means a corporation, partnership or association;

(b) "container", includes a similar container, and means are usable packing article upon which or within which goods are placed for transport, e.g., pallet, skid, crate, rack, core, or other similar article, and includes rack dunnage where such dunnage is reusable and generally identifiable by part number. The term "container" excludes foreign-based containers engaged in the international commercial transportation of goods under tariff item 9801.00.00 of the Customs Tariff;

(c) "container bank" means an inventory of containers or similar containers that is based on the maximum quantity or value of each type of a company's container

actually in Canada during a period of time mutually agreed upon between the company and local Customs officials where, unless exempted under the Excise Tax Act, the goods and services tax payable on the containers pursuant to that Act has been paid and where the containers

(1) have once been accounted for under the Customs Act and released, or

(2) originated in Canada;

(d) "similar container" means a container imported into Canada by a company, where that container closely compares to a container exported by that company with respect to the container's capability for holding like quantities of identical goods and it being commercially interchangeable with a type of container included in that company's container bank.

12. Unless otherwise specified, the term "accounting", where it appears in this administrative policy, means the financial accounting system maintained by a company under a Customs authorized container bank.

13. For greater certainty, this administrative policy does not affect, in any way, the requirement or exemption respecting the accounting of containers pursuant to section 32 of the Customs Act as set out in Memorandum D17-1-0, Accounting for Imported Goods and Payment of Duties Regulations.

Procedures

14. Where a container bank has been authorized by Customs, a company may, pursuant to tariff item 9813.00.00 or 9814.00.00, import containers or a like quantity of similar containers on a Customs duty and goods and services tax-free basis, provided that the maximum quantity or value of any one type of the company's containers actually in Canada during a period of time that is mutually agreed upon between the company and local Customs officials, does not exceed its container bank for that type of container.

15. In order to operate a container bank, a company must apply in writing to Customs for authorization. The letter requesting permission to operate a container bank should be sent to the regional Manager, Operational Services at the regional Customs office for the Customs offices through which the containers will be returned to Canada and should include the following information:

(a) the maximum quantity and/or value and description of each type of container actually in Canada during a period of time covering not less than one month and not more than one year, that is mutually agreed upon between the company and local Customs officials;

(b) documentary evidence of the quantity of containers purchased in Canada and copies of the Customs accounting documents for the containers previously imported, to establish the opening inventory;

(c) if a company chooses to maintain its accounting of containers based on the quantity of specific goods imported in a single container, the description and quantity of the specific goods each type of container is designed to contain;

(d) a description of the system by which the company intends to account for the containers and maintain records of their movement into and out of Canada, in accordance with paragraph 16 of this Memorandum; and

(e) the Customs offices through which the containers will be imported.

16. In order for Customs to authorize a container bank, a company must agree to:

(a) do a physical inventory upon request or maintain an accounting system and keep any records that will enable Customs to determine

(1) whether the quantity or value of any one type of container in Canada during a period of time mutually agreed upon between the company and local Customs officials exceeds the quantity authorized by Customs for that type of container in the container bank,

(2) whether there has been any change in the periods of time where the maximum quantity or value of any type of container is required in Canada by a company,

(3) in the case where a company accounts for its containers under paragraph 15(c) of this Memorandum, whether there has been any increase or decrease in a company's trade in goods transported by container, and

(4) whether the accounting system and any records kept provide for adequate control over the movement of containers;

(b) present a written report at intervals of time mutually agreed upon between the company and local Customs officials to the regional Customs office referred to in paragraph 15 of this Memorandum, or, where the regional Customs office has directed that the container bank be monitored by local Customs officials, to the local Customs office when containers are

(1) no longer in service,

(2) replaced or the authorized quantities or values of containers of any one type in the container bank have been exceeded,

(3) used by third parties who will establish their own container bank, or

(4) subject to drawback,

so that the quantities or values of containers in a company's container bank may be adjusted accordingly and that the company submits form B 2, Canada Customs - Adjustment Request to account for the imported containers in accordance with the *Customs Act*; and

(c) include in the written report referred to in paragraph 16(b) of this Memorandum the transaction number and date appearing on the Customs accounting documents for all importations of additional and replacement containers.

17. Where a company allows a third party to use containers from its container bank, the company must notify the regional Customs office which originally authorized the container bank of the third party's name, and advise whether the company will:

(a) do a physical inventory upon request or maintain an accounting system and any records in accordance with paragraph 16 of this Memorandum; or

(b) deduct the quantities or values of each type of container used by the third party from its container bank. The third party would then seek authorization by Customs for its own container bank.

18. In those instances where a company wishes to operate a container bank in more than one Customs region, the company may apply for a container bank to the regional Customs office for the area where the company's principal office is located. That regional Customs office or, where directed by that office, the local Customs office will monitor the container bank operation. The company's principal office will do the physical inventory or maintain the accounting system and any records referred to in paragraph 16 of this Memorandum for the movement of its containers in all regions. However, where a company's offices are independent of each other, each office may apply for its own container bank to the appropriate regional Customs office.

19. Customs will notify a company in writing confirming the effective date and the terms and conditions for the authorization of the company's container bank once the requirements of paragraphs 15 and 16 of this Memorandum have been met.

20. Customs may cancel an authorization at any time if the terms and conditions of paragraph 15 of this Memorandum are not complied with. A registered letter will be sent to a company when an authorization is cancelled explaining the reason for cancellation.

21. Where there has been an increase in a company's volume of trade in goods transported by container and the company has not reported any increase in the quantity or value of containers in its container bank, Customs Officers may request that a physical inventory be done or audit the company. (This in no way limits Customs from requesting physical inventories or conducting audits for other reasons.)

Examples of Accounting Systems and Record-keeping of Container Banks

22. It is expected that the accounting system and record-keeping for container banks will differ from one company to another. Accounting systems may be periodic or perpetual, manual or computerized, etc. Some examples of systems that may be used to monitor and control container banks are outlined below. Other systems that meet the requirements of paragraph 16 of this Memorandum will also be considered.

(a) It is not necessary to maintain separate ledgers for containers classified under either tariff item 9813.00.00 or 9814.00.00. The total quantities or values of a type of container whether of Canadian or foreign origin may be combined on a single ledger.

(b) Where a type of container is used to package a specific quantity of identical goods, a ratio between the number of goods imported and the number of containers imported can be used to calculate the total quantity of containers in Canada. To illustrate, the maximum quantity of goods imported by containers during the periods of time referred to in paragraph 15(a) of this Memorandum divided by the maximum quantity of identical goods that may be transported in a single container equals the total number of imported containers. From that total, a deduction of the number of containers of that type exported during the period would provide the maximum quantity of containers in Canada.

(c) Where a company leases its containers, a ledger can show the quantity of each type of container exported from Canada during the periods of time referred to in paragraph 15(a) of this Memorandum. The quantity billed minus the quantity exported during those periods should indicate the maximum quantity of each type of container in Canada.

(d) Where a company owns all its containers, it needs only to record the quantity and type of additional containers purchased. These purchases must be reported to Customs in order that they may be accounted for under the Customs Act, if imported. Customs will then re-adjust the quantities in the container bank as necessary.

(e) Where a company's containers are supplied from abroad on a "free" basis, a record or journal may be kept for the periods of time referred to in paragraph 15(a) of this Memorandum. Any quantity in excess of the previously authorized container bank must be reported to Customs and accounted for under the Customs Act. Customs will re-adjust the quantities in the container bank accordingly.

(f) A company may maintain its accounting of containers by means of a valuation system. When presenting its report, a company would provide Customs with the current prices of each different type of container in its container bank. The report should provide the details of the accounting for each type of container and a recapitulation sheet showing:

- (1) the previous report's container bank total credit converted to current prices,
- (2) the amount deducted for containers removed from service since the previous report,
- (3) the resulting inventory credit,
- (4) the value of containers reinstated in service, added since the previous report,
- (5) the value of containers purchased in Canada and the value of those that were accounted for under section 32 of the Customs Act, added since the previous report,
- (6) the value of containers repaired, added since the previous report,
- (7) the resulting container bank credit,
- (8) the value of the maximum quantities of containers actually in Canada during the period of time mutually agreed upon between the company and local Customs officials,
- (9) the resulting credit or debit difference between paragraphs 22(f)(7) and (8). (Where there is a debit, the Customs duties and the goods and services tax must be paid. The container bank inventory will be increased accordingly. Where there is a credit, Customs duties and goods and services tax are not payable.),
- (10) the amount of Customs duties paid or payable on the debit difference of imported containers,
- (11) the amount of goods and services tax paid or payable on the debit difference in paragraph (22)(f)(9) plus any Customs duties payable in paragraph (22)(f)(10), and
- (12) the transaction number and date appearing on the Customs accounting documents covering the information on the recapitulation sheet.

PAPER CORES RETURNED EMPTY

23. When importing paper cores of Canadian origin that have been exported to the United States and returned empty to Canada, the following guidelines should be observed in order to avoid any difficulties:

- (a) Provided the consignees are agreeable and on the strict understanding that there will be no question of drawback, Customs accounting documents may be accepted for quantities as manifested and the practice of manifesting free astray shipments at inland Customs offices discontinued.

(b) It must be distinctly understood, however, that matters relating to overages and shortages with respect to paper cores will have to be settled between the various consignees and the transportation companies as Customs will assume no responsibility therefor.

CANADIAN GRAIN RETURNED FROM THE U.S.A.

24. Canadian wheat or other grain which has been stored and bonded in United States elevators previous to returning to Canada is liable to duty when it is brought back to Canada.

PHOTOGRAPHIC EQUIPMENT, TEST EQUIPMENT AND TOOLS

25. Photographic equipment, test equipment and tools are sometimes imported on a Customs duty and goods and services tax-paid basis by non-residents as required under the *Customs Tariff* and the *Excise Tax Act* without provision for refund of the amount paid upon exportation.

26. The practice of requiring a Customs accounting document classifying the goods under tariff item 9813.00.00 or 9814.00.00 in cases of subsequent temporary re-importations of the same goods has caused considerable inconvenience to non-residents. Consequently the foregoing commodities when imported temporarily are to be released on form E 29B without security, provided the importer/owner can prove that the goods are eligible for importation under either of these tariff items.

MUNITIONS AND SUPPLIES

27. Under Order in Council P.C. 220/4753, passed on July 6, 1945, effective on and after May 8, 1945, it is ordered that all Canadian Government-owned munitions and supplies of war, on their return from abroad to a department or agency of the Government, be exempt from Customs duties, goods and services tax and excise taxes, without establishing whether or not duties and taxes were previously paid thereon. This Order applies when goods do not qualify for importation under tariff item 9813.00.00 or 9814.00.00.

28. This Order is not intended to remit the Customs duties, goods and services tax and excise taxes on goods which have been purchased by government departments and agencies specifically for exportation to Canada but is to apply only to munitions and military stores being shipped to departments or agencies of the government from a Canadian Armed Forces establishment abroad.

RETURN OF SPIRITS EXPORTED

29. Importations of spirits once exported from Canada are to be manifested from the Customs point of importation to the Customs office where the distillery is situated and

the manifest cancelled by the Excise Duty Entry, form B 60, "for warehouse". One copy of this form is to be forwarded to the Manager, Drawbacks, Refunds and Remissions Unit. Where a repayment of drawback is involved, the Drawback office will so advise Customs who will then account for the remittance of this sum on a form B 3 Customs accounting document.

REFERENCES

ISSUING OFFICE —

Tariff Programs

LEGISLATIVE REFERENCES —

Customs Tariff, tariff items 9813.00.00 and 9814.00.00
SOR/88-62, December 31, 1987,
SOR/90-200, March 23, 1990
Excise Tax Act, subsection 50(7), Schedule III

HEADQUARTERS FILE —

N/A

SUPERSEDED MEMORANDA "D" —

D10-11-14, March 19, 1986

OTHER REFERENCES —

N/A

SERVICES PROVIDED BY THE DEPARTMENT ARE AVAILABLE IN BOTH OFFICIAL LANGUAGES.

THIS MEMORANDUM IS ISSUED UNDER THE AUTHORITY OF THE DEPUTY MINISTER OF NATIONAL REVENUE, CUSTOMS AND EXCISE.