

**Memorandum D17-1-21**

**In Brief**

Ottawa, June 28, 2000

**SUBJECT**

**MAINTENANCE OF RECORDS AND BOOKS  
IN CANADA BY IMPORTERS**

1. This Memorandum supersedes Memorandum D17-1-21, *Maintenance of Records and Books in Canada by Importers*, dated November 15, 1993.
2. This Memorandum was revised to reflect changes to the *Imported Goods Records Regulations*.
3. This Memorandum was also revised to clarify customs' policy with regard to the retention of records in electronic format.

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Ottawa, June 28, 2000

**SUBJECT**

**MAINTENANCE OF RECORDS AND BOOKS  
IN CANADA BY IMPORTERS**

This Memorandum provides information relative to the records and books that must be maintained in Canada by importers.

**TABLE OF CONTENTS**

	<b>Page</b>
<b>Guidelines and General Information</b>	
Who's Concerned?	1
Microfilmed Records	2
Electronic Data Processed Records	3
Availability for Inspection and Delivery	4
Non-Compliance	4
Additional Information	5
Appendix – Statutory Instrument	

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**GUIDELINES AND  
GENERAL INFORMATION**

**Who's Concerned?**

1. These requirements are equally applicable to both non-resident and resident importers, including exporters abroad who ship to themselves in Canada. Non-resident importers generally do not maintain an office in this country but forward invoices and shipping documents to a licensed customs broker who, under authority of the importer, prepares accounting documents, pays duties, takes delivery of the goods, and forwards them or has delivery made to those designated in instructions from his client.
2. If the importer does not maintain an office in Canada, a customs broker, accountant, or some other authorized agent may be designated by the importer to maintain the appropriate records, on the distinct understanding that it is obligatory that the books and records required by subsections 40(1) and 43(1) of the *Customs Act* (hereafter referred to as "the Act") must be maintained in Canada.
3. Requests for permission to maintain records at locations in Canada, at a place other than the importer's place of business, where only one customs region is involved, are to be forwarded to the Regional Director, Customs, for the region concerned. Requests which involve more than one region, are to be addressed to the Director, Compliance Management Division, Ottawa ON K1A 0L5.

## **Microfilmed Records**

4. In accordance with the policy of the Canada Customs and Revenue Agency (CCRA) pertaining to the retention and disposal of records and books of account in microfilmed form, every importer who keeps records in this format is required to have an acceptable microfilm program. The important factors which are necessary for the implementation of a credible program are:

- (a) the program is authorized in writing by someone in authority in the importer's organization who confirms that the program will be part of the usual and ordinary activity of the business of the organization;
- (b) systems and procedures are established and documented;
- (c) a log will be kept showing:
  - (1) the date of microfilming,
  - (2) the signatures of the persons authorizing and performing the microfilming, and
  - (3) a concise description of the records microfilmed;
- (d) an index will be maintained which will make any particular record readily available;
- (e) the microfilm records will be of commercial quality and will exhibit a high degree of legibility and readability when displayed on a microfilm reader or reproduced on paper;
- (f) a system of inspection and quality control will be established to ensure that (c), (d), and (e) above are maintained; and
- (g) equipment, in good working order, will be made available upon reasonable notification to view, or to reproduce hard copy of the microfilm.

5. Permission to microfilm books and records of account must be obtained by importers from the Regional Director, Customs, in the region concerned, to ensure that they can meet the standards of an acceptable microfilm program. Requests which involve more than one region, are to be addressed to the Director, Compliance Management Division, Ottawa ON K1A 0L5.

## **Electronic Data Processed Records**

6. Books and records maintained in machine-sensible data medium are recognized as records and books of account, provided the medium can be related back to the supporting source documents or hard copy documents and is supported by a system capable of producing accessible and readable copy.

7. All records and books of account (including source documents) that originate in paper format have to be kept, except where an acceptable imaging or microfilming program, as discussed in paragraph 6, is in place.

## **Availability for Inspection and Delivery**

8. The records referred to in sections 2 and 3 of the *Imported Goods Records Regulations* (hereafter referred to as the Regulations) shall be kept in such a manner as to enable an officer to perform detailed audits of the records and to obtain or verify the information on which a determination of the amount of the duties paid or payable was made.

9. As authorized by subsection 43(1) of the Act, the Minister may require from any person the production of any books, letters, accounts, invoices, statements (financial or otherwise), or other documents for any purpose related to the administration or enforcement of the Act, within such reasonable time as stipulated by a registered letter or a demand served personally.

## **Non-Compliance**

10. Where it is determined that an importer has failed to comply with any or all of the requirements for the maintenance of records in Canada, the importer will be requested to fulfill these requirements within a reasonable period of time. If the importer does not comply with the requirements of record maintenance under subsections 40(1) of the Act, the CCRA has the authority as prescribed under section 41 of the Act to detain any further goods imported by the importer until the importer has complied with the requirements. In addition, the penalty provisions of section 109.1 of the Act may also be applied.

11. The penalty provisions of section 109.1 of the Act will result in a monetary penalty of not less than \$1,000 and not more than \$25,000 being applied. The following are the minimum penalties that will be applied per occurrence:

- (a) 1st occurrence \$1,000;
- (b) 2nd occurrence \$2,500; and
- (c) 3rd occurrence \$5,000.

12. Where a person who is required by subsection 40(1) of the Act to keep records, other than a person referred to in section 3.1 of the Regulations, has not kept records in accordance with these Regulations, preferential tariff treatment may be denied or withdrawn in respect of the commercial goods that are the subject of those records.

13. Where a person who is required by subsection 40(1) of the Act to keep records, other than a person referred to in section 3.1 of the Regulations, who is required and requested to produce records in accordance with subsection 43(1) of the Act fails to do so, preferential tariff treatment may be denied or withdrawn in respect of the commercial goods that are the subject of those records.

## **Additional Information**

14. Where the importer is confronted with difficulty in adequately observing these requirements, questions may be directed to the Regional Director, Customs, of the nearest office, or to the Director, Compliance Management Division, Ottawa ON K1A 0L5.

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## APPENDIX

### Statutory Instrument

REGULATIONS RESPECTING THE KEEPING OF RECORDS BY PERSONS WHO IMPORT COMMERCIAL GOODS OR CAUSE SUCH GOODS TO BE IMPORTED, BY PERSONS WHO ARE ISSUED A LICENCE UNDER SECTION 24 OF THE *CUSTOMS ACT* OR SUBSECTION 91(1) OF THE *CUSTOMS TARIFF* AND BY PERSONS WHO ARE ISSUED A CERTIFICATE UNDER SUBSECTION 90(1) OF THE *CUSTOMS TARIFF*

#### *Short Title*

1. These Regulations may be cited as the *Imported Goods Records Regulations*.

#### *Interpretation*

- 1.1 In these Regulations,

“Act” means the *Customs Act*; (*Loi*)

“commercial goods” means goods imported into Canada for sale or for any industrial, occupational, commercial, institutional or other like use. (*marchandises commerciales*)

#### *General*

2. Every person who is required by subsection 40(1) of the Act to keep records in respect of commercial goods shall keep, for the period of six years following the importation of the commercial goods, all records that relate to

- (a) the origin, marking, purchase, importation, costs and value of the commercial goods;
- (b) payment for the commercial goods;
- (c) the disposal of the commercial goods in Canada; and
- (d) any application for an advance ruling made under section 43.1 of the Act in respect of the commercial goods.

3. In addition to the records referred to in section 2, a person who imports or causes to be imported commercial goods that have been released free of duty or at a reduced rate of duty because of their intended use or because they were intended to be used by a specific person shall keep, for the same period of time referred to in that section,

- (a) a certificate or other record signed by the user of the commercial goods that shows the user’s name, address and occupation and indicates the actual use made of the commercial goods; or
- (b) in the case where the commercial goods have been diverted to a use other than that on the basis of which they were released free of duty or at a reduced rate of duty or have been sold or otherwise disposed of to a person not entitled to have the commercial goods so released, records that contain information sufficient to confirm that the full applicable duties have been paid.

- 3.1 Every person who is required by subsection 40(3) of the Act to keep records in respect of commercial goods shall

- (a) where the person has been issued a licence under section 24 of the Act for the operation of a place as a sufferance warehouse, keep all records that contain information concerning the receipt of

commercial goods into it, and the removal of those commercial goods from it, for the period of six years after the receipt of the commercial goods into it;

(b) where the person has been issued a licence under section 24 of the Act for the operation of a place as a duty free shop, keep all records that relate to commercial goods received into it, for the period of six years after the sale or disposal of those commercial goods, including all records that contain information concerning

- (i) the accounting for the commercial goods,
- (ii) the sale or disposal of the commercial goods from the duty free shop,
- (iii) the actual selling price of the commercial goods in the duty free shop and the manufacturer's suggested retail price,
- (iv) the amount that the person paid for the commercial goods,
- (v) the control of inventory in the duty free shop,
- (vi) the composition of the inventory in the duty free shop,
- (vii) the remittance of fees to the Department of National Revenue, or
- (viii) the size of the display area allocated in the duty free shop to the commercial goods;

(c) where the person has been issued a licence under subsection 91(1) of the *Customs Tariff* for the operation of a bonded warehouse, keep all records that relate to commercial goods received into it and commercial goods removed from it, for the period of six years after their removal, including all records that contain information

- (i) describing the commercial goods when they are received into or exported from the bonded warehouse,
- (ii) accounting for the commercial goods when they are removed from the bonded warehouse,
- (iii) concerning inventory and the transactions that occur while the commercial goods are in the bonded warehouse,
- (iv) concerning the transfer of ownership in respect of the commercial goods,
- (v) concerning the transfer of the commercial goods to another bonded warehouse, to a sufferance warehouse or to a duty free shop, or
- (vi) concerning the unpacking, packing, manipulation or alteration of the commercial goods, or any combining of those commercial goods with other goods; and

(d) where the person has been issued a certificate under subsection 90(1) of the *Customs Tariff*, keep all records that relate to commercial goods in respect of which relief from the payment of duties has been granted under section 89 of that Act, for the period of six years after the relief is granted, including all records that contain information concerning

- (i) the importation of the commercial goods,
- (ii) the processing in Canada of the commercial goods,
- (iii) the amount of relief granted on the commercial goods,
- (iv) the sale or transfer, between persons to whom certificates have been issued, of the commercial goods,
- (v) the payment, under subsection 118(1) of the *Customs Tariff*, of an amount equal to the amount of the duties on any of the commercial goods that have been transferred, sold or disposed of, or
- (vi) the inventory in Canada of the commercial goods.

4. The records referred to in sections 2 to 3.1 shall be kept in such a manner as to enable an officer to perform detailed audits of the records and to obtain or verify the information on which a determination of the amount of the duties paid, payable, deferred or relieved was made.

5. The records referred to in sections 2 to 3.1 may be copied by means of any photographic, micro-photographic or image processing process that is in accordance with National Standard of Canada CAN/CGSB-72.11-93, *Microfilm and Electronic Imaging as Documentary Evidence*, published by the Canadian General Standards Board in November 1993, as amended from time to time, and kept in that format for the period prescribed in those sections.

6. The records referred to in sections 2 to 3.1 may be kept on machine-sensible data media if the media can be related back to the supporting source documents and are supported by a system capable of producing accessible and readable copy.

#### *Enforcement*

7. Where a person, other than a person referred to in section 3.1, has not kept records in accordance with these Regulations, preferential tariff treatment under NAFTA or preferential tariff treatment under CCFTA, as the case may be, may be denied or withdrawn in respect of the commercial goods that are the subject of those records.

8. Where a person, other than a person referred to in section 3.1, who is required to produce records in accordance with subsection 43(1) of the Act fails to do so, preferential tariff treatment under NAFTA or preferential tariff treatment under CCFTA, as the case may be, may be denied or withdrawn in respect of the commercial goods that are the subject of those records.

## REFERENCES

### ISSUING OFFICE –

Compliance Management Division

### LEGISLATIVE REFERENCES –

*Customs Act*, sections 40, 41, 43, and 109.1

### HEADQUARTERS FILE –

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### SUPERSEDED MEMORANDA “D” –

D17-1-21, November 15, 1993

### OTHER REFERENCES –

D7-4-1, D17-1-22

**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.**