

# MEMORANDUM 13-4-1

Ottawa, April 17, 2001

## SUBJECT

### “TRANSACTION VALUE” METHOD OF VALUATION (CUSTOMS ACT, SECTION 48)

This Memorandum outlines the method of valuation contained in section 48 of the *Customs Act*.

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## GUIDELINES AND GENERAL INFORMATION

### Transaction Value Defined

1. The transaction value is determined by ascertaining the price paid or payable for the goods when the goods are sold for export to Canada to a purchaser in Canada, and adjusting the price paid or payable in accordance with subsection 48(5) of the *Customs Act*. Subsection 48(1) of the Act identifies four requirements that must be met to apply the transaction value (assuming that the importer has complied with the remaining provisions of section 8). These requirements are that:

- (a) the imported goods were sold;
- (b) the sale was for export to Canada;
- (c) the purchaser in the sale for export is the purchaser in Canada; and
- (d) the price paid or payable for the goods can be determined.

### Sold for Export

2. In order to apply section 48, the goods being appraised must be the subject of a sale. The term “sale” will be taken to mean the transfer of the property in the goods for a money consideration. Goods which are not the subject of a sale cannot be valued under section 48.

3. Importers may be required to provide documentation such as invoices and bills of lading which substantiate that the sale of the goods was a sale for export to Canada.
4. Refer to Memorandum D13-4-2, *Customs Valuation: "Sold for Export to Canada"* (*Customs Act, Section 48*), to determine if a qualified sale has occurred.

### **Purchaser in Canada**

5. In order to apply section 48, the goods being appraised must be sold to a valid "purchaser in Canada." For the purposes of subsection 45(1) of the Act, "purchaser in Canada" means:

- (a) a resident;
- (b) a person who is not a resident in Canada but who has a permanent establishment in Canada; or
- (c) a person who neither is a resident in Canada nor has a permanent establishment in Canada, and who imports the goods, for which the value for duty is being determined:
  - (1) for consumption, use, or enjoyment by the person in Canada, but not for sale; or
  - (2) for sale by the person in Canada, if, before the purchase of the goods, the person has not entered into an agreement to sell the goods to a resident.

6. It may be necessary to use Memorandum D13-1-3, *Customs Valuation – Purchaser in Canada* (*Customs Act, Section 48*), guidelines and test criteria to determine if the purchaser meets the requirements of the Act.

### **Price Paid or Payable**

7. Subsection 45(1) defines "price paid or payable" as the aggregate of all payments made or to be made, directly or indirectly, in respect of the goods by the purchaser to or for the benefit of the vendor.

8. Payment may be made by way of letters of credit or negotiable instruments, and may be made directly or indirectly. The term "price paid or payable" refers to the price for the imported goods. Thus the flow of dividends or other payments from the purchaser to the vendor that do not relate to the imported goods are not part of the value for duty. See Memorandum D13-4-3, *Customs Valuation: Price Paid or Payable* (*Customs Act, Section 48*), for a consideration of other payments which form a part of the price paid or payable.

9. Activities undertaken by the purchaser on his own account, other than those for which an adjustment is provided for in paragraph 48(5)(a), will not be considered to be an indirect payment to the vendor, even though they might be regarded as a benefit to the vendor. The cost of such activities will not, therefore, be added to the price paid or payable for the imported goods.

### **Adjustments: Additions and Deductions**

10. Having ascertained the price paid or payable, the next step in determining the transaction value involves making any of the adjustments, described in subsection 48(5), which may be appropriate.

11. To the extent that they are not already included in the price paid or payable, amounts equal to the following are to be added:

- (a) certain commissions and brokerage;
- (b) all packing costs and charges;
- (c) the value of certain goods and services provided free or at a reduced charge by the purchaser for use in the production of the imported goods (assists);
- (d) certain royalties and licence fees;
- (e) the value of any proceeds from the subsequent resale, disposal, or use of the goods which accrue to the vendor; and
- (f) the costs of transportation and associated costs relating to the movement of the goods to and at the place from which the goods were shipped directly to Canada.

12. To the extent that they are already included in the price paid or payable, amounts equal to the following are to be deducted:

- (a) the costs of transportation and associated costs relating to the movement of the goods from the place from which the goods were shipped directly to Canada;
- (b) certain costs, charges, or expenses incurred or arising after importation in respect of the goods being appraised; and
- (c) Canadian duties and taxes.

13. See Memorandum D13-4-7, *Adjustments to the Price Paid or Payable (Customs Act, Section 48)*, for detailed addition and deduction allowances.

#### **Limitations on the Use of Transaction Value**

14. In order for a transaction value to be accepted as a value for duty, certain requirements must be met. The requirements are set out in subsection 48(1) and pertain to:

- (a) restrictions on the disposition or use of the goods;
- (b) conditions or considerations in respect to the goods, to which the sale or the price is subject;
- (c) proceeds from the subsequent resale, disposal, or use of the goods by the purchaser which accrue to the vendor; and
- (d) the existence of a relationship between the purchaser and the vendor.

15. For more details, see Memorandum D13-4-4, *Limitations on the Use of Transaction Value (Customs Act, Section 48)*.

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## REFERENCES

### ISSUING OFFICE –

Origin and Valuation Policy Division  
Trade Policy and Interpretation Directorate

### LEGISLATIVE REFERENCES –

*Customs Act*, sections 45 and 48

### HEADQUARTERS FILE –

N/A

### SUPERSEDED MEMORANDA “D” –

D13-4-1, June 1, 1986

### OTHER REFERENCES –

D13-1-3, D13-4-2, D13-4-3, D13-4-4, D13-4-7

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