

MEMORANDUM D1-2-1

In Brief

Ottawa, March 27, 1997

SUBJECT

SPECIAL SERVICES

This Memorandum reflects amendments to the *Excise Tax Act* contained in Bill C-70, passed by the House of Commons on February 11, 1997. The Bill received Royal Assent on March 20, 1997. The implementation of the harmonized sales tax, contained in Bill C-70, will be effective April 1, 1997.

Ottawa, January 1, 1988

SUBJECT

SPECIAL SERVICES

This Memorandum outlines the conditions under which special services can be provided, and the charges that are applicable thereon.

Regulations

Short Title

1. These Regulations may be cited as the *Special Services (Customs) 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*)

Special Services

3.(1) Subject to subsection (2), the following services performed by an officer at the request of a person in charge of imported goods or goods destined for exportation shall be considered to be special services;

(a) any services performed outside the hours fixed by the Deputy Minister for the performance of that service;

(b) any service performed in a place outside the area served by a customs office; or

(c) any service performed outside the ordinary course of the officer's duties.

(2) The following services performed by an officer are not special services:

(a) the examination of or acceptance of reports in respect of a military conveyance, unless that conveyance is being used in a commercial operation;

(b) the release of human remains;

(c) the release of perishable goods needed for the preservation of human life or health; and

(d) the release of non-perishable goods urgently needed for the preservation of human life or health.

Special Services Charges

4. Every person for whom a special service is performed by an officer other than an officer referred to in section 5 shall pay \$25 for the performance of that service.

5.(1) Where an officer is called in on duty to perform a special service for a person, that person shall pay

(a) \$54 for the first two hours or portion thereof spent in the performance of that service; and

(b) \$27 for each additional hour or portion thereof spent in the performance of that service.

(2) No charge is payable for the time spent by an officer referred to in subsection (1) on meals and rest.

(3) Where more than one officer referred to in subsection (1) is required to perform a special service, the chargeable time in respect of that service shall be the aggregate of the time spent by all those officers in the performance of that service.

Transportation, Accommodation and Meals

6.(1) Subject to subsection (2), where a special service is to be performed by an officer, the person requesting that service shall provide the officer with such transportation, accommodation and meals as may be required by him to perform that service.

(2) Where a person requesting a special service is not able to provide transportation and an officer is required to use his personal conveyance, the person requesting that service shall pay, in respect of the use of the personal conveyance, the greater of

(a) an amount based on the rates authorized by Treasury Board for the use of personal conveyances by public servants; and

(b) five dollars.

Security

7.(1) Where the chief officer of customs for the place or area in which a special service is to be performed is of the opinion that security is required to guarantee the payment of charges incurred in providing that service, the person requesting that service shall deposit with the chief officer of customs security in an amount equal to total charges to be incurred as estimated by the chief officer of customs.

(2) The security referred to in subsection (1) shall be in the form of cash, a certified cheque or a transferable bond issued by the Government of Canada.

GUIDELINES AND GENERAL INFORMATION

Hours of Service Prescribed by the Deputy Minister

1. The authorized hours of service are daily Monday through Friday, exclusive of statutory holidays, as follows:

(a) at Customs offices other than land frontier offices — 8:45 a.m. to 5:00 p.m.;
and

(b) at warehouses for commercial service to the general public — 8:00 a.m. to 5:00 p.m.

Note: For the purpose of this Memorandum, Remembrance Day, Easter Monday and Boxing Day, when it falls on a four day weekend, are not considered statutory holidays.

2. The Deputy Minister has designated 15 highway frontier sites as extended service Customs offices. The authorized hours of service for these 15 sites during which they will provide release of commercial shipments are between the hours of 0800 and midnight, 365 days a year. This service will be provided without the imposition of a special service charge so long as the release documentation is presented to Customs when the shipment arrives by either the importer/owner, his agent, or the carrier. If the documents are incorrect, release of the shipment will be refused and the documents returned. A list of the extended service Customs offices is shown in the Appendix A to this Memorandum.

3. At all other highway frontier offices, the authorized hours of service during which they will provide release of commercial shipments without the imposition of a special service charge are between 0800-1700, Monday through Friday exclusive of statutory holidays (core hours). However, shipments will be released between the hours of 1700 and midnight, Monday through Friday, and the hours of 0800 and midnight, Saturday, Sunday and statutory holidays also without the imposition of a special service charge provided:

(a) The importer/owner or broker presents the relevant release documents (either a fully completed B 3 or Release on minimum documentation (RMD)) to a designated officer at the office of release during the core hours. These documents must provide Customs enough information to determine the nature of the goods and, if documented on a fully completed B 3, must be correct in terms of header information. In addition, the accounting document presented for the release of the goods must quote a valid account/security number indicating that the importer/owner or broker has release prior to payment security posted with the Department. If the cargo control document is not available during core hours, the shipment may still be authorized for release on the condition that the CCD will be provided at time of release.

(b) If the designated officer, after considering the complexity of the accounting documents and determining his resource availability, approves the shipment for release outside core hours, the documents will be notated and returned to the person presenting them. This "authorization" is not to be considered an unconditional release of the shipment. The shipment and the documents may still be examined upon arrival of the shipment and release refused, if appropriate. However, release will not be refused because of the hour.

(c) When the shipment arrives, the accounting documents including the cargo control document must be presented to Customs by either the importer/owner, the agent or the carrier. If release is refused, the documents will be returned to the person who presented them.

4. If prior notification is not received, all the highway frontier offices referred to in paragraph 3 of this memorandum will provide release of commercial shipments between the hours of 1700 and midnight, Monday through Friday, and the hours of 0800 and midnight, Saturday, Sunday and statutory holidays upon payment of the special service charge prescribed in sections 4 and 5 of the Regulations.

5. All highway frontier offices will provide release of commercial shipments between the hours of midnight and 0800, 365 days a year upon payment of the special service charge prescribed in sections 4 and 5 of the Regulations.

6. The authorized hours of service at Highway Sufferance Warehouses are 0845-1700, Monday through Friday, exclusive of statutory holidays. However, shipments will be released between the hours of 1700 and midnight, Monday through Friday, and the hours of 0800 and midnight, Saturday, Sunday and statutory holidays without the imposition of special service charges provided the conditions described in paragraphs 3(a) to (c) of this Memorandum are met, and that the estimated time of arrival of the shipment or the estimated time for which release is requested is shown on the release documents presented under paragraph 3(a) of this Memorandum.

7. If prior notification is not received, subject to the availability of qualified officers, all highway sufferance warehouses will provide release of commercial shipments between the hours of 1700 and midnight, Monday through Friday, and the hours of 0800 and midnight, Saturday, Sunday and statutory holidays upon payment of the special service charge prescribed in section 5 of the Regulations.

8. Subject to the availability of qualified officers, all highway sufferance warehouses will provide release of commercial shipments between the hours of midnight and 0800, 365 days a year, upon payment of the special service charge prescribed in section 5 of the Regulations.

9. The authorized hours of service prescribed by the Deputy Minister at international air, sea and frontier points for the acceptance of reports from operators of aircraft, trains, vessels and motor vehicles and the manifesting of goods conveyed thereon is the time

between the commencement of the first authorized shift and the termination of the final authorized shift at any particular release point.

10. The Deputy Minister may amend these hours of service in any particular case or class of cases when the exigencies or interests of the public so require.

11. The Deputy Minister has directed that:

(a) The authorized hours of service for release of the following classes of goods are those hours an officer is on duty at the release point concerned on an authorized shift.

(1) goods classified under classification number 9810.00.00.00;

(2) commercial items regardless of value that accompany the traveller and qualify for admission under temporary importation Y 38 or A.T.A. Carnet procedures; and

(3) personal baggage of a traveller.

(b) The authorized hours of service for the release of the following goods shall be any time that release is requested:

(1) human remains;

(2) perishable goods needed for the preservation of human life or health such as blood plasma and human organs; and

(3) non-perishable goods such as medical equipment for specified emergencies urgently needed for the preservation of human life or health.

(c) The authorized hours of service for the release of goods qualifying for "the extended release privileges" as outlined in the Appendix B to this Memorandum, shall be those hours an officer is on duty on an authorized shift at the release point concerned provided that documentation presented meets the Release on Minimum Documentation (RMD) requirements.

Transportation Fees, Billing and Miscellaneous Provisions

12. Where any service is given for which transportation fees are payable and the party accommodated does not provide the officer's transportation, the officer may use a taxi, his personal automobile or other acceptable means of transportation.

13. Where the officer uses his personal automobile, transportation fees will be assessed, subject to a minimum charge of \$5.00, at the following rates:

(a) Northwest Territories 56.5¢ per mile or
and Yukon Territory 35.0¢ per kilometre

(b) Nova Scotia, New Brunswick and Prince Edward Island	46.0¢ per mile or 28.5¢ per kilometre
(c) Manitoba, Saskatchewan and Alberta	4.0¢ per mile or 27.0¢ per kilometre
(d) Newfoundland	48.5¢ per mile or 30.5¢ per kilometre
(e) Québec	48.0¢ per mile or 30.0¢ per kilometre
(f) Ontario	48.5¢ per mile or 30.0¢ per kilometre
(g) British Columbia	47.5¢ per mile or 29.5¢ per kilometre

14. Special services charges and transportation fees shall be paid at the time the service is rendered except where billing privileges have been extended to Customs brokers, regular importers/owners and transportation companies. An official receipt on form K 21, (Cash Receipt), shall be issued covering such payment. In the case of companies with billing privileges, payments shall be made to the office that controls the account.

15. Failure to pay a special service charge within 15 days of the date of the billing statement will result in denial of future requests for special service.

16. Postal branches and Customs offices not processing international traffic will be closed on all statutory holidays. When a statutory holiday falls on a weekend, the day designated as the holiday in lieu thereof will be considered the statutory holiday.

17. In the case of authorized hours at airports, seaports and frontier points for the acceptance of reports and the manifesting of cargo, hours of service will be based primarily on the traffic volume but other facilities available in the immediate area will also be taken into consideration. Therefore, the authorized hours of service will be those hours when a shift is on duty to give service at that particular point.

18. Special services charges will be assessed at all times where service is provided beyond the jurisdiction of a Customs office. In such a case the party accommodated shall also provide or pay for the officer's transportation and accommodation. For the purposes of these provisions "jurisdiction of a Customs office" means the area encompassing the release points, warehouses and passenger handling facilities which are normally serviced by the Customs office.

Assessment of Special Services Charges

19. Sections 4 and 5 of the Regulations provide that the amount of special service fee to be charged is dependant on whether the officer performing the special service is on duty on an authorized shift. In the event a service is provided under the conditions prescribed in section 4 of the Regulations, but the officer continues to perform a service after the termination of the authorized shift, the provisions of section 5 of the Regulations will apply to that portion of the service provided after the end of the authorized shift.

20. Subsection 5(3) of the Special Services Regulations provides that the aggregate of the time spent by all officers engaged in providing a special service prescribed in subsection 5(1) of the Regulations shall be calculated to determine the amount to be charged. For example, if two officers each work one and one-half hours, the person accommodated will be charged for three hours service. If two officers on an authorized shift perform a service, the person accommodated will be charged the rate prescribed in section 4 of the Regulations.

21. Where a service is provided for a party under the conditions prescribed in paragraph 5(1)(a) of the Regulations, the party is entitled to subsequent service at that release point or station during the initial two hour period without further assessment. If additional service is requested during the next consecutive hour following the initial two hour period, a charge for one hour will be assessed for service given during this third consecutive hour. Where there is a lapse of one hour between the initial two hour period and the next service given, the latter service is subject to the conditions of paragraph 5(1)(a) of the Regulations. If a meal period is taken by the officer during a special service assignment, that period will be excluded from the time charged to the party accommodated. That is, if an assignment begins at 11:00 a.m. with a lunch period of one hour at 12:00 noon, the two hour period will be extended to 2:00 p.m.

22. In any case where more than one special service prescribed in section 4 of the Regulations is provided to one party during one call, the special service charge will be assessed as if only one service were provided. Where more than one party is accommodated, a separate charge will be assessed against each party. For example, if a broker requests release of several shipments consigned to various importers/owners, a separate charge will be assessed against each importer/owner.

23. In any case where more than one special service prescribed in paragraph 5(1) of the Regulations is provided to one party during one call, the special service charge will be assessed as if only one service were provided but the total time spent in performing the services will be calculated in determining the amount to be charged. Where more than one party is accommodated a separate charge will be assessed against each party. For example, if a broker requests "after hours" release of several shipments consigned to various importers/owners, a separate minimum charge will be assessed against each importer/owner. There are two exceptions to this practice and these are outlined in the two following paragraphs.

24. In the case of several "part-load" shipments of fresh fruit or vegetables contained in one rail car or highway vehicle consigned to various consignees who have deposited security for release prior to payment, special services charges will be assessed as if all the

shipments, which are cleared by one broker or agent, were consigned to one importer/owner. It will be the responsibility of the broker or agent to prorate the assessment among the consignees concerned. While a railway agent or motor vehicle operator may request such releases for the convenience of their respective companies, final accounting documents must be presented by the importer/owner or his authorized agent and the charges for the release will be assessed against the transportation company. Where two or more importers/owners or agents effect release of part-loads of a rail car, truck or trailer, each person shall be assessed the service charge prescribed in paragraph 5(1)(a) or section 4 of the Regulations.

Note: This procedure is limited to fresh fruit and vegetables and is due to peculiarities in the marketing practices relating to these commodities.

25. The second exception relates to the release of exhibits for display at conventions or public exhibitions, which are classified under classification number 9819.00.00.00 (see Memorandum D8-1-2, Display Goods Temporary Importation Regulations). In these instances, one broker may obtain release of any number of consignments for one convention or exhibition on payment of one assessment prescribed by paragraph 5(1)(a) or section 4 of the Regulations, provided he has proper authority from all consignees involved.

26. In cases of convoy duty within or beyond the jurisdiction of a Customs office as well as all other duties outside this jurisdiction, if an officer on an authorized shift is not available to perform the service, the party accommodated must pay special services charges as prescribed in subsection 5(1) of the Regulations for the actual time spent in performing the special services or convoy duty and the travelling time of the officer to and from his station or residence. Furthermore, all meals and accommodation costs incurred by the officer shall be provided or paid for by the party accommodated. Should the officer's return be delayed through unforeseen circumstances such as bad weather or vehicle breakdown, the resultant layover period will not be subject to special services charges. To clarify the determination of hours to be charged in such instances the following is an example:

An officer assumes convoy duty or proceeds on an assignment beyond the jurisdiction of the Customs office at 8:00 a.m., April 5.

April 5 — actual time spent travelling and at work

8:00 a.m. — 6:00 p.m. 10 hours

Returned to Customs office — April 6

Travelling time 8:00 a.m. to 10:00 a.m. 2 hours

Number of hours subject to special service charge 12 hours

27. If an officer on an authorized shift is available to perform the services described in paragraph 26 above, the party accommodated must pay special service charges as prescribed in section 4 of the Regulations.

28. Special services charges will be assessed for service requested at an importer's/owner's premises to supervise the marking, examination, exportation or destruction of goods or other similar matters. The party accommodated will also be responsible for the transportation and any other expenses incurred by an officer. When such duties are performed on Customs premises or at a sufferance warehouse, special services charges will only apply if it is necessary to assign an officer for the specific purpose of supervising the operation. If the officer can perform the function in conjunction with his regular assignment, charges will not be assessed.

29. The Regional Chief Officer may authorize service at private roads for the importation of logs provided proper and adequate accommodation is provided for the officer and special services charges are paid. Where such service is requested at private international roads that can be considered as "dead end" in that they are only used for logging operations, the Regional Chief Officer may authorize service on a "spot check" basis. Such service is conditional upon the operator assuming full responsibility for his crews and upon payment of special services and transportation charges.

30. The provision of special services under the *Special Services (Customs) Regulations* is generally not subject to either the goods and services tax (GST) or the harmonized sales tax (HST) in the participating provinces of Nova Scotia, New Brunswick, and Newfoundland, because in most cases the services are exempt under Schedule V to the *Excise Tax Act*. GST or HST may apply to special services performed under paragraph 3(1)(c) of the *Special Services (Customs) Regulations* where that service does not directly relate to an exempt service such as the customs clearance function.

Bonded Warehouses

31. Where an officer's attendance is required at a bonded warehouse, special services charges are to be assessed. Charges shall not be assessed for visits to warehouses solely for audit purposes since such audits are for departmental control rather than for the benefit of the warehouse operator.

32. In as much as goods may be removed from ships stores warehouses servicing vessels without Customs supervision, the warehouse keeper may arrange for delivery directly to the vessel. Where the services of an officer are required to place the goods under seal on board the vessel beyond authorized hours, special services charges will be assessed, and the party accommodated will also provide or pay for the officer's transportation. Charges are not to be assessed for service to an individually owned and operated fishing vessel. However, transportation charges are applicable when the service is given outside authorized hours or beyond the jurisdiction of the Customs office.

33. In the case of ships stores warehouses servicing aircraft, special services charges shall be assessed for supervision of the delivery into and removal from the warehouse. An

additional charge is not to be assessed for supervising the loading of the stores onto an aircraft at any time.

Operators of Aircraft, Trains, Vessels and Motor Vehicles

34. Where service is requested for the inward or outward clearance of an aircraft, train, vessel or motor vehicle at a time when an authorized shift is not scheduled, special services charges will be assessed against the carrier. The assessment will be calculated by determining the total person hours utilized in clearing the aircraft, vessel, vehicle or train, the processing of the cargo, passengers and their baggage and all other services pertaining to the clearance. The carrier will also provide or pay for the transportation of all officers engaged in furnishing the service.

35. Ordinarily, special services will be rendered only when Customs is satisfied as to the urgent nature of the situation. This restriction will not apply in the case of after hours service to pleasure craft. Service to this type of traffic will be given only upon request and on payment of special services charges.

Effects of Settlers, Summer Settlers and Returning Residents

36. Special services charges shall not be assessed for the examination of the effects of settlers, summer settlers or returning residents during authorized hours at a destination within the jurisdiction of a Customs office. The release of such effects at inland Customs offices is subject to the conditions described in paragraphs 3 and 6 to 8 of this Memorandum. Where examination and release must be made outside the jurisdiction of a Customs office, charges are applicable at all times. In all such cases, the party accommodated shall provide or pay for the transportation of the officer checking the goods being unloaded.

37. The effects of settlers, summer settlers and returning residents may be cleared at border offices without assessment of special services charges at any time an officer is on duty on an authorized shift, except where the effects are transported by a common carrier. Where clearance is given outside authorized hours, the accounting document will be numbered in accordance with the traffic office series.

Military and Federal Government Aircraft, Vehicles and Vessels

38. Paragraph 3(2)(a) of the Regulations provides that special services do not include the examination or documentation at any time of military aircraft, vessels or motor vehicles. This provision applies to all federal government aircraft, vessels and vehicles whether or not they are operated by the Department of National Defence, and to Canadian and foreign conveyances. Examination and documentation will be provided on request, and will not be considered as a special service. Transportation costs will not be assessed.

Note: Special services charges including transportation costs will apply where the aircraft, vessel or vehicle is being used in a commercial operation, i.e., leased or rented to non-governmental sources for commercial purposes.

39. Under a reciprocal agreement between the United States Air Force and the Canadian Forces, the latter service has agreed to pay the Canada Customs charges incurred in connection with the clearance of aircraft operated by either service. Special services charges and transportation costs will not apply, unless the activity involves a commercial operation.

APPENDIX A
EXTENDED SERVICE CUSTOMS OFFICES

Location	Region
Pacific Highway	Pacific
Coutts	Alberta
North Portal	Central
Emerson	Central
Windsor Bridge	South-Western Ontario
Windsor Tunnel	South-Western Ontario
Sarnia	South-Western Ontario
Fort Erie	Hamilton
Niagara Falls (Queenston)	Hamilton
Lansdowne	Ottawa
Lacolle	Montréal
Philipsburg	Québec
Stanhope	Québec
Woodstock	Atlantic
St. Stephen	Atlantic

APPENDIX B
EXTENDED RELEASE PRIVILEGES

1. Goods in any of the following categories may be released under the conditions outlined in paragraph 11(c) of this Memorandum at the discretion of a Customs Inspector without the imposition of a special service charge.
2. Importers/owners or brokers are not required to make a written application to request extended release privileges prior to/or at the time of importation of the goods. However, an importer/owner or broker may make a written request to the Regional Collector concerned if there is any doubt that the commodity qualifies for after hours release without special service charges.
3. An importer/owner or broker who has been granted extended release privileges for a certain commodity in one region, but has been refused extended release privileges for the same commodity in another region, may make representation to the following address:

Department of National Revenue
Customs and Excise
Ottawa, Ontario
K1A 0L5

Attention: Chief, Release Policy and Administration
Cargo and Release Division

The decision rendered by Cargo and Release Division will be transmitted to all Customs regions and will be binding.

*(a) **Time Sensitive:*** Goods that lose their value or principal utility if not used within an imminent time frame, e.g., newspapers, tape recordings and exposed film for news broadcasts, printing plates, etc.

*(b) **Perishable Goods:*** Goods which are subject to speedy decay and spoilage, e.g., live animals, fresh or frozen meat, fish, fruits and vegetables, flowers, dairy products, human plasma, etc.

*(c) **Hazardous Goods:*** Goods that represent a potential safety risk, e.g., radioactive materials, liquid gas, explosives, caustic substances, etc.

*(d) **Bulk:***

(1) A homogeneous shipment of one commodity that is loose (not individually packaged) or in mass (indefinite shape) and generally must be shovelled, blown, pumped, scooped or forked in handling, e.g., sand, lumber, poles, coal, gravel, salt, scrap, cement, fertilizer, etc.

(2) Goods that would otherwise qualify under (d)(i), but are unitized by bagging, boxing, palletizing, strapping, spooling, etc.

*(e) **Precious Goods:*** Goods which, for security reasons, require quick release when they arrive in Canada, e.g., gold ingots, diamonds, original works of art, etc.

*(f) **Parts:*** Parts required for the repair of vehicles, aircraft, watercraft, machinery and other equipment, e.g., parts for automobiles, computers, agricultural equipment, etc. Extended release privileges will apply only in cases where delays in release would cause financial hardships, and will not apply to normal importations of inventory stock or production parts.

*(g) **Aircraft, Vehicle and Vessel Emergency Repairs:*** Repairs which resulted from an unforeseen contingency that occurred outside of Canada and were necessary to enable the safe return of the conveyance to Canada.

*(h) **Special:***

- (1) Reusable containers, racks, bins, pallets, etc., eligible for entry under classification numbers 9813.00.00.10 and 9814.00.00.10.
- (2) Parts qualifying for entry under codes 9400 and 9450.
- (3) Production and Service goods imported by General Motors of Canada Limited, Ford Motor Company of Canada Limited, Chrysler Canada Limited, or American Motors (Canada) Inc.
- (4) Alcoholic beverages imported by provincial liquor control boards.

REFERENCES

EFFECTIVE DATE —

February 16, 1987

ISSUING OFFICE —

Post Administration Division

LEGISLATIVE REFERENCES —

Customs Act, paragraphs 164(1)(i), section 166 and 167

HEADQUARTERS FILE —

6063-12

SUPERSEDED MEMORANDA "D" —

D1-2-1, June 1, 1986

D1-2-1 RMD, February 16, 1987

OTHER REFERENCES —

N/A