

# MEMORANDUM D13-10-2

Ottawa, March 30, 2001

## SUBJECT

### USED AUTOMOBILES, MOTOR VEHICLES, BOATS, AND OTHER VESSELS (CUSTOMS ACT, SECTIONS 48 TO 53)

This memorandum outlines and explains the manner in which the value for duty of used automobiles and motor vehicles (herein referred to as “vehicles”) and boats and other vessels is to be determined. All references to a “section” or “sections” are to sections of the *Customs Act*.

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#### GUIDELINES AND GENERAL INFORMATION

##### *Customs Tariff* – Used Automobiles and Motor Vehicles

1. The *Customs Tariff*, its schedule and certain tariff relief measures deal specifically with new and used automobiles and motor vehicles in terms of their eligibility for importation and their tariff treatment when imported by settlers or returning residents. The Canada Customs and Revenue Agency (CCRA) has published several directives and pamphlets providing guidance on importations of such vehicles. The applicable legislation should also be consulted. Memorandum D2-2-1, *Settlers' Effects, Tariff Item No. 9807.00.00*, addresses the subject of vehicles imported by settlers, and Memorandum D2-3-2, *Former Residents of Canada – Tariff Item No. 9805.00.00*, deals with importations by returning residents. Memorandum D9-1-11, *Importation of Used or Second-Hand Motor Vehicles*, provides information on

which vehicles are eligible for importation. Memorandum D19-12-1, *Importation of Motor Vehicles*, explains conditions under which motor vehicles can be imported. In addition, the pamphlet called *Importing a Motor Vehicle Into Canada* provides general information regarding prohibited vehicles, federal safety and emission standards, federal duties and taxes, and provincial taxes and vehicle safety tests.

2. A value for duty must be established for each imported item without regard to either the *Customs Tariff* or tariff relief treatment accorded to particular products or individuals. In other words, whether an individual, because of his or her circumstances, pays duty and tax on all, part, or none of the full value of a vehicle is a tariff classification or tariff relief matter, and has no bearing on the manner of determining the customs value.

### **Application of Section 48**

3. In all cases where a new or used vehicle or boat is “sold for export to Canada” (see Memorandum D13-4-2, *Customs Valuation: Sold for Export to Canada (Customs Act, Section 48)*), and the sale meets all of the requirements set out in section 48, the price paid or payable (see Memorandum D13-4-3, *Customs Valuation: Price Paid or Payable (Customs Act, Section 48)*), must be used as the basis for determining the value for duty. (See Memorandum D13-1-3, *Customs Valuation – Purchaser in Canada Regulations (Customs Act, Section 48)*, Memorandum D13-4-1, “*Transaction Value*” Method of Valuation (*Customs Act, Section 48*) and Memorandum D13-4-4, *Limitations on the Use of Transaction Value (Customs Act, Section 48)*).

4. Where a vehicle or boat, new or used, is imported within 30 days of the date of delivery to the purchaser, it will be valued for customs purposes using the purchase price as the basis for establishing a transaction value. A valid sale for export to Canada is considered to have occurred, and any use of the vehicle or boat prior to importation will be regarded as being incidental to delivery of the vehicle or boat to Canada.

5. If the requirements of section 48 are not met, the value for duty must be determined under one of the subsequent methods of valuation applied in the sequential order provided for in the sections 49 to 53 of the Act (see paragraphs 6 to 11).

### **Application of Section 49 or 50**

6. The application of section 49 or 50 presupposes the existence of imported identical or similar used vehicles or boats, properly and correctly valued under the provisions of section 48, which meet all of the requirements of section 49 or 50. If such is the case, these methods must be applied. However, it is doubtful that the necessary conditions needed to apply either of the identical or similar imported goods methods of valuation can be met. In effect, it will be difficult to find sales to Canada of used vehicles or boats which qualify as identical or similar goods as specified in section 49 or 50 (see Memorandum D13-5-1, *Application of Sections 49 and 50 of the Customs Act*).

### **Application of Section 51**

7. The deductive value method bases the value for duty of imported goods on the resale price in Canada of the goods being appraised, or identical or similar imported goods. This method of valuation is the most likely alternate method of appraisal for commercial importations of used vehicles and boats and should be used when the goods being appraised are to be resold. However, where the goods being appraised are not resold in Canada (for example, the goods being appraised are for the importer’s own use), this method of valuation is not appropriate (see Memorandum D13-7-1, *Determination of the Price Per Unit (Customs Act, Section 51)* and Memorandum D13-7-3, *Deductions From the Price Per Unit (Customs Act, Section 51)*).

## **Application of Section 52**

8. The computed value method of section 52 bases the value for duty on the cost of production of the imported goods. Since used vehicles or boats are not produced or manufactured as such, this method cannot be applied.

## **Application of Section 53**

9. The customs value of importations of used vehicles and boats will, where section 48 cannot be applied, most often be determined under the provisions of section 53, the residual method. This method will usually be applied in non-commercial situations. Section 53 allows customs to flexibly apply, to the extent necessary, one of the previous five methods in order to arrive at a value for duty which is consistent with the intent of the valuation legislation. Essentially, the intent is to ensure that the value determined is fair, neutral, objective and reflects commercial reality (see Memorandum D13-9-1, “*Residual Basis of Appraisal*” Method (Customs Act, Section 53)).

10. In cases where a used vehicle or boat is sold for export to Canada for a price paid or payable but is repaired, improved, or modified prior to importation, it is most often appropriate to flexibly apply the concept of “sale for export to Canada” in section 48, under the provisions of section 53, by adding the amount paid for the goods and the amount paid for the repairs, improvements, or modifications to determine a value for duty—a residual transaction value. For example, an importer pays \$1,000 for a used vehicle, buys parts for \$200, and pays \$300 for installation of the parts and other repairs prior to importation. The importer must provide customs with documentation substantiating the price paid for the vehicle and the cost of the parts and repairs. Section 53 will be used to flexibly apply the transaction value method resulting in a residual method value of \$1,500. It should be noted that, in some circumstances, a vehicle provided to a company for repair work or customizing could be considered to be an “assist” provided free of charge to a vendor of such services. In these cases, the value for duty could be determined, under section 48, by determining the price of the services and labour and adding in the price of the vehicle as an assist under subparagraph 48(5)(a)(iii).

11. In cases where there is no sale or price paid or payable for imported used vehicles or boats, section 49 or 50 will be flexibly applied under the provisions of section 53. In flexibly applying either of these sections to appraise the imported goods, customs will accept the retail sales value in the country of exportation for an identical or similar vehicle or boat in average condition as determined from “neutral sources” explained below.

## **Neutral Sources – Country of Exportation**

12. For imported used vehicles which are not “sold for export to Canada,” importers may declare a value for duty by referencing used vehicle valuation guides published in the country of export, which list retail sales values for vehicles in average condition. These values indicate the amount any purchaser can expect to pay for the vehicle, whether purchased for use in the country of export or for export to Canada. Examples of such publications are the *U.S. Automobile Red Book – Official Used Car Valuations* and *Parker’s Used, New and Trade, Car Price Guide* published in the United Kingdom. The value of any options included in the vehicle being valued which are not included in the basic price of the vehicle as listed in the guide must be added in order to determine the customs value.

13. Boats tend to hold their value, if not appreciate. In situations where there has been no significant change in the market value of the boat between the time of purchase and the time of importation, based on generally available industry data, a value for duty based on the purchase price may be declared, using the residual method of section 53 and flexibly applying section 49 or 50. Customs will normally accept the purchase price of a new or used boat as being the value of the boat for up to one year after the date of purchase, unless there is information indicating a significant change in market value.

14. If the value of the boat does increase or decrease between the time of purchase and the time of importation, the importer may declare a value by flexibly applying section 49 or 50, i.e. by referencing independent, published valuation guides for used boats in the country of export. These values indicate the amount a purchaser can expect to pay for a used boat, were it to be purchased for use in the country of export or for export to Canada. Examples of such publications are the U.S. *BUC Used Boat Price Guide* and the *N.A.D.A. Marine Appraisal Guide*. Where the importer is unable to provide a value from a neutral source in the country of exportation, customs may use the *Boat Value Book* which is published in Canada once a year. An amount for Canadian duties and taxes, using the duty and tax rates applicable at the time of importation of the goods being appraised, will be deducted from the published listed value, in a flexible application, under section 53, of the deductive value method of section 51 (see paragraph 18 for an example of calculations involving a domestic neutral source pertaining to vehicles).

15. In the case of vessels other than those mentioned in paragraph 17, and in the absence of a declaration based on independent published values, a current written and signed appraisal by a marine surveyor or appraiser, who is independent of the importer and the seller (see Memorandum D13-3-2, *Related Persons (Customs Act, Sections 45 to 53)*) would be acceptable as an alternative.

16. In keeping with the provisions of sections 49 and 50, customs will accept the lowest objective and neutral published value for a vehicle or boat, provided that such value reflects the value of the vehicle or boat in the same condition as the one being imported.

17. In the case of large commercial vessels, such as tankers, cargo ships and the like, it is necessary to obtain a current written and signed appraisal normally from the “Sale and Purchase” department of a shipbrokerage firm, known in the industry and internationally for valuing such vessels.

### ***The Canadian Automobile Red Book – Official Used Car Valuations***

18. In cases where the importer is unable to provide a value from a neutral source in the country of exportation, customs will use, as its primary reference, the retail sales value listed in the *Canadian Automobile Red Book – Official Used Car Valuations*. An amount for Canadian **duties and taxes**, using the duty and tax rates applicable at the time of importation of the goods being appraised, will be **deducted** from the published listed value, in a flexible application under section 53, of the deductive value method of section 51.

For example, a vehicle of European origin is listed in the *Canadian Automobile Red Book* at a value of \$10,000 at the time of importation of the vehicle being valued. The goods and services tax is 7% and the rate of duty applicable on that date is 6.1% (MFN rate). The value for duty, disregarding any options or adjustments for condition, would be calculated as follows:

<i>Canadian Automobile Red Book</i> value	\$10,000.00
Duty paid value, before goods and services tax (10,000 ÷ 1.07)	\$ 9,345.79
Value for duty, before application of MFN rate (9,345.79 ÷ 1.061)	\$ 8,808.47

**Note:** The rates of duty and goods and services tax are those applicable at the time of publication. Prospective importers should contact their local customs office to ascertain the current status regarding prohibitions and duty and tax rates.

19. A downward adjustment to the retail sales value published in neutral sources for condition is possible provided that the importer can demonstrate that the vehicle is in poorer than average condition. In such cases, the importer should ensure that a notation is placed on the customs documentation at the time of importation to the effect that “the vehicle is in poorer than average condition” and a brief description of the deficiencies should be noted. In calculating a downward adjustment, customs is prepared to consider any relevant information such as actual or estimated costs from a third party for returning the vehicle to average condition after importation. In the case of estimated costs, customs may require cost estimates

from more than one party. To the extent that the cost estimate is reasonable, the amount may be deducted from the book value. It should be noted that only repairs required to put the vehicle in average condition will be considered. No downward adjustment will be made for repairs or improvements over and above this. For example, the repairs that are necessary in order for the vehicle to pass provincial safety inspection standards will be considered as putting the vehicle in average condition.

## Depreciation

20. There will be situations where book values do not address particular and unique circumstances. The one most frequently encountered by customs is the situation of Canadian residents who purchase a “new” vehicle for their own use while they are residing outside the country and use it in a normal manner from the time of purchase up to the time of their return to Canada, which is within one year of the date of purchase. The difficulty presented in these circumstances is that neutral sources, such as the *Canadian Automobile Red Book*, normally do not have values for automobiles in the first year of production since an insufficient number of sales have occurred on which to base any values. Therefore, for new vehicles imported between 30 days and one year after purchase, an alternate procedure is required (see paragraph 4 for valuation of vehicles up to 30 days).

21. For vehicles purchased new and imported after 30 days from the date of delivery to the purchaser but before one year from the time of purchase has elapsed, a depreciation allowance has been devised. No depreciation allowance is deductible from vehicles which were purchased “used” by the importer, as customs will use normal market value information from neutral sources or the *Canadian Automobile Red Book*.

22. The CCRA has established that on average a new vehicle depreciates less than 20% in its first year. Accordingly, depreciation will be allowed from the original purchase price at the rate of 1/335 of 20% (or 0.0597%) for each day beyond 30 days from the date of delivery that the vehicle is outside Canada, up to a maximum of 20%. For example, a Canadian residing abroad purchases a new vehicle which is delivered on January 1, 2000. The purchase price of the vehicle is \$30,000. On returning to Canada on June 20, the returning Canadian resident notifies the CCRA that his or her vehicle will be arriving in Canada on July 15, 2000. Using the depreciation method described in this paragraph, the following calculations are made to arrive at a value for customs purposes:

Number of “allowable” days of depreciation, Jan. 1 to July 15:	
195 less 30 =	165
Price of new vehicle	\$30,000
Depreciation allowance:	
$\$30,000 \times 165 \times 0.0597\% =$	\$2,955
Value for duty	\$27,045

23. There may be situations in which a Canadian resident purchases a new automobile outside Canada for his or her own use and does not import it into Canada within one year. Normally, upon importation, the Canadian resident would use a “neutral source,” such as the *Canadian Automobile Red Book*, to value the vehicle since the time period allowed for the depreciation allowance (one year) has passed. As stated earlier, in certain cases, this may lead to an anomalous situation where the Canadian resident imports a vehicle shortly after one year and, by applying “neutral sources,” arrives at a value which is higher than would have been obtained using the purchase price less 20% depreciation. This may be attributable to a lack of sales data for that vehicle in the “neutral sources” after only one year on the market. In order to correct this anomaly, we will accept the purchase price less 20% for that period of time when it is lower than the value from “neutral sources” as the value for duty.

## Trade-Ins

24. In determining the value for customs purposes of new or used vehicles or boats, an importer may claim that a “trade-in” or exchange has lowered the price of the vehicle or boat to the importer’s cash outlay for it. In reality, a “trade-in” or exchange represents a condition or consideration in respect of which a value of the goods cannot be determined (paragraph 48(1)(c)). A value attributed to the “trade-in” or exchange is simply a notional value ascribed to it by the vendor and may be more or less than what is claimed. As an example, a car dealership may “offer” \$1,000 for any used car in any condition. In actual fact, the “offer” may be an enticement to attract potential car buyers and the vendor is merely disposing of all trade-ins as scrap. Since a value cannot be determined for “trade-ins” or exchanges, the transaction value cannot be used, and we would apply the guidelines outlined in paragraphs 6 to 11. Most often section 53, the residual method in a flexible application of section 49 or 50, will apply, and recourse to “neutral sources” will be employed as outlined in paragraphs 9 to 11.

For example:

Gross price of vehicle or boat (as obtained from the dealer’s invoice or neutral source)	\$10,000
Trade-in allowance	3,000
Total cash paid	7,000

The value of the vehicle or boat, for customs purposes, will normally be \$10,000.

## Documentation

25. In cases where a sale for export has occurred, as outlined in paragraphs 3 and 4, or the sale price is used as the basis of determining the customs value after allowing for depreciation therefrom, in accordance with paragraphs 22 and 23, the CCRA will require documentation substantiating the purchase price. Regardless of whether the vehicle or boat has been purchased from a commercial source or from a private individual, we will require, at a minimum, either a commercial invoice or a bill of sale. The CCRA may also request additional documentation to substantiate the bill of sale or invoice, such as proof of payment, cancelled cheques, or the like.

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## REFERENCES

### ISSUING OFFICE –

Origin and Valuation Policy Division  
Trade Policy and Interpretation Directorate

### LEGISLATIVE REFERENCES –

*Customs Act*, sections 48 to 53

### HEADQUARTERS FILE –

7365-1, 7365-2, 7445-1, 7445-2, 7445-3, 7445-4, 7445-5, 7445-6

### SUPERSEDED MEMORANDA “D” –

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### OTHER REFERENCES –

D2-2-1, D2-3-2, D9-1-11, D13-1-3, D13-3-2, D13-4-1, D13-4-2, D13-4-3, D13-4-4, D13-5-1,  
D13-7-1, D13-7-3, D13-9-1, D13-10-2, D19-12-1

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