

MEMORANDUM D8-2-21

Ottawa, January 28, 1994

SUBJECT

AIRCRAFT (INTERNATIONAL SERVICE)
REMISSION ORDER

This Memorandum outlines and explains the conditions under which a partial remission may be granted on parts, equipment and other items for use by Canadian air carriers providing international commercial service.

Remission Order

ORDER RESPECTING THE PARTIAL REMISSION
OF CUSTOMS DUTIES, SALES AND EXCISE TAXES
PAID ON PARTS, EQUIPMENT
AND OTHER ITEMS FOR USE BY
CANADIAN AIR CARRIERS
PROVIDING INTERNATIONAL COMMERCIAL AIR SERVICE

Short Title

1. This Order may be cited as the Aircraft (International Service) Remission Order.

Interpretation

2. In this Order, "aircraft parts and equipment" means aircraft parts, engine parts or equipment for incorporation into an aircraft or aircraft engine, and includes safety equipment for use aboard an aircraft; (pièces et matériel d'aéronef)

"available ton miles" means the revenue miles flown by an aircraft multiplied by the payload capacity in tons of that aircraft; (tonnes-milles disponibles)

"commissary and passenger convenience item" means an item for use aboard an aircraft

- (a) in the preparation and serving of food and drink, or
- (b) for the comfort or convenience of passengers; (vivres et objets pour le confort des passagers)

"eligible carrier" means a commercial air carrier incorporated under the laws of Commission to provide international air service to the public; (transporteur admissible)

"fleet" means all qualifying aircraft owned or leased by an eligible carrier and to provide commercial air service; (matériel volant)

"international flight" means any flight other than a flight originating and terminating in Canada

"international usage percentage" means the percentage that the available ton mile during a year is of the total available ton miles flown by the fleet during that year; (pourcentage d'utilisation internationale)

"materials" means materials for incorporation into an aircraft or aircraft engine; (matières)

"payload capacity" with respect to a flight, means the maximum take-off weight on Transport, of an aircraft, less

- (a) the actual weight of the aircraft, and
- (b) the weight of the fuel on board the aircraft at the commencement of the flight; (capacité de la charge payante)

"qualifying aircraft" means a fixed wing aircraft having a maximum take-off weight on wheels, as prescribed by the Department of Transport, that is greater than 75,000 pounds; (aéronef admissible)

"revenue miles" means miles flown by an aircraft in respect of which consideration is given for cargo by the carrier operating the aircraft; (milles payants)

"year" means a calendar year. (année)

Remission

3. Remission is hereby granted to an eligible carrier of a portion, determined in accordance with section 5, of the customs duties paid or payable under the Customs Tariff in respect of aircraft parts and equipment that, on or after January 1, 1975, are

- (a) purchased in Canada by the carrier, or
- (b) imported into Canada by the carrier for use in qualifying aircraft used to provide commercial air service.

4. Remission is hereby granted to an eligible carrier of a portion, determined in accordance with section 5, of the customs duties, sales tax and excise tax paid or payable under the Customs Tariff and the Excise Tax Act in respect of materials and

commissary and passenger convenience items that, on or after January 1, 1975, are

- (a) purchased in Canada by the carrier, or
- (b) imported into Canada by the carrier for use in qualifying aircraft used to provide commercial air service.

5. The portion of the duties and taxes referred to in section 3 or 4 is that percentage of the duties and taxes equal to the international usage percentage of the fleet of the eligible carrier during the year in which the carrier purchased the goods or imports the goods into Canada.

Conditions

6. Remission is granted pursuant to section 3 or 4 on condition that

- (a) an application is made by the eligible carrier, in a form satisfactory to the Deputy Minister of National Revenue for Customs and Excise, not later than four years after the end of the year in which the carrier purchased the goods or imported the goods into Canada; and
- (b) the application required pursuant to paragraph (a) contains a declaration whereby the eligible carrier certifies that the goods for which remission is being claimed were
 - (i) purchased in Canada by the carrier, or
 - (ii) imported into Canada by the carrier for use in qualifying aircraft used to provide commercial air service.

EFFECTS OF THE GOODS AND SERVICES TAX LEGISLATION

1. Bill C-62, the legislation on the Goods and Services Tax (GST), as passed by the House of Commons, April 10, 1990, amends section 2 of the Excise Tax Act to exclude GST from any regulation or order made prior to 1991, unless the regulation or order specifically provides for the inclusion of GST.

2. The effect of this amendment is that, on or after January 1, 1991, relief of the GST will not be provided for under this Order.

3. Under Regulations made pursuant to subsection 215(2) of the Excise Tax Act, the amount on which the GST is to be paid, where

there has been a remission of customs duties, will be determined as if the duty paid value of the goods was the value for duty of those goods, i.e., GST will not be payable on the duty remitted.

GUIDELINES AND GENERAL INFORMATION

4. This Order remits a portion of the customs duties paid or payable on aircraft parts and equipment that are used in qualifying aircraft participating in international service.

5. The Order also remits a portion of the customs duties and excise taxes paid or payable on materials, commissary and passenger convenience items, as defined in the Order, that are used in qualifying aircraft participating in international flights. A portion of the sales tax may also be remitted for such goods purchased or imported into Canada prior to 1991.

6. Any company wishing to use a conditional or performance based remission Order is to contact the Drawbacks Unit of the regional Customs Assessment Division (CAD) for assistance. Details regarding reporting requirements, documentation, claim, and audit procedures may be found in Memorandum D8-6-1, Instructions Pertaining to Conditional Remission Orders Subject to Post Audit.

7. When a company wishes to utilize this remission Order, it is incumbent upon that importer, prior to the importation of any goods, to satisfy Customs that it will meet the conditions and requirements set forth in the Order in Council, and that its record keeping is sufficient to establish such compliance. A form K 90R, Application for Remission in Accordance with Order in Council, as well as a detailed proposal of how imported goods will be controlled, must be supplied to Customs prior to using any such Order.

8. An application for remission under this Order must be accompanied by a copy of the Excise Auditor's letter confirming the international usage percentage.

9. An application for remission may be made not later than four years after the end of the year in which the carrier purchased the goods or imported the goods into Canada.

10. Normally, remission may be claimed, at the time the goods are accounted for, by quoting the authorization number in the "Special Authority" field (field 24) of form B 3, Canada Customs Coding Form.

11. If duties have been previously paid and an importer is authorized to utilize the Orders, remission of the duties, other than the GST, may be claimed on form K 32 or K 32-1, Drawback

Claim.

12. Claims of taxes under this Order with respect to domestic goods must be made on form N 15E, Application for Refund/Deduction of Federal Sales and/or Excise Taxes, and must be filed with the local Excise Tax Office.

Failure to Comply with a Condition of Relief

13. In accordance with section 92 of the Customs Act, failure to comply with a condition of relief must be reported to Customs within 90 days and the goods accounted for, and any amount of duties owing must be paid.

Interest

14. In addition to the duties liable under section 92 of the Customs Act, section 93 provides for the payment of interest at the specified rate on any outstanding amount for the period beginning on the first day after the amount became payable and ending on the day the amount has been paid in full. Interest shall not be payable on any amount owing that is paid within the first 90 days after the day the amount became payable.

Penalty

15. In accordance with subsection 93(3) of the Customs Act, every person who fails to comply with paragraph 92(a) is liable to pay, from the 91st day after the time of the failure to comply with a condition of relief until the report is made, a penalty of 6% per year on any unpaid amount.

16. More information on interest and penalty provisions may be found in Memorandum D11-6-5, Interest and Penalty Provisions: Determinations/Re-determinations, Appraisals/Re-appraisals, and Duty Relief.

REFERENCES

ISSUING OFFICE

Tariff Programs
Duties Relief Programs Drawback/Refund Policy Unit

LEGISLATIVE REFERENCES

Financial Administration Act, section 17
Order in Council P.C. 1978-3762, December 14, 1978, SI/79-2,
as amended by SI/88-18

HEADQUARTERS FILE

6551-2

SUPERSEDED MEMORANDA "D"

D8-2-21, January 1, 1988

OTHER REFERENCES

N/A