Memorandum D11-6-6 - Reason to believe and corrections to the declaration of origin, tariff classification or value for duty

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This memorandum outlines and explains the Canada Border Services Agency's (CBSA) policy and guidelines with respect to reason to believe, the legislative framework and administrative guidelines for the adjustment process to make a correction to an incorrect declaration of origin, tariff classification (including diversions of goods) or value for duty. The correction provisions, policies, and guidelines contained in this memorandum apply to all commercial importations that are accounted for under subsections 32(1), (3), or (5) of the *Customs Act* (the Act).

On this page

Updates made to this D-memo

This memorandum has been amended to:

- add the directed compliance letter and the final compliance validation letter as written communications containing specific information that gives reason to believe that a declaration is incorrect;

- clarify to which goods and issues the specific information also apply to;

- clarify that importers have, in cases of diversion of goods, to treat a failure to comply with a condition as an incorrect tariff classification declaration in accordance with subsection 32.2(6) of the *Customs Act*;

- refer to Memorandum D6-2-3, Refund of Duties, for information on refund of duties;

- clarify the specific information that gives reason to believe for corrections related to transfer price adjustments;

- clarify that the obligation to make a correction remains even if the prescribed 90-day period to make a correction to an incorrect declaration has expired;

- enable importers to submit subsequent corrections under section 32.2 of the *Customs Act*;

- amend the corrections flow chart;

- revise some of the examples in the Appendix; and

- revise terminology to align with the *Customs Act* and relevant regulations..]

Guidelines

Reason to believe

1. With respect to section 32.2 of the Act, specific information regarding the origin, tariff classification or value for duty of the imported goods that gives an importer reason to believe that a declaration is incorrect, can be found in:

(a) legislative provisions such as specific origin, tariff classification, or value for duty provisions that are *prima facie* (i.e., at first sight), evident (i.e., obvious, apparent), and transparent (i.e., clear, self-explanatory). For detailed examples of *prima facie*, evident, and transparent legislative provisions, refer to the Appendix;

(b) formal assessment documents (e.g., detailed adjustment statements) issued by the CBSA to the importer, relating to the imported goods, such as determinations (other than deemed determinations), re-determinations, further re-determinations, etc.;

(c) final tribunal or court decisions in which the importer was either the appellant, respondent or intervenor;

(d) information received from exporters, suppliers, etc. (e.g., cancellation of certificates of origin; vendor's invoice indicating retroactive price increase for goods already purchased, corrected invoice);

(e) written communication, addressed directly to the importer from the CBSA, such as a ruling (e.g., national customs ruling, advance ruling issued under section 43.1 of the Act), a trade compliance verification final report, a directed compliance letter, a final compliance validation letter or an official notification as a result of an exporter origin verification;

(f) a final report from an importer-initiated audit or review, or from an external company conducting an audit or review of an importer's company; or

(g) knowledge that the goods were diverted (i.e., goods that no longer qualify or comply with a condition of relief or a restriction imposed by the concessionary tariff item declared) such as the diversion of goods to a non-qualified conditional-use or conditional-user.

2. Specific information regarding the origin, tariff classification or value for duty of the imported goods mentioned in paragraph 1 above, also applies to the:

(a) same origin issues (e.g., a determination that specific goods do not qualify for preferential treatment);

(b) tariff classification of goods that are same and similar (e.g., the correct tariff classification of specific goods contained in a written communication also applies to the tariff classification of other imported goods, if those goods meet the definition of same and similar goods);

(c) same valuation issues (e.g., "an assist" – an adjustment made to the price paid or payable of the imported goods representing the value of a good or service provided, directly or indirectly, by the purchaser of the goods free of charge or at a reduced cost for use in connection with the production and sale for export of the imported goods).

3. For the purpose of this memorandum, the term:

(a) "same and similar goods" means: Identical and other models/styles of goods that have the same purpose/function as the goods being subject of the specific information that gives reason to believe, that differ in a manner (e.g., size, colour, capacity, etc.), but that are classified under the same tariff item number at the 8-digit level; and

(b) same issues refers to the same trade program requirements or considerations relating to the legislative provisions.

4. A final report resulting from an importer-initiated audit or review may be considered to contain specific information that gives an importer reason to believe that the declaration is incorrect, provided that:

(a) there was no previous information available that would be considered reason to believe that a declaration was incorrect;

(b) the CBSA had not already initiated a trade compliance verification; and

(c) the report identifies only corrections under section 32.2 of the Act, i.e., an adjustment request that would result in an amount payable to the CBSA or would be revenue neutral.

5. An importer-initiated audit or review report may not be considered to be sufficient to preclude an importer from the obligation to make a correction to the declaration up to four years after the goods are accounted for under subsection 32(1), (3) or (5), as provided for in subsection 32.2(4) of the Act. A CBSA trade compliance verification may determine that the audit or review report, as described in paragraph 1(f) of this memorandum, is incorrect. In this case, the results of the CBSA trade compliance verification final report will take precedence over the importer-initiated audit or review report. Where corrections are required, the reassessment period will be based on the results in the CBSA trade compliance verification final report as to whether or not there was specific information available, prior to the date of the final report of the importer-initiated audit or review, that gave the importer reason to believe that the declarations were incorrect. For more information, refer to Memorandum D11-6-10, Reassessment Policy.

6. The obligation to make a correction to the incorrect declaration is initiated when the importer has reason to believe that a declaration of origin, tariff classification or value for duty is incorrect. The prescribed 90-day period to make a correction pursuant to section 32.2 of the Act starts on the date that the importer has specific information that a declaration is incorrect. For example, the date a supplementary invoice was received from a vendor indicating a price increase for imported goods already declared or the date of accounting where assists were provided prior to the production of the imported goods.

7. If an importer receives conflicting information from the CBSA concerning the origin, tariff classification or value for duty of the goods, the importer is strongly encouraged to contact one of the CBSA Trade Operations Divisions' offices from which the conflicting information was received or the CBSA Border Information Service (BIS), found respectively under the "Additional information" and "References" sections of this memorandum. The officer will identify which of the conflicting information the importer has to follow for the purposes of corrections under section 32.2 of the Act and will provide guidance to the importer in writing. Then, the officer will take measures to amend the incorrect information that was previously communicated to the importer.

8. Importers of goods into Canada, and exporters or producers of those goods outside of Canada, are encouraged to apply for a ruling from the CBSA. The procedures for obtaining a ruling are outlined in Memorandum D11-4-16, Advance rulings for origin under Free Trade Agreements; Memorandum D11-11-1, National Customs Rulings (NCR); and Memorandum D11-11-3, Advance Rulings for Tariff Classification.

9. Rulings or decisions made by the CBSA under sections 58, 59, 60, or 61 of the Act will be honoured by the CBSA until they are modified (and thereby superseded) or revoked.

Adjustment requests

10. An adjustment request is the process through which an importer makes a correction to the declaration under section 32.2 of the Act or applies for a refund of duties under section 74 of the Act.

Adjustment requests that would result in an amount payable to the CBSA or would be revenue neutral – Section 32.2 Corrections

11. Section 32.2 of the Act places the responsibility on the importer to make a correction to the declaration of origin, tariff classification or value for duty when the importer has reason to believe that the declaration is incorrect. This obligation applies to an adjustment request that would result in either an amount payable to the CBSA or would be revenue neutral.

12. Corrections are to be made as adjustment requests under the following legislative authorities:

32.2(1) – correction to the declaration of origin for which a preferential tariff treatment under a free trade agreement has been claimed;

32.2(2) – correction to all other declarations of origin (other than a declaration of origin referred to in subsection (1)); corrections to the tariff classification or to the value for duty of the imported goods.

13. Subsection 32.2(6) of the Act obligates importers, in cases of diversions of goods, to treat a failure to comply with a condition imposed under a tariff item or under any regulations made under that Act in respect of a tariff item in that List, as an incorrect tariff classification declaration. Diversion occurs when the conditions for which an imported good was granted relief of duty are no longer met. For more information on diversions, refer to Memorandum D11-8-5, Conditional Relief Tariff Items.

14. The *Prescribed Classes of Persons in Respect of Diversion of Imported Goods Regulations* require the persons who purchase or otherwise acquire the imported goods, and the persons who sell or otherwise dispose of the imported goods, after the goods are accounted for under subsections 32(1), (3), or (5) of the Act, to make a correction to the declaration. These regulations can be found at the link provided under the “Legislative References” section at the end of this memorandum.

15. Any amount owing as a result of the correction to the declaration and any interest owing, or that may become owing, on that amount has to be paid, as per paragraph 32.2(2)(b) of the Act. Such corrections will be reviewed by an officer and a decision of the amount payable will be sent to the importer of the goods on a Form B2-1, Canada Customs - Detailed Adjustment Statement.

16. When a correction made to the declaration of the tariff classification of goods under section 32.2 of the Act results in a higher rate of duty than originally accounted for, a correction to the declaration of origin of the goods may be made at the same time if it would result in an amount payable to the CBSA or would be revenue neutral.

17. When a correction to the declaration of origin, tariff classification or value for duty results in an amount payable to the CBSA, interest will be calculated according to the interest provisions relating to re-determinations and further re-determinations. For more information, refer to Memorandum D11-6-5, Interest and Penalty Provisions: Determinations/Re-determinations, Appraisals/Re-appraisals, and Duty Relief.

Goods and services tax (GST) at issue

18. Section 212 of the *Excise Tax Act* states that the liability to pay duty on imported goods at the time of importation includes a liability to pay the GST on goods that were subject to duty or would have been subject to duty if duties were payable. This means that duty-free goods may be subject to the GST.

19. According to subsections 216(2) and 216(3) of the *Excise Tax Act*, any change to the GST status of imported goods is treated as if it was a determination, re-determination, or further redetermination of the tariff classification, or an appraisal, re-appraisal, or further re-appraisal of the value for duty of the goods. As a result, corrections affecting only the GST status of the goods (e.g., the incorrect use of a GST status code) shall be made under section 32.2 of the Act when the adjustment request would result in an amount payable to the CBSA or would be revenue neutral. Furthermore, any GST amount payable is subject to interest and penalty provisions contained in the Act that pertain to duty amounts payable.

20. The definition of duties in subsection 2(1) of the Act specifically excludes GST refunds under section 74(1) of the Act. Therefore, the exclusion of subsection 32.2(5) of the Act does not apply in situations where the GST has been overpaid on duty-free goods. Where goods are duty-free but taxable, importers shall make a correction to the declaration pursuant to section 32.2 of the Act when they have reason to believe that the declaration is incorrect, even where the adjustment request would result in a decrease of the amount of the GST assessed.

Example: An importer imported duty-free and taxable (GST) goods and declared a value for duty of $3,000 CAD. Two months following the importation of the goods, the importer has reason to believe that the declared value for duty was overvalued because the goods were invoiced at the equivalent of $2,000 CAD. The importer is required to make a correction to the declaration of the value for duty under section 32.2 of the Act. The decrease in the GST assessment would not result in a refund under the Act.

Adjustment requests that would result in a refund of duties – Section 74 Refunds

21. Subsection 32.2(5) of the Act does not allow an adjustment request that would result in a refund of duties.

22. There is no legal obligation to make an application for a refund of duties under section 74 of the Act. Section 74 of the Act is the legislative authority under which a person who paid duties on imported goods may submit an adjustment request to an accounting declaration that would result in a refund of duties. For more information, refer to Memorandum D6-2-3, Refund of Duties.

23. Where an adjustment request would result in a decrease of the amount of GST assessed, refer to paragraph 20 of this memorandum.

Corrections - Time frame and goods/issues impacted

24. Under section 32.2 of the Act, an importer shall make a correction to the declaration within 90 days after the importer has reason to believe that the declaration is incorrect, and when the adjustment request would result in either an amount payable to the CBSA or would be revenue neutral.

25. For cases of transfer price adjustments only, an importer can make a correction within 90 days after a transfer price adjustment has been made (e.g. quarterly) or wait until the net total of the transfer price

adjustments occurring in a fiscal period is identified. As noted in paragraph above, the obligation to make a correction under section 32.2 of the Act applies to an adjustment request that would result in either an amount payable to the CBSA or would be revenue neutral. For more information, refer to Memorandum D13-4-5, Transaction value method for related persons.

26. An importer must make corrections for same and similar goods and/or goods impacted by the same issues, as defined in paragraph 3 above, within the prescribed 90-day period under section 32.2 of the Act.

27. As per subsection 32.2(4) of the Act, the obligation to make a correction ends four years after the goods are accounted for under subsection 32(1), (3), or (5) of the Act.

28. The obligation under section 32.2 of the Act to make a correction to a declaration remains even if the prescribed 90-day period to make a correction to a declaration has expired. In such cases, the importer may be subject to interest and penalty provisions. For more information, refer to the "Penalty and interest provisions" section of this memorandum.

Reassessment period

29. The reassessment period is the time period for which corrections are to be made to declarations of origin, tariff classification or value for duty. For more information, refer to Memorandum D11-6-10, Reassessment Policy.

Filing corrections

30. A correction filed under section 32.2 of the Act within the prescribed 90-day period can be made on a properly completed form B2 pursuant to the relevant legislative authority (e.g., subsection 32.2(1), subsection 32.2(2), subsection 32.2(6)). For more information on the coding and completion of the form B2, refer to Memorandum D17-2-1, The Coding, Submission and Processing of Form B2 Canada Customs Adjustment Request. For more information on how to file an adjustment request under the Customs Self-Assessment (CSA) program, refer to Memorandum D23-3-1, Customs Self-Assessment Program for Importers.

31. Corrections made beyond the prescribed 90-day period may be eligible for the Voluntary Disclosure Program, which would benefit from relief of penalties. For more information, refer to the "Voluntary Disclosures Program" section of this memorandum. Non-eligible corrections may otherwise be submitted to the appropriate CBSA Trade Office, and may be subject to interest and penalty. Please refer to the "References" section of this memorandum for a link to the addresses of the CBSA Trade Offices.

32. The form B2 is submitted to a CBSA office based on the location of the release. For more information, refer to Memorandum D17-2-1, The Coding, Submission and Processing of Form B2 Canada Customs Adjustment Request.

33. The date that a form B2 is sent by registered mail or by courier, or the date that it is delivered by hand to a CBSA office, is deemed to be the date of filing for the purposes of the prescribed periods under section 32.2 of the Act.

34. When the last day of the prescribed 90-day period referred to in this memorandum falls on a Saturday, Sunday or holiday, the final day for filing a form B2 will be the first business day following the 90th day.

Subsequent corrections

35. After a correction has been made, for particular goods and for a specific trade program (origin, tariff classification or valuation), an importer might find that a subsequent correction is necessary. Such subsequent corrections must be made under section 32.2 of the Act, within the prescribed 90-day period and within four years of the date the goods were accounted for under subsection 32(1), (3), or (5) of the Act. Those subsequent corrections will be treated as if they were a re-determination under paragraph 59(1)(a) of the Act.

> Example: An importer notices that an error was made as the prices invoiced for the goods are in fact higher than the amounts declared to the CBSA. The importer is also aware that year-end transfer price adjustments will be made in respect of the same goods. In this case, the importer must make the correction to the declaration within 90 days following the initial date of reason to believe (invoiced prices higher than declared) under section 32.2 of the Act, and will have to make a subsequent correction related to the new information (year-end transfer price adjustment) within 90 days following the date this information became available as per section 32.2 of the Act.

36. No subsequent correction is permitted when a further re-determination is made by an officer under paragraph 59(1)(b), section 60 or section 61 of the Act respectively.

Re-determination or further re-determination

37. A correction made under section 32.2 of the Act is to be treated as if it were a re-determination made under paragraph 59(1)(a) of the Act.

38. After a correction is made under section 32.2 of the Act, an officer can further re-determine the origin, tariff classification or value for duty of the goods under paragraph 59(1)(b) of the Act, within four years after the date of the original determination or after the making of a correction under section 32.2 that is treated by subsection 32.2(3) as a re-determination under paragraph 59(1)(a).

39. As provided for in section 2 of the *Determination, Re-determination and Further Re-determination of Origin, Tariff Classification, and Value for Duty Regulations*, the time period within which an officer may further re-determine the origin, tariff classification or value for duty under paragraph 59(1)(b) of the Act is five years from the date of the determination under section 58 of the Act, where the granting of the refund or the making of a correction referred to in paragraph 59(1)(b) of the Act occurs within the period of time beginning on the first day of the 37th month and ending on the last day of the 48th month after the date on which the determination was made under section 58.

40. After a re-determination or a further re-determination is made under paragraph 59(1) of the Act, an importer will be given a notice of re-determination or further re-determination under subsection 59(2) of the Act.

Contesting a decision

41. When a notice has been given under subsection 59(2) of the Act, an importer may file a request for a re-determination or further re-determination under subsection 60(1) of the Act within 90 days of the CBSA's decision. For more information, refer to Memorandum D11-6-7, Request under Section 60 of the Customs Act for a Re-determination, a further Re-determination or a Review by the President of the Canada Border Services Agency.

42. If no request for a further re-determination is filed under subsection 60(1) of the Act within the 90-day period, an importer may make an application to the President of the CBSA for an extension of the time within which the request must be made pursuant to section 60.1 of the Act. The President may extend the time for filing the request. For more information, refer to Memorandum D11-6-9, Applications to the President for an Extension of Time to File a Request under Section 60 of the *Customs Act*.

Penalty and interest provisions

43. An importer who has reason to believe that the declaration is incorrect, and who does not make a correction within the prescribed 90-day period under section 32.2 of the Act, may be subject to interest and penalty provisions. For more information on interest, refer to Memorandum D11-6-5, Interest and Penalty Provisions: Determinations/Re-determinations, Appraisals/Re-appraisals, and Duty Relief. For more information on penalties, refer to Memorandum D22-1-1, Administrative Monetary Penalty System.
Voluntary disclosure program

44. The Voluntary Disclosure Program promotes compliance with the accounting and payment provisions of the *Customs Act*, *Customs Tariff*, *Excise Tax Act* and *Excise Act, 2001* by encouraging importers to come forward and correct deficiencies in order to comply with their legal obligations.

45. Where the prescribed 90-day period (90 days from the day the importer has reason to believe) under section 32.2 of the Act has expired, an importer who has not made the required correction to the declaration of origin, tariff classification or value for duty, may request corrective measures under the Voluntary Disclosure Program. For more information, refer to Memorandum D11-6-4, Relief of Interest and/or Penalties Including Voluntary Disclosure.

Additional information

46. For more information, contact the CBSA Border Information Service (BIS):

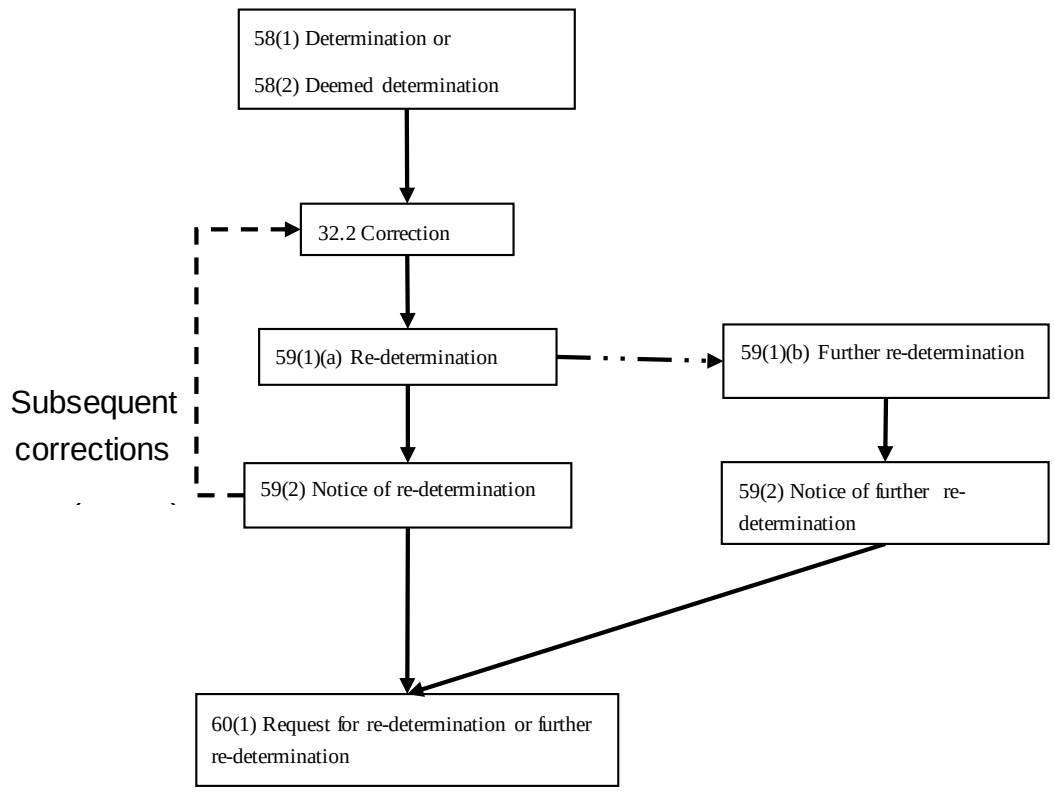
Calls within Canada & the United States (toll free): **1-800-461-9999**
Calls outside Canada & the United States (long distance charges apply):
1-204-983-3500 or 1-506-636-5064
TTY: **1-866-335-3237**

Contact Us online (web form)

Contact Us on the CBSA website

Corrections flow chart

Figure 1



Text version

Start of the Correction flow

Go to 58(1) Determination or 58(2) Deemed determination

Go to 32.2 Correction

Go to 59(1a) Re-determination

If there is a correction to be made by the officer for 59(1a) Go to 59(1b)

Both 59(1a) or 59(1b) will bring you to 59(2)

Then proceed to 60(1) Request for re-determination or further re-determination

If there is a Subsequent correction return to 32.2 Correction and follow the same instructions.

Appendix

Prima Facie, evident, and transparent legislative provisions

1. The following paragraphs provide examples of when importers may have reason to believe that a declaration of origin, tariff classification, or value for duty is incorrect on the basis of *prima facie*, evident, and transparent legislative provisions.

2. The circumstances surrounding the declaration may be considered in determining whether a legislative provision for an importation was *prima facie*, evident, and transparent.

3. The examples of *prima facie*, evident, and transparent legislative provisions listed herein are not exhaustive.

4. Examples of *prima facie*, evident, and transparent legislative origin provisions:

A. Subsection 35.1 (1) of the Act reads as follows:

(1) “Subject to any regulations made under subsection (4), proof of origin, in the prescribed form containing the prescribed information and containing or accompanied by the information, statements or proof required by any regulations made under subsection (4), shall be furnished in respect of all goods that are imported.”

B. Paragraph 13(a) of the Proof of Origin of Imported Goods Regulations reads as follows:

13. “Proof of origin of goods accounted for under section 32 of the Act on or after January 1, 1998, shall be furnished at the following times:

(a) at any time the goods are accounted for under subsection 32(1), (3) or (5) of the Act;”

Therefore, an importer will have reason to believe that a declaration of origin is incorrect if the importer is unable to provide proof of origin to an officer for the imported goods or, if at the time of accounting, the proof of origin does not apply to the goods being imported.

5. The following are examples of *prima facie*, evident, and transparent legislative tariff classification provisions as listed in the Schedule to the *Customs Tariff*:

A. Classification of live fish:

Legal Note 1 to Chapter 1 reads as follows:

“This Chapter covers all live animals except:

(a) Fish and crustaceans, mollusks and other aquatic invertebrates, of heading 03.01, 03.06 or 03.07;”

If an importer classifies live fish in Chapter 1 of the *Customs Tariff*, the importer has reason to believe that the declaration is incorrect. The *Customs Tariff* Legal Note 1 to Chapter 1 clearly directs that live fish cannot be classified in Chapter 1.

B. Classification of printing ink:

Heading 32.15: Printing ink, writing or drawing ink and other inks, whether or not concentrated or solid.

- Printing ink:

3215.11.00 00 -- Black

3215.19.00 -- Other

10 -----For newspapers

20 -----Flexographic

30 -----Lithographic, offset

90 -----Other

If an importer classifies black printing ink under tariff item 3215.19.00, the importer has reason to believe that the declaration is incorrect.

The tariff item clearly directs that black printing ink must be classified under tariff item 3215.11.00.

C. Classification of new pneumatic tires:

Heading 40.11: New pneumatic tires, of rubber

4011.10.00 00 - Of a kind used on motor cars (including station wagons and racing cars)

4011.20.00 - Of a kind used on buses or lorries

-----On-highway tires:

11 ------Of a kind used on light trucks, of radial ply construction

12 ------Of a kind used on light trucks, other

13 ------Other, of radial ply construction

19 ------Other

20 -----Off-highway tires

4011.30.00 00 - Of a kind used on aircraft

4011.40.00 00 - Of a kind used on motorcycles

4011.50.00 00 - Of a kind used on bicycles

If an importer classifies used pneumatic tires of rubber under heading 40.11, the importer has reason to believe that the declaration is incorrect. The tariff heading clearly directs that only “new pneumatic tires, of rubber” can be classified under heading 40.11.

Similarly, if an importer classifies new pneumatic tires of rubber, of a kind used on aircraft, under sub-heading 4011.40, the importer has reason to believe that the declaration is incorrect. The sub-heading clearly directs that only “of a kind used on motorcycles” can be classified under sub-heading 4011.40.

6. The following are examples of *prima facie*, evident, and transparent value for duty legislative provisions:

A. Determination of value for duty:

Section 46 of the Act reads as follows: “The value for duty of imported goods shall be determined in accordance with sections 47 to 55.”

This legislative provision is *prima facie*, evident, and transparent in stating that the legislated valuation methods are the only acceptable basis for establishing the value for duty of imported goods. Alternative approaches to valuation methodologies which are not set out in section 48 to 53, such as identifying the “fair market value” of the goods, are not acceptable.

B. Order of consideration of methods of valuation

Subsection 47(1) of the Act (Primary Basis of Appraisal) reads as follows:

"The value for duty of goods shall be appraised on the basis of the transaction value of the goods in accordance with the conditions set out in section 48."

Subsection 47(2) of the Act (Subsidiary Bases of Appraisal) reads as follows:

"Where the value for duty of goods is not appraised in accordance with subsection (1), it shall be appraised on the basis of the first following values, considered in the order set out herein, that can be determined in respect of the goods and that can, under sections 49 to 52, be the basis on which the value for duty of the goods is appraised:

(a) the transaction value of identical goods that meets the requirements set out in section 49;

(b) the transaction value of similar goods that meets the requirements set out in section 50;

(c) the deductive value of the goods; and

(d) the computed value of the goods."

These legislative provisions are *prima facie*, evident, and transparent and, where goods cannot be appraised under the transaction value method, appraisal under a subsequent section would not be acceptable before the applicability of previous sections has been considered and rejected.

C. Subparagraph 48(5)(a)(iii) of the Act (“Assists”):

“The value of any of the following goods and services, determined in the manner prescribed, that are supplied, directly or indirectly, by the purchaser of the goods free of charge or at a reduced cost for use in connection with the production and sale for export of the imported goods, apportioned to the imported goods in a reasonable manner and in accordance with generally accepted accounting principles:

(A) materials, components, parts and other goods incorporated in the imported goods,”

If, for example, fabrics are provided free of charge by the purchaser to the vendor in connection with the production and sale for export to Canada of finished textile products, the value of the fabrics must be added to the price paid or payable of the imported goods. The legislative provision is prima facie, evident, and transparent; the value of the fabrics shall be added to the price paid or payable as materials incorporated into the imported goods.

D. Subparagraph 48(5)(b)(i) of the Act (Deduction for Transportation Costs):

“(b) by deducting therefrom amounts, to the extent that each such amount is included in the price paid or payable for the goods, equal to

(i) the cost of transportation of, the loading, unloading and handling charges and other charges and expenses associated with the transportation of, and the cost of insurance relating to the transportation of, the goods from the place within the country of export from which the goods are shipped directly to Canada,”

If, for example, transportation costs are paid separately by the purchaser in Canada to the transport carrier and therefore, not charged by the vendor nor included in the price paid or payable of the imported goods, a deduction cannot be made. This legislative provision is *prima facie*, evident, and transparent, and a deduction for transportation costs cannot be made from the price paid or payable of the imported goods in such a situation.

References

Consult these resources for further information.

Applicable legislation

- *Customs Act*
- *Customs Tariff*
- *Determination, Re-determination and Further Re-determination of Origin, Tariff Classification, and Value for Duty Regulations*
- *Excise Act, 2001*
- *Excise Tax Act*
- *Prescribed Classes of Persons in Respect of Diversion of Imported Goods Regulations*
- *Proof of Origin of Imported Goods Regulations*

Superseded memoranda D

- D11-6-6, April 12, 2013

Issuing office

Trade Policy Division
Trade Programs and Anti-dumping Directorate
Commercial and Trade Branch

Contact us

Contact border information services

Related links

- D6-2-3
- D11-4-16
- D11-6-4
- D11-6-5
- D11-6-7
- D11-6-9
- D11-6-10
- D11-11-1
- D11-11-3
- D13-4-5
- D17-2-1
- D22-1-1
- D23-3-1
- B2 – Canada Customs – Adjustment Request
- Trade Operations (TRADE) | Directory of CBSA Offices and Services | Canada Border Services Agency (cbsa-asfc.gc.ca)