



Ottawa, May 13, 2009

CUSTOMS NOTICE 09-008

Goods Released Under the Courier LVS Program Which Have not Been Delivered to the Importer or Owner Thereof

1. The Canada Border Services Agency (CBSA) has been advised that subsection 7(4) of the *Accounting for Imported Goods and Payment of Duties Regulations* (Accounting Regulations) must be repealed. The intention of this provision was to avoid the need to account for imported goods that were released to a Courier Low Value Shipment (LVS) Program participant, but were **never delivered** to the importer/owner and were subsequently exported or destroyed under CBSA supervision.

Subsection 7(4). Goods which have been released in accordance with sections 7.1 to 7.3 and which have not been delivered to the importer or owner thereof shall be considered to have been released without any requirement of accounting under section 32 of the Act, on condition that the courier has presented evidence that the goods are no longer in Canada or were destroyed.

2. It is important to note that the above provision did not apply if the said goods were physically delivered to the importer/owner. In those cases, an accounting must be presented and the applicable duties and taxes remitted to the CBSA. The present customs notice does not change this process for those shipments that **have been physically delivered** to the importer/owner. An accounting and the remittance of the duties and taxes is still required.

3. The repeal of subsection 7(4) of the Accounting Regulations will necessitate procedural changes in the Courier LVS Program for shipments that have **not been delivered** to the importer/owner and where the regular accounting process has not yet been presented to the CBSA.

4. Imported goods that were released to a Courier LVS Program participant, but **have not been delivered** to the importer/owner and have been subsequently exported or destroyed under CBSA supervision, will now be required to be accounted for under section 32 of the Customs Act by the Courier LVS Program participant, or their agent if the participant is not a licensed customs broker. However, all duties and taxes that should have been levied on the said goods do not need to be assessed, conditional upon the Courier LVS Program participant conforming to the provisions contained in subsection 18(2) of the Act.

Section 18(1). For the purposes of this section, all goods reported under section 12 shall be deemed to have been imported.

(2) Subject to subsections (3) and 20(2.1), any person who reports goods under section 12, and any person for whom that person acts as agent or employee while so reporting, are jointly and severally or solitarily liable for all duties levied on the goods unless one or the other of them proves, within the time that may be prescribed, that the duties have been paid or that the goods

(a) were destroyed or lost prior to report or destroyed after report but prior to receipt in a place referred to in paragraph (c) or by a person referred to in paragraph (d);

(b) did not leave the place outside Canada from which they were to have been exported;

(c) have been received in a customs office, sufferance warehouse, bonded warehouse or duty free shop;

(d) have been received by a person who transports or causes to be transported within Canada goods in accordance with subsection 20(1);

(e) have been exported; or

(f) have been released.

5. The required accounting shall be presented to the CBSA through the consolidated B3 "F" type entry process of the Courier LVS Program, in accordance with Memorandum D17-1-10, *Coding of Customs Accounting Documents*, Appendix "J".

6. An "F" type entry is a consolidation of the individual accounting for numerous shipments that were released through the Courier LVS Program. These individual accountings are kept "off-entry" by the licensed customs broker; they are not presented to the CBSA. The "off-entry" individual accountings must be accounted in the prescribed manner, in the prescribed form, containing the prescribed information. The "F" type entry is presented to the CBSA as a single entity; the revenue owing is a consolidation of the revenue of the "off-entry" individual accountings. All "off-entry" individual accountings, including all related records, must be maintained for six years following the importation

of the goods and are subject to compliance verification by the CBSA. The completion of the required accounting is necessary no later than the 24th day of the month following the month in which the goods were released.

7. Tariff code 0016 has been designated to deal with the accounting for the Courier LVS Program's **non-delivered** shipments. When the said goods are included in a consolidated "F" type entry, two options for form completion will be available to the Courier LVS Program participants or their agent if the participant is not a licensed customs broker:

(a) **Option 1** – There will be no change to the consolidated "F" type entry that is presented by the participant or their agent. Tariff code 0016 **will not** appear in field no. 28 of the consolidated "F" type entry. However, Tariff code 0016 **shall be** included in the "off-entry" individual accounting(s) of the said goods. The individual "off-entry" accounting(s) shall be linked to the consolidated "F" type entry, and shall be available for any future audit purposes. Acceptable proof of export or destruction, as per subsection 18(2) of the Act, shall form part of the individual "off-entry" accounting and shall be available for any future audit purposes. The normal duties and taxes that should have been levied for the said goods may not be assessed, conditional upon the Courier LVS Program participant conforming to the provisions contained in subsection 18(2) of the Act.

(b) **Option 2** – The participant or their agent will be required to add an additional line to the consolidated "F" type entry that is presented. The regular "F" type entry would be constructed as it is today. The additional line would require that Tariff code 0016 appear in field no. 28 of the B3. The remaining fields of this additional line (fields no. 21 to 42) can remain the same as is described in D17-1-10, Appendix "J". However, fields no 38 (Customs Duties) and 42 (GST) will need to indicate \$0.00, as they cannot be left blank. In addition, field no. 29 (Quantity) will need to indicate the number of individual shipments attached to this additional line, i.e. which were not delivered to the importer/owner and subsequently exported/destroyed. Tariff code 0016 **shall also** be included in the "off-entry" individual accounting(s) of the said goods. The individual "off-entry" accounting(s) shall be linked to the consolidated "F" type entry, and shall be available for any future audit purposes. Acceptable proof of export or destruction, as per subsection 18(2) of the Act, shall form part of the individual "off-entry" accounting, and shall be available for any future audit purposes. The normal duties and taxes that should have been levied for the said goods may not be assessed, conditional upon the Courier LVS Program participant conforming to the provisions contained in subsection 18(2) of the Act.

8. In cases where the Courier LVS Program participant is not the entity responsible for the accounting of the non-delivered goods, the participant or its agent will be required to inform the responsible accounting entity in a timely manner, in order to preempt the normal accounting, that the goods were not delivered and were/will be either exported or destroyed. The courier will maintain the proof of export or destruction.

9. The CBSA reserves the right to alter any or all parts of the above procedural change in the future, subject to a consultative process with the courier and customs broker industries.

10. The CBSA will monitor the Courier LVS Program participants or their agents, to ensure that the procedural change described above is utilized correctly and that the requirements of subsection 18(2) of the Act are adhered to. Participants or their agents must choose either one or the other of the options, not both.

11. The above procedural change only affects Courier LVS Program shipments that were **not delivered**, where the regular accounting, including the payment of duties and taxes, **has not** been provided to the CBSA and where the goods have been exported or destroyed. When the regular accounting for the undelivered shipments has already been presented, and the duties and taxes paid, the above procedural change cannot be utilized. Adjustment policy procedures should be consulted to make any corrections to accounting documents, if the regular accounting as already been presented, or additionally, duty and taxes paid.

12. The procedural change described above will come into effect nine months following the date of the customs notice.

13. Any questions related to the above matter can be directed to:

CBSA
Courier LVS Program
150 Isabella St., 4th Floor
Ottawa ON K1A 0L8

Telephone: 613-954-7150
Facsimilie: 613-952-1812