

MEMORANDUM D13-4-3

Ottawa, April 17, 2001

SUBJECT

CUSTOMS VALUATION: PRICE PAID OR PAYABLE (*CUSTOMS ACT*, SECTION 48)

This Memorandum outlines and explains the types of payments which are to be included as part of the price paid or payable for the purpose of determining a transaction value under the *Customs Act*.

TABLE OF CONTENTS

	Page
Guidelines and General Information	1
Price Paid or Payable	2
Storage Expenses	2
Credits in Respect of Earlier Transactions	3
Warranty Payments	3
Settlement of a Debt	3
Price Escalation Clauses	4
Export Duties and Taxes	4
Other Payments	5
Goods and Services Tax	5

GUIDELINES AND GENERAL INFORMATION

1. Subsection 48(1) of the *Customs Act* stipulates the requirements which must be met in order to value imported goods in accordance with the provisions of section 48 (the transaction value method).
2. Subsection 48(1) reads in part: “. . . the value for duty of goods is the transaction value of the goods if the goods are sold for export to Canada to a purchaser in Canada and the price paid or payable for the goods can be determined . . .”
3. This Memorandum lists the types of payments that, although they are not included in the invoiced price for the goods, nevertheless form part of the price paid or payable. The following items are not exhaustive, and importers are responsible for declaring, as part of the price paid or payable, any payment which meets the definition of price actually paid or payable.

Price Paid or Payable

4. Subsection 45(1) defines “price paid or payable” as “the aggregate of all payments made or to be made, directly or indirectly, in respect of the goods by the purchaser to or for the benefit of the vendor.”

5. Price paid or payable is defined in this way to ensure that all payments which a purchaser makes to or for the benefit of a vendor are included in the transaction value even when they are not included in the price shown on the commercial invoice or contract covering the imported goods.

6. The following are examples of settlements, whether made directly or indirectly, which are considered to be to or for the benefit of the vendor of the goods, and which must be included as part of the price paid or payable in determining the transaction value under section 48.

Storage Expenses

7. Storage expenses paid by the purchaser either directly or indirectly to or for the benefit of the vendor for goods stored abroad at the time of the sale for export to Canada are part of the price paid or payable. Two examples of this are:

(a) If a vendor invoices storage costs separately from the price of the goods, then these costs are added to the price paid or payable.

(b) If a vendor agrees to sell goods to a purchaser for a specified price, provided that the purchaser also pays to an independent warehouse operator the cost of storage for the goods which accrued before the sale. Since this storage payment is for the benefit of the vendor, it is included in the price paid or payable for the goods.

Credits in Respect of Earlier Transactions

8. The reasons a credit is granted by a vendor may include, but are not limited to, the following situations:

(a) a manufacturing fault in goods previously supplied;

(b) damage suffered by the goods in an earlier shipment; or

(c) the goods do not conform to contract specifications (e.g., different kind or quality of goods).

9. In any of the above situations, the vendor and the purchaser may agree on compensation and arrange for a credit to be granted. The price paid or payable for a subsequent transaction may be invoiced at the usual selling price for the goods, less the amount for the credit. Where this occurs, the credit amount is to be disregarded when calculating the price paid or payable for the goods being appraised. Whether the credit amount can be used as the basis for a re-appraisal of the goods to which it relates is a question of fact to be decided on a case-by-case basis.

Warranty Payments

10. Where the selling price of imported goods includes a payment for a warranty or a purchaser pays a warranty payment separately to the vendor in respect of the imported goods, such a charge is considered to be part of the price paid or payable for the goods and is included in the transaction value.

Settlement of a Debt

11. Where a purchaser settles a debt on behalf of the vendor, that is for his benefit, that debt is included as part of the price paid or payable for the goods and deemed to be dutiable for customs purposes.

12. For example, a foreign vendor agrees to sell goods to a Canadian purchaser for a certain price provided that the importer also pays to a third party an outstanding debt of the vendor. The price paid or payable for the goods includes the amount paid to settle the debt, and that amount should, therefore, be included as part of the price paid or payable in determining a transaction value.

Price Escalation Clauses

13. A price escalation clause is a clause inserted in a contract of sale which permits, under specified conditions, upward adjustments in price. If the price paid or payable increases, due to the existence of a price escalation clause, after the goods are sold for export, the increase is to be reflected in the price paid or payable for the goods.

14. For example, an importer contracts to purchase 1000 units of product X at a price of \$100 per unit. Before the purchase order is filled, however, the costs of production increase. As is permitted under the agreement with the purchaser, the vendor adjusts the price upwards to \$105 per unit. The importer should declare \$105 as the total price payable for each unit of the goods.

15. If, in the example above, the importer was for some reason unaware at the time of importation that the vendor had applied the escalation clause, the importer should submit an amending entry to customs, as soon as the facts are known, to reflect the change in the value for duty.

Export Duties and Taxes

16. The amount of any duties and taxes, that are paid or payable to the government of the country of export in respect of the imported goods by reason of the goods having been exported, is to be treated as part of the price paid or payable for those goods in determining the value for duty under section 48.

17. The following is an example to illustrate the treatment of export duties and taxes under section 48:

A Canadian firm purchases and imports product X from a foreign firm located in country A. The transaction meets the requirements of section 48 and can therefore be valued under that section. Each unit of product X imported has a selling price of \$50. The government of country A levies a 10% export tax on the selling price of these goods upon their export. This is paid by the importer. The amount of the export tax is treated for customs purposes as part of the price paid or payable for the goods, yielding a total price paid or payable of \$55 (\$50 + 10%).

Other Payments

18. Other types of payments to be considered in determining the price paid or payable are dealt with at length in the following Memoranda D:

D13-3-14, *Quota Payments (Customs Act, Sections 48 to 53)*

D13-4-9, *Royalties and License Fees (Customs Act, Section 48)*

D13-4-10, *Discounts (Customs Act, Section 48)*

D13-4-11, *Confirming Commissions and Credit Risk Insurance (Customs Act, Section 48)*

D13-4-12, *Commission and Brokerage (Customs Act, Section 48)*

Goods and Services Tax

19. The goods and services tax, to the extent that it has been included in any payment forming part of the price paid or payable, should not form part of the cost of the imported goods for the purpose of determining the price paid or payable (see Memorandum D13-2-5, *Customs Valuation: Effects of the Goods and Services Tax*).

REFERENCES

ISSUING OFFICE –

Origin and Valuation Policy Division
Trade Policy and Interpretation Directorate

LEGISLATIVE REFERENCES –

Customs Act, sections 45 and 48

HEADQUARTERS FILE –

7034-5-1

SUPERSEDED MEMORANDA “D” –

D13-4-3, January 1, 1991

OTHER REFERENCES –

D13-2-5, D13-3-14, D13-4-9, D13-4-10, D13-4-11, D13-4-12

Services provided by the Canada Customs and Revenue Agency are available in both official languages.

This Memorandum is issued under the authority of the Commissioner of Customs and Revenue.