



Ottawa, December 19, 2008

# MEMORANDUM D17-1-21

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## In Brief

### MAINTENANCE OF RECORDS IN CANADA BY IMPORTERS

1. This revision replaces the “In Brief” page dated September 4, 2008. This “In Brief” page has been revised to denote changes made as a result of the Government of Canada’s Paperwork Burden Reduction Initiative, an initiative aimed at eliminating obsolete and duplicate requirements, streamlining certain commercial processes and modifying complex policies and forms. Accordingly, the following changes were made:

(a) The requirement to obtain prior permission to microfilm records has been dispensed with, provided all microfilmed and electronically imaged records meet the conditions as noted in National Standard of Canada CAN/CGSB-72.11-93 Microfilm and Electronic Imaging as Documentary Evidence.

(b) Single contact information is provided for importers requesting to maintain records at locations other than their place of business, both within and outside of Canada.

2. This memorandum was previously titled D17-1-21, *Maintenance of Records and Books in Canada by Importers*, dated June 28, 2000.

3. This memorandum was revised to explain the Canada Border Services Agency (CBSA) policy concerning the maintenance of records at a place other than the importer’s place of business, in and outside of Canada.



Printed in Canada



Ottawa, September 4, 2008

# MEMORANDUM D17-1-21

## MAINTENANCE OF RECORDS IN CANADA BY IMPORTERS

This memorandum provides information concerning the records that must be maintained by importers at their place of business in Canada or at any other place that may be designated by the Minister.

## GUIDELINES AND GENERAL INFORMATION

### Importer Record – Keeping Requirements

1. Record-keeping requirements for imported commercial goods apply to resident and non-resident importers, including exporters abroad who ship commercial goods to themselves in Canada. Non-resident importers generally do not maintain an office in Canada but may forward invoices, shipping and other related records to a licensed customs broker who, on their behalf prepares accounting documents, pays duties, takes delivery of the goods, and arranges delivery based on their instructions.

### Locations Where Records are Maintained

2. If an importer does not maintain a place of business in Canada, a customs broker, accountant, or other duly authorized agent may be authorized by the Canada Border Services Agency (CBSA) to maintain the importer's records in Canada. The CBSA will only give this authorization with the express acknowledgement of the importer that it continues to be responsible for all of the legislative requirements of subsections 40(1) and 43(1) of the *Customs Act* (hereafter referred to as "the Act") and related regulations. Alternatively, importers may be authorized by the CBSA to maintain records at specific locations outside of Canada. To obtain this authorization, importers must contact the CBSA at the address indicated at the end of this memorandum to confirm the conditions that must first, be met.

3. Importers located within Canada but wishing to maintain records at a location other than their place of business, must also contact the CBSA for written authorization to do so.

### Imaged and Microfilmed Records

4. Where records are maintained in an electronic imaged or microfilmed format, the imaging or microfilming program must be in accordance with the National Standard of Canada CAN/CGSB-72.11-93 *Microfilm and Electronic Imaging as Documentary Evidence*. This standard is

available from the Canadian General Standards Board at the following address:

Canadian General Standards Board  
11 Laurier Street  
Gatineau Canada K1A 1G6

Telephone: 819-956-0425 / 1-800-665-2472  
Fax: 819-956-5740

E-mail: [ncr.cgsb-ongc@pwgsc.gc.ca](mailto:ncr.cgsb-ongc@pwgsc.gc.ca)  
Website: [www.ongc-cgsb.gc.ca](http://www.ongc-cgsb.gc.ca)

### Electronic Data Processed Records

5. Records maintained in electronic or microfilmed format are recognized as records of account, provided the medium can be related back to the supporting source documents or hard copy documents and is supported by a system capable of producing an accessible and readable copy.

6. All records of account (including source documents) that originate in paper format must be kept, except where an acceptable electronic imaging or microfilming program identified in paragraph 4 is in place.

### Availability for Inspection and Delivery

7. The records referred to in sections 2 and 3 of the *Imported Goods Records Regulations* (hereafter referred to as the Regulations) shall be kept in such a manner as to enable an officer to perform detailed audits and verifications to obtain or verify the information on which a determination of the amount of the duties paid or payable was made.

8. In accordance with subsection 43(1) of the Act, the Minister may, for any purpose related to the administration or enforcement of the Act, by registered mail or demand served personally, require from any person the production of any record, book, letter, account, invoice, statement (financial or otherwise), or other document at a place, and within the time specified therein.

### Non-Compliance

9. Where it is determined that an importer has failed to comply with any of the requirements for the maintenance of records, the importer will be requested to fulfill these requirements within a reasonable period of time. If the importer does not comply with the requirements of record maintenance under subsection 40(1) of the Act, the CBSA may: assess Administrative Monetary Penalty System (AMPS) penalties in accordance with subsection 109.1(1) of the Act; detain under the authority of section 41 of the Act any further goods imported by the importer until the importer has complied with the requirements.

10. Where a person who is required by subsection 40(1) of the Act to keep records, other than a person referred to in section 3.1 of the Regulations, has not kept records in accordance with the Regulations, preferential tariff treatment may be denied or withdrawn in respect of the commercial goods that are the subject of those records.

11. Where a person who is required by subsection 40(1) of the Act to keep records, other than a person referred to in section 3.1 of the Regulations, has, in accordance with subsection 43(1) of the Act, been requested to produce records fails to do so, preferential tariff treatment may be denied or withdrawn in respect of the commercial goods that are the subject of those records.

### **Additional Information**

12. Questions concerning record-keeping requirements for imported commercial goods may be directed to the nearest CBSA regional Trade Compliance Division or to the following address:

Records – Compliance Management Division  
Admissibility Branch  
Canada Border Services Agency  
150 Isabella Street 10th floor  
Ottawa ON K1A 0L8

Telephone: 613-952-5307  
Fax: 613-948-7569

## APPENDIX

*Imported Goods Records Regulations*

SOR/86-1011

## CUSTOMS ACT

*Imported Goods Records Regulations*

1. [Repealed, SOR/2005-384, s. 2]

## INTERPRETATION

1.1 In these Regulations,

“Act” means the *Customs Act*; (*Loi*)“commercial goods” means goods imported into Canada for sale or for any industrial, occupational, commercial, institutional or other like use. (*marchandises commerciales*)“CSA importer” has the same meaning as in section 2 of the *Accounting for Imported Goods and Payment of Duties Regulations*. (*importateur PAD*)

SOR/93-554, s. 1; SOR/2005-384, s. 3.

## GENERAL

2. (1) Every person who is required by subsection 40(1) of the Act to keep records in respect of commercial goods shall keep, for the period of six years following the importation of the commercial goods, all records that relate to

- (a) the origin, marking, purchase, importation, costs and value of the commercial goods;
- (b) payment for the commercial goods;
- (c) the sale or other disposal of the commercial goods in Canada; and
- (d) any application for an advance ruling made under section 43.1 of the Act in respect of the commercial goods.

(2) In addition to the requirements of subsection (1), every CSA importer shall keep, for the period of six years following the importation of the commercial goods,

- (a) records that provide a description and the quantity of the commercial goods;
  - (a.1) records relating to the reception of the commercial goods;
- (b) records showing the credits and adjustments used to determine the amount paid for the commercial goods
- (c) records relating to the accounting for the commercial goods;
- (d) records relating to any refund, drawback or re-determination of duties;
- (e) a list of vendors and consignees of the commercial goods; and
- (f) records relating to the information needed to complete the form entitled “CSA Revenue Summary” in respect of the commercial goods and to the payment of duties on those goods.

SOR/89-67, s. 1; SOR/89-482, s. 1; SOR/93-554, s. 2; SOR/97-70, s. 1; SOR/2005-384, s. 4; SOR/2006-153, s. 1.

3. In addition to the records referred to in section 2, a person who imports or causes to be imported commercial goods that have been released free of duty or at a reduced rate of duty because of their intended use or because they were intended to be used by a specific person shall keep, for the same period of time referred to in that section,

- (a) a certificate or other record signed by the user of the commercial goods that shows the user's name, address and occupation and indicates the actual use made of the commercial goods; or

(b) in the case where the commercial goods have been diverted to a use other than that on the basis of which they were released free of duty or at a reduced rate of duty or have been sold or otherwise disposed of to a person not entitled to have the commercial goods so released, records that contain information sufficient to confirm that the full applicable duties have been paid.

SOR/89-67, s. 2(F); SOR/93-554, s. 2.

3.1 For the purposes of subsection 40(3) of the Act, commercial goods are the prescribed goods and every person who is required to keep records under that subsection shall

- (a) where the person has been issued a licence under section 24 of the Act for the operation of a place as a sufferance warehouse, keep all records that contain information concerning the receipt of commercial goods into it, and the removal of those commercial goods from it, for the period of six years after the receipt of the commercial goods into it;
- (b) where the person has been issued a licence under section 24 of the Act for the operation of a place as a duty free shop, keep all records that relate to commercial goods received into it, for the period of six years after the sale or other disposal of those commercial goods, including all records that contain information concerning
  - (i) the accounting for the commercial goods,
  - (ii) the sale or disposal of the commercial goods from the duty free shop,
  - (iii) the actual selling price of the commercial goods in the duty free shop and the manufacturer's suggested retail price,
  - (iv) the amount that the person paid for the commercial goods,
  - (v) the control of inventory in the duty free shop,
  - (vi) the composition of the inventory in the duty free shop,
  - (vii) the remittance of fees to the Department of National Revenue, or
  - (viii) the size of the display area allocated in the duty free shop to the commercial goods;
- (c) where the person has been issued a licence under subsection 91(1) of the *Customs Tariff* for the operation of a bonded warehouse, keep all records that relate to commercial goods received into it and commercial goods removed from it, for the period of six years after their removal, including all records that contain information
  - (i) describing the commercial goods when they are received into or exported from the bonded warehouse,
  - (ii) accounting for the commercial goods when they are removed from the bonded warehouse,
  - (iii) concerning inventory and the transactions that occur while the commercial goods are in the bonded warehouse,
  - (iv) concerning the transfer of ownership in respect of the commercial goods,
  - (v) concerning the transfer of the commercial goods to another bonded warehouse, to a sufferance warehouse or to a duty free shop, or
  - (vi) concerning the unpacking, packing, manipulation or alteration of the commercial goods, or any combining of those commercial goods with other goods; and
- (d) where the person has been issued a certificate under subsection 90(1) of the *Customs Tariff*, keep all records that relate to commercial goods in respect of which relief from the payment of duties has been granted under section 89 of that Act, for the period of six years after the relief is granted, including all records that contain information concerning
  - (i) the importation of the commercial goods,
  - (ii) the processing in Canada of the commercial goods,
  - (iii) the amount of relief granted on the commercial goods,
  - (iv) the sale or transfer, between persons to whom certificates have been issued, of the commercial goods,
  - (v) the payment, under subsection 118(1) of the *Customs Tariff*, of an amount equal to the amount of the duties on any of the commercial goods that have been transferred, sold or disposed of, or
  - (vi) the inventory in Canada of the commercial goods.

SOR/96-31, s. 3; SOR/98-53, s. 4; SOR/2006-153, s. 2.

4. The records referred to in sections 2 to 3.1 shall be kept in such a manner as to enable an officer to perform detailed audits of the records and to obtain or verify the information on which a determination of the amount of the duties paid, payable, deferred, refunded or relieved was made.

SOR/89-67, s. 3(F); SOR/96-31, s. 3; SOR/2006-153, s. 3.

5. The records referred to in sections 2 to 3.1 may be copied by means of any photographic, microphotographic or image processing process that is in accordance with National Standard of Canada CAN/CGSB-72.11-93, *Microfilm and Electronic Imaging as Documentary Evidence*, published by the Canadian General Standards Board in November 1993, as amended from time to time, and kept in that format for the period prescribed in those sections.

SOR/89-67, s. 4; SOR/96-31, s. 3.

6. The records referred to in sections 2 to 3.1 may be kept electronically or on machine-sensible data media if the electronic file or media can be related back to the source documents and is supported by a system capable of producing accessible and readable copy.

SOR/93-554, s. 3; SOR/96-31, s. 3; SOR/2005-384, s. 5.

#### ENFORCEMENT

7. Where a person, other than a person referred to in section 3.1, has not kept records in accordance with these Regulations, preferential tariff treatment under NAFTA, preferential tariff treatment under CCFTA or preferential tariff treatment under CCRFTA, as the case may be, may be denied or withdrawn in respect of the commercial goods that are the subject of those records.

SOR/93-554, s. 3; SOR/97-329, s. 1; SOR/2004-125, s. 1.

8. Where a person, other than a person referred to in section 3.1, who is required to produce records in accordance with subsection 43(1) of the Act fails to do so, preferential tariff treatment under NAFTA, preferential tariff treatment under CCFTA or preferential tariff treatment under CCRFTA, as the case may be, may be denied or withdrawn in respect of the commercial goods that are the subject of those records.

SOR/93-554, s. 3; SOR/97-329, s. 1; SOR/2004-125, s. 1.

**REFERENCES**

<b>ISSUING OFFICE –</b> Compliance Management Division	<b>HEADQUARTERS FILE –</b> 7635-4
<b>LEGISLATIVE REFERENCES –</b> <i>Customs Act</i> , sections 40, 41, 43, and 109.1	<b>OTHER REFERENCES –</b> D7-4-1, D17-1-22
<b>SUPERSEDED MEMORANDA “D” –</b> D17-1-21, June 28, 2000	

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