

MEMORANDUM D17-2-2

Ottawa, January 4, 1993

SUBJECT

PROCESSING OF ADJUSTMENT REQUEST FORMS

This Memorandum outlines and explains the procedures to be used when requesting adjustments to commercial transactions.

GUIDELINES AND GENERAL INFORMATION

1. To request an adjustment to an accounting document, an importer or agent must prepare a form B 2, Canada Customs — Adjustment Request. The form B 2 is required in two copies:

- (a) the Customs copy; and
- (b) the importer/agent receipt copy.

A third copy, the Customs security copy, is required where security is posted in lieu of payment of an amount in dispute.

2. Supporting documentation should accompany both individual and blanket requests unless the explanation field provides a satisfactory reason why supporting documentation has not been presented (e.g., documentation presented on previous form B 2 no. concerning the same issue). The required supporting documentation will vary depending upon the issue(s) being addressed by the request. For more detailed information on supporting documentation requirements, refer to Memorandum D11-6-4, Legislative Authorities and Supporting Documentation Requirements for Form B 2 Adjustment Requests. If the "mail to" field contains a name other than the importer's and the name is not a licensed Customs broker, the Department requires that a letter from the importer be attached to the form B 2 authorizing the Department to mail to the agent refund cheques made payable to the importer. The letter of authorization must be attached to form B 2 or the request will be rejected. However, where the declaration box of form B 2 clearly indicates the importer, the Department will not require an authorization letter.

3. Subject to paragraph 4 of this Memorandum, adjustment requests must be accompanied by the payment of any amounts owing in the following circumstances:

- (a) where a Canada Customs — Detailed Adjustment Statement (DAS), form B 2-1 (1/90) version or B 2-1 (4/90) version, has been issued by the Department and the amount requested has not been paid or secured;

(b) where the adjustment request documents a diversion which took place 90 or more days prior to the date of the request; or

(c) where the adjustment request documents goods which were imported under a remission order but which have become dutiable because they no longer satisfy the conditions of the Order.

4. When security or cash in respect of duties owing is not presented with the adjustment requests described above, proof of payment in the form of a duty paid DAS must be submitted, or if security was posted for a previous request, "on file" must be shown after the security number in Field 10 of the form B 2 (3/87) version or Field 11 of the revised form B 2 (4/90) version. Failure to do so will result in the adjustment request being rejected.

5. Notwithstanding the preceding, the Department will accept an adjustment request for the same transaction where an outstanding DAS has not been paid or security posted provided the adjustment request applies to a different issue (e.g., the Department has issued a DAS requesting payment of an additional \$50 as a result of a determination of tariff classification under section 58 of the Customs Act which has not been paid by the importer. A form B 2 is subsequently presented by the importer requesting a re-appraisal of value under section 60 of the Customs Act).

6. Payment of duties owing or security may accompany the submission of adjustment requests in the following circumstances:

(a) where a request under subsection 60(1)(b) or 63(1)(b) of the Customs Act is submitted against original accounting documents and not as a result of a departmental demand for payment of additional duties; or

(b) where the request documents a diversion which took place less than 90 days prior to the date of the request.

Note: Duties owing on the diverted goods are payable within 90 days of their diversion.

7. Where payment is submitted with the adjustment requests described in paragraph 6(a) of this Memorandum, it must be understood that acceptance of the payment by the Department does not mean that:

(a) the Department agrees that the importer is entitled to a re-determination/re-appraisal or that there is an amount owing;

(b) if it is determined that there is an amount owing, the monies accompanying the request represent a full payment thereof; or

(c) if any part of the payment is subsequently returned to the importer, interest will be paid.

8. Adjustment requests (including blanket requests) and payment of duties and interest, where applicable, must be presented or mailed as follows:

(a) requests filed to address issues under the Special Import Measures Act (SIMA) must be mailed directly to the:

Director General
Anti-dumping and Countervailing Division
Department of National Revenue
Customs and Excise
Ottawa, Ontario
K1A 0L5

Attention: Central Index

(b) requests filed to address importer name/number changes must be presented or mailed (by registered mail if a request also addresses a re-determination or re-appraisal issue under subsection 60(2) of the Customs Act) to the regional Customs Assessment Division/Tariff Programs and Appraisal (CAD/TPA) Manager or designate in the region where the goods were released (note that such requests will only be accepted in accordance with the policy outlined in D17-2-3);

(c) requests filed to address re-determination or re-appraisal issues under subsection 60(2) or 63(2) of the Customs Act must be submitted by registered mail or delivered by hand either to a Customs office in the region where the goods were released or directly to the regional office concerned;

(d) requests filed to address issues not described in the preceding sub-paragraphs are to be presented or mailed either to a Customs office in the region where the goods were released or directly to the regional office concerned.

9. Upon receipt of a form B 2 at a local or regional Customs office, Customs will date stamp all copies of the form B 2. The date stamp merely signifies receipt of the document; it does not indicate that legislative time limits have been met, or that the form and its attachments are accepted as complete. At the time of presentation, no receipt copy will be provided except for requests which are accompanied by payment.

10. Requests will subsequently be reviewed by CAD/TPA to ensure that they have been completed in accordance with Memorandum D17-2-1, Coding of Adjustment Request Forms, for shipments released by Customs prior to January 1, 1991 and Memorandum D17-2-1/GST, Coding of Adjustment Request Forms, for shipments released by Customs on or after January 1, 1991, and/or Memorandum D17-2-3, Importer Name/Number

Changes. If the review reveals that the adjustment request is completed properly, a validated copy will be returned to the person identified in Field 9 "Mail To" of the form B 2 (3/87) version or Field 10 "Mail To" of the revised form B 2 (4/90) version. Conversely, the request will be rejected if:

- (a) erroneous information is shown in a required field;
- (b) a required field is not completed;
- (c) required supporting documentation is lacking and a satisfactory reason is not provided in the "explanation" field;
- (d) it is submitted beyond the legislative time limits;
- (e) the incorrect B 2 form is used; i.e., form B 2 (4/90) version is submitted against a pre-GST accounting document, or vice versa; or
- (f) it contests only the taxable status (GST) of the goods.

11. If a B 2 adjustment request is rejected for a shipment released by Customs prior to January 1, 1991, it, along with a B 2 Reject Notification, form B 221, will be returned to the importer/agent who submitted the form B 2.

12. If a B 2 adjustment request is rejected for a shipment released on or after January 1, 1991, it, along with a B 2 (GST) Reject Notification, form B 223, will be returned to the importer/agent who submitted the form B 2.

13. The B 2 Reject Notification, form B 221 or B 223, will indicate that the form B 2 will have to be re-filed within the time limits prescribed under the legislation. Samples submitted with this form B 2 will be returned if the request is rejected.

14. During a review of a blanket adjustment request, it may be determined that specific B 3 transaction lines must be deleted from detailed worksheet(s) attached to the request for one of the reasons described in paragraph 10 of this Memorandum. In these circumstances, a Blanket B 2 Request — Notice of Deletion (form B 222 for shipments released by Customs prior to January 1, 1991, form B 224 for shipments released by Customs on or after January 1, 1991), along with a copy of the detailed worksheet(s) will be returned. The remainder of the blanket request will be processed.

15. If the departmental review of an adjustment request reveals that it has been properly completed, an automated inventory record will be created to establish control of the request. The adjustment inventory record will include the name of the officer processing the adjustment request, the transaction number, the date the request was filed with Customs, and other basic information regarding the request.

16. Once the adjustment inventory record has been created, the request will be forwarded to the appropriate officer for action. In those cases where security is posted in lieu of payment of an amount in dispute, the third copy of the form B 2, together with the bond, will be forwarded to the Accounts Receivable Unit for verification of the bond and accounts processing. The request will be placed in a suspended status while verification takes place. After the bond is verified, the security amount and the security number will be added to the adjustment inventory record. In the event the bond is found to be unacceptable, the request will be rejected and returned to the importer/agent. It is suggested that such requests be submitted several days before the expiration of any applicable time limits to allow Customs to confirm the acceptability of the bond.

17. If the decision on the request is to be made at the regional level, the officer will first make the necessary system inquiries to ensure that other adjustments are not in conflict with the request in hand. If there are no conflicts, the officer will proceed with the review. If there is a conflict, and depending on the nature of the conflict, the officer may reject the request and notify the importer/agent by issuing a DAS. (For example, if a duplicate refund request is received subsequent to the first one being finalized, the duplicate will be rejected.)

18. If the decision on the request must be made by the Deputy Minister, the necessary background information will be prepared by the regional officer, and the request will be forwarded to the appropriate Headquarters' officer. When the request is received at Headquarters, an acknowledgement will be prepared indicating a file reference to be used in future correspondence regarding the status of the request. The acknowledgement will be sent to both the importer/agent and the regional office concerned.

19. Once a decision is made regarding the request, and the departmental processes have been completed, a DAS will be printed at Headquarters which will indicate the notice of decision, the reason for decision, and the total amount (if applicable) either due or refundable. When interest applies, the date interest begins and the amount of principal on which interest will be assessed will be shown in the remarks section of the DAS. For decisions made on or after January 4, 1993, the DAS will show the date by which payment must be made before the DAS is subject to interest and the date from which interest will be calculated should payment not be made by the due date.

20. Detailed information regarding matters such as time limits, posting of security, and criteria for late claims is contained in Memorandum D11-6-1, Determination/Re-determination and Appraisal/Re-appraisal of Goods. Memoranda D17-2-1 and D17-2-1/GST contain detailed instructions concerning the coding of form B 2 for both single and blanket requests.

Customs and Excise Offshore Application Act

21. The Customs and Excise Offshore Application Act provides an exemption from federal Customs laws to certain designated goods used on the continental shelf of Canada. Where duties have been paid on designated goods that may be exempted, the importer may submit a form B 2 for a refund. The following statement must appear in the explanation field of the request:

"The goods are exempt from duties and taxes (or are deemed to be duty and tax paid, as the case may be) under section of the Customs and Excise Offshore Application Act. A copy of the relevant information (e.g., purchase order) is attached."

22. The special authorization number 83-8888 must appear in the Special Authority field of the form B 2.

Detailed Adjustment Statement (DAS)

23. A Detailed Adjustment Statement (DAS) is issued in response to a request made by an importer/agent or as a result of a departmental review of an accounting document. The DAS provides all the header information, the "as ruled" line, the adjusted totals of the form B 3 trailer associated with the adjustment, the reviewing officer's remarks and any appropriate legislative statements including the periods for requesting a further review. A DAS can be generated for the following reasons:

(a) Non-revenue Adjustments — Customs will notify importers/agents of adjustments even when there is no change in the amount of revenue payable. It is important, therefore, that importers/agents notify Customs of any non-revenue adjustments they identify.

(b) Notice of Decision — a DAS will be generated as the notice of decision in response to a form B 2 submitted by an importer/agent. This decision could result in:

(1) an acknowledgement to an importer/agent that his assessment is correct, but neither collection nor refund action is necessary;

(2) a request for payment;

(3) a notice of a forthcoming refund; or

(4) a non-revenue change.

(c) Notice of Assessment — a DAS will be generated when a Customs review of a form B 3 results in the accounting document data being adjusted. This review could result in a refund, collection or non-revenue adjustment.

(d) To cancel an old DAS and request a new amount due.

(e) To notify the importer/agent that interest has been cancelled or waived.

24. As stated previously, the DAS serves as the receipt for all requests relating to payment or refund, or as notification of non-revenue decisions made by Customs. When additional duties are being requested, the DAS is distributed as follows:

(a) copy one to the regional file locator unit;

(b) copy two together with the batch document to the regional financial unit;

(c) copy three to the importer; and

(d) copy four to the agent (if applicable).

In addition, four additional copies of the last page of the DAS (remittance copies) will be sent to the party responsible for payment of the amount due.

25. For Detailed Adjustment Statements with a Date of Decision prior to January 4, 1993, the importer/agent must present the four remittance copies together with payment or security in lieu of payment of the amount in dispute within the appropriate time limit to a Customs office in the region where the goods were released, or directly to the regional office concerned. When payment is made, all copies of the DAS are stamped "duty paid", copies three and four are returned to the importer/agent as proof of payment, copy two is forwarded to the regional financial unit and copy one is sent to the file locator unit for filing. If security is presented, an adjustment request must be presented at the same time.

26. For Detailed Adjustment Statements with a Date of Decision on or after January 4, 1993, the importer/agent must present the four remittance copies together with payment or security in lieu of payment of the amount in dispute within the appropriate time limit to any local Customs office in the country, regardless of which region issued the DAS. When payment is made, all copies of the DAS are stamped "duty paid". The first two copies are given to the importer/agent as proof of payment. The third and fourth copies are filed in the cashier's daily open file in the long room for that business day.

27. The same procedure will be followed when a SIMA assessment has been requested from the importer, except that payment to Customs must be made within 30 days of the DAS date. An extra four remittance copies of the DAS are printed when both 30 and 90 day payment periods apply. The extra copies are provided so that the two payments can be made at different times (i.e., 30 and 90 days). In situations where requests are submitted under the Special Import Measures Act, security will only be accepted for provisional duty.

28. When customs duties are being refunded to the importer, the DAS is distributed as follows:

- (a) copy one to the file locator unit;
- (b) copy two together with the batch document will be forwarded to the regional financial unit;
- (c) copy three to the importer; and
- (d) copy four is sent to the agent, where applicable.

29. When a non-revenue adjustment applies, the DAS is distributed as follows:

- (a) copy one is sent to the file locator unit;
- (b) copy two along with a "special" batch document will be sent to the regional financial unit when a non-revenue DAS has been issued to cancel a previously generated "accounts receivable" DAS;
- (c) copy three to the importer; and
- (d) copy four is sent to the agent, where applicable.

30. In all cases, the form B 2, the DAS and the accounting documents are forwarded to the regional record room for filing.

Adjustments Resulting from Clerical and Typographical Errors

31. The form B 2 is to be used to correct minor clerical or typographical errors made in various fields on the form B 3. When the form B 2 is used for such a purpose, it is to be completed in accordance with the completion instructions provided in the explanation for Example 19 of Appendix A to Memoranda D17-2-1 and D17-2-1/GST. This type of adjustment request may be used to correct clerical or typographical errors:

- (a) in the importer's address;
- (b) in the cargo control number;
- (c) in the invoice quantity;
- (d) in the vendor's name; and
- (e) in the importer/agent declaration field.

Note: When correcting minor clerical or typographical errors on a form B 3 type 10 warehouse accounting document, a type 12 accounting document must be used. Refer to Memorandum D17-1-10, Coding of Customs Accounting Documents, for appropriate coding instructions.

32. These requests must be presented in duplicate, along with a copy of the final accounting document being adjusted, to a Customs office in the region where the goods were released or directly to the regional office concerned. Upon receipt, these requests will be date stamped. Subsequently, they will be reviewed at the regional office to ensure that they have been completed in accordance with Example 19 of Appendix A to Memoranda D17-2-1 and D17-2-1/GST. If the review reveals that the request is properly completed, a validated copy of the request will be returned to the person identified in Field 9 "Mail To" of the form B 2 (3/87) version or field 10 of the revised form B 2 (4/90) version. Such a request will then be reviewed by a Commodity Specialist (CS) or Tariff and Values Administrator (TVA), and processed in the same manner as any other request.

33. Conversely, if the review reveals the request is improperly completed for one of the reasons outlined in paragraph 10 of this Memorandum, it will be rejected. The rejected request along with the B 2 Reject Notification, form B 221 or form B 223, will be returned to the person identified in Field 9 of the form B 2 (3/87) version or Field 10 of the form B 2 (4/90) version.

34. When errors are corrected on ex-warehouse transactions, four copies of the form B 2 will be required. The extra copies are for the warehouse ledger control and the warehouse operator.

35. Clerical or typographical amendments cannot be accepted:

- (a) when revenue changes are involved;
- (b) to document the final accounting for goods accounted for on sight documentation;
- (c) when there is a change in classification number, whether or not the rates applicable are the same;
- (d) when there is a change in the value for Customs purposes, whether or not the goods are dutiable;
- (e) to correct errors made on sight documentation; or
- (f) to change the importer's name or number. (For information on using form B 2 to request an importer name/number change, refer to Memorandum D17-2-3.)

36. Adjustments made as a result of clerical or typographical errors are not restricted to any time limits (e.g., 30 or 90 days).

Undeliverable Copies of DAS's

37. When a DAS is returned to Customs as undeliverable, the relevant departmental documents (forms B 3 and B 2, where applicable) will be reviewed by Customs to determine the correct address to which the DAS should be mailed. Where there is uncertainty concerning the correct address, Customs will contact the importer/agent for assistance.

38. If the Customs review of the relevant documentation reveals that the DAS was undeliverable because the Department's Importer Number File is generating the wrong address, the importer/agent will be asked to submit a Request for Importer/Exporter Number, form T 124, to correct the importer's number file. This form must clearly indicate the importer number and that it is a change of address only. The completed form T 124 must be returned to any regional Customs office.

REFERENCES

ISSUING OFFICE —

Entry, Postal and Appraisal Division

LEGISLATIVE REFERENCES —

Customs Act
Special Import Measures Act
Customs and Excise Offshore Application Act

HEADQUARTERS FILE —

7595-0, 7595-1

SUPERSEDED MEMORANDA "D" —

D17-2-2, April 11 1991

OTHER REFERENCES —

D11-6-1, D11-6-4, D11-6-5, D17-1-10, D17-2-1, D17-2-1/GST, D17-2-3

SERVICES PROVIDED BY THE DEPARTMENT ARE AVAILABLE IN BOTH OFFICIAL LANGUAGES.

THIS MEMORANDUM IS ISSUED UNDER THE AUTHORITY OF THE DEPUTY MINISTER OF NATIONAL REVENUE, CUSTOMS AND EXCISE.