



Ottawa, August 9, 2013

# MEMORANDUM D13-3-2

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## **In Brief**

### **RELATED PERSONS**

The editing revisions made in this memorandum do not affect or change any of the existing policies or procedures.





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## RELATED PERSONS

This memorandum outlines the effect upon the application of various methods of valuation of provisions in the *Customs Act* pertaining to related persons.

### Legislation

Section 45 to 53 of the *Customs Act*:  
<http://laws-lois.justice.gc.ca/eng/acts/C-52.6/index.html>.

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## GUIDELINES AND GENERAL INFORMATION

1. Under subsection 45(3), persons are related to each other if:
  - (a) they are individuals connected by blood relationship, marriage, common-law partnership or adoption within the meaning of subsection 251(6) of the *Income Tax Act*;
  - (b) one is an officer or director of the other;
  - (c) each such person is an officer or director of the same two corporations, associations, partnerships or other organizations;
  - (d) they are partners;
  - (e) one is the employer of the other;
  - (f) they directly or indirectly control or are controlled by the same person;
  - (g) one directly or indirectly controls or is controlled by the other;
  - (h) any other person directly or indirectly owns, holds or controls five per cent or more of the outstanding voting stock or shares of each such person; or
  - (i) one directly or indirectly owns, holds or controls five per cent or more of the outstanding voting stock or shares of the other.
2. The existence of a relationship is relevant to the determination of the value for duty in the following situations:
  - (a) under paragraph 48(1)(d), the transaction value determined in a sale between related persons cannot be used as the value for duty unless the requirements of that paragraph are met (refer to Memorandum D13-4-5, *Transaction Value Method for Related Persons*);
  - (b) under paragraph 48(3)(a), when establishing the acceptability of the transaction value in a sale between related persons using the test values, the transaction value of identical or similar goods, which are likewise sold to a related person, cannot be used (refer to Memorandum D13-4-5); and
  - (c) under paragraph 51(3)(a), a sale between related persons cannot be used to determine the “price per unit” when valuing goods using the deductive value method (refer to Memorandum D13-7-1, *Deductive Value Method – Determination of the Price Per Unit*).

### Additional Information

3. For more information, call 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):  
1-204-983-3550 or 1-506-636-5064
  - TTY: **1-866-335-3237**
  - [Contact Us online](#) (webform)
  - [Contact Us](#) at the CBSA website

## REFERENCES

<p><b>ISSUING OFFICE –</b> Trade Programs Directorate</p>	<p><b>HEADQUARTERS FILE –</b> 79070-4-3</p>
<p><b>LEGISLATIVE REFERENCES –</b> <i>Customs Act</i> <i>Income Tax Act</i></p>	<p><b>OTHER REFERENCES –</b> D13-4-5, D13-7-1</p>
<p><b>SUPERSEDED MEMORANDA “D” –</b> D13-3-2, March 9, 2001</p>	

Services provided by the Canada Border Services Agency  
are available in both official languages.

