



Ottawa, August 9, 2013

MEMORANDUM D13-3-2

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>.

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, within Canada call the Border Information Service at **1-800-461-9999**. From outside Canada call 204-983-3500 or 506-636-5064. Long distance charges will apply. Agents are available Monday to Friday (08:00 – 16:00 local time except holidays). TTY is also available within Canada: **1-866-335-3237**.

REFERENCES

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SUPERSEDED MEMORANDA “D” – D13-3-2, March 9, 2001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

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

