



Ottawa, July 17, 2013

MEMORANDUM D13-4-4

In Brief

LIMITATIONS ON THE USE OF TRANSACTION VALUE METHOD

This memorandum has been revised to include a link to the amended paragraph 48(1)(c) of the *Customs Act* effected June 11, 2009. No policy or procedural amendments are included herein.





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This memorandum outlines and explains the circumstances under which the transaction value of imported goods may not be accepted as the value for duty of those goods.

Legislation

Section 48 of the *Customs Act*: <http://laws-lois.justice.gc.ca/eng/acts/C-52.6/index.html>.

GUIDELINES AND GENERAL INFORMATION

1. Paragraphs 48(1)(a) to (d) describe four sets of circumstances that, if they occur, may preclude accepting transaction value as the value for duty of imported goods.

- (a) There are restrictions on the disposition or use of the imported goods.
- (b) The sale or price is subject to a condition or consideration for which a value cannot be determined in respect to the goods being appraised.
- (c) A portion of the proceeds of the subsequent resale, disposal or use of the goods accrues to the vendor.
- (d) The purchaser and vendor are related persons.

Restrictions (Paragraph 48(1)(a) of the *Customs Act*)

2. A restriction on the disposition or use of the imported goods would preclude determination of the value for duty under section 48.

3. Certain types of restrictions, described in subparagraphs 48(1)(a)(i) to (iii) may, however, be disregarded when determining whether the sale of the imported goods is subject to a restriction.

- (a) Restrictions imposed by law. For example, an importer purchases a restricted weapon as defined in the *Criminal Code*, the disposition or use of which is subject to the acquisition of a license.
- (b) Restrictions that limit the geographical area in which the goods may be resold. For example, a vendor restricts an importer from selling the imported goods outside of a particular province or region.

(c) Restrictions that do not substantially affect the value of the goods. For example, a vendor requires an importer of automobiles not to sell or exhibit them prior to a fixed date that represents the beginning of a model year.

Conditions or Considerations (Paragraph 48(1)(b) of the *Customs Act*)

4. A condition or consideration, for purposes of establishing a value for duty, refers to an obligation undertaken by the purchaser or the vendor of the goods in connection with the sale or the price paid or payable for the imported goods.

5. The existence of a condition or consideration for which a value cannot be determined in respect of the goods will preclude accepting a transaction value as the value for duty of the goods to which it relates. For example, the purchase price of a new vehicle is reduced by an amount ascribed by the vendor to a trade-in vehicle. The amount ascribed to the trade-in is a notional value established by the vendor and may vary from one vendor to another. It cannot be considered in establishing the value for duty of the imported vehicle.

6. There are two types of conditions or considerations that are exempted from the above described treatment:

- (a) Certain conditions or considerations relating to the marketing of the imported goods. For example, if a purchaser undertakes on his own account, whether or not by agreement with the vendor, activities relating to the marketing of the imported goods, the value of these activities is not part of the value for duty nor shall such activities result in rejection of the transaction value; and
- (b) Certain conditions or considerations relating to the production of the imported goods. For example, the fact that the purchaser furnishes the vendor with engineering and plans undertaken in Canada shall not result in rejection of the transaction value.

Subsequent Proceeds (Paragraph 48(1)(c) of the *Customs Act*)

7. If the value of any part of the proceeds of any subsequent resale, disposal or use of the goods cannot be determined and added to the price paid or payable for the goods under paragraph 48(5)(a), then a value for duty for those goods cannot be determined under the transaction value method. For additional information refer to

Memorandum D13-4-7, *Adjustments to the Price Paid or Payable* and Memorandum D13-4-13, *Post-importation Payments or Fees (Subsequent Proceeds)*.

Related-Party Transactions (Paragraph 48(1)(d) of the *Customs Act*)

8. If the purchaser and the vendor are related persons and the relationship has influenced the price paid or payable of the imported goods, then the value for duty cannot be established under Section 48. For additional information refer to Memorandum D13-4-5, *Transaction Value Method for Related Persons*.

Additional Information

9. 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

ISSUING OFFICE – Trade Programs Directorate	HEADQUARTERS FILE – 79070-4-4
LEGISLATIVE REFERENCES – <i>Customs Act</i>	OTHER REFERENCES – D13-4-5, D13-4-7, D13-4-13
SUPERSEDED MEMORANDA “D” – D13-4-4, June 1, 1986	

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

