



Ottawa, September 9, 2013

MEMORANDUM D8-2-21

In Brief

INSTRUCTIONS PERTAINING TO THE *AIRCRAFT (INTERNATIONAL SERVICE) REMISSION ORDER*

1. This memorandum is updated to delete the references to memorandum D8-6-1, *Instructions Pertaining to Conditional Remission Orders Subject to Post Audit* and Form K90R, *Application for Remission in Accordance With Order in Council*, both of which have been cancelled.
2. It also contains editing revisions which do not affect or change policies or procedures.





Ottawa, September 9, 2013

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INSTRUCTIONS PERTAINING TO THE AIRCRAFT (INTERNATIONAL SERVICE) REMISSION ORDER

This memorandum outlines and explains the conditions under which a partial remission may be granted on parts, equipment and other items for use by Canadian air carriers providing international commercial service.

Remission Order

Order Respecting the Partial Remission of Customs Duties, Sales and Excise Taxes Paid on Parts, Equipment and Other Items for Use by Canadian Air Carriers Providing International Commercial Air Service

Short Title

1. This Order may be cited as the *Aircraft (International Service) Remission Order*.

Interpretation

2. In this Order,

“aircraft parts and equipment” means aircraft parts, engine parts or equipment for incorporation into an aircraft or aircraft engine, and includes safety equipment for use aboard an aircraft;

“available ton miles” means the revenue miles flown by an aircraft multiplied by the payload capacity in tons of that aircraft;

“commissary and passenger convenience item” means an item for use aboard an aircraft

- (a) in the preparation and serving of food and drink, or
- (b) for the comfort or convenience of passengers;

“eligible carrier” means a commercial air carrier incorporated under the laws of Canada and licensed by the Canadian Transport Commission to provide international air service to the public;

“fleet” means all qualifying aircraft owned or leased by an eligible carrier and that have been used by the carrier at any time to provide commercial air service;

“international flight” means any flight other than a flight originating and terminating in Canada;

“international usage percentage” means the percentage that the available ton miles flown by a fleet on international flights during a year is of the total available ton miles flown by the fleet during that year;

“materials” means materials for incorporation into an aircraft or aircraft engine;

“payload capacity” with respect to a flight, means the maximum take-off weight on wheels as prescribed by the Department of Transport, of an aircraft, less

- (a) the actual weight of the aircraft, and
- (b) the weight of the fuel on board the aircraft at the commencement of the flight;

“qualifying aircraft” means a fixed wing aircraft having a maximum take-off weight on wheels, as prescribed by the Department of Transport, that is greater than 75,000 pounds;

“revenue miles” means miles flown by an aircraft in respect of which consideration is received for the carriage of passengers or cargo by the carrier operating the aircraft;

“year” means a calendar year.

Remission

3. Remission is hereby granted to an eligible carrier of a portion, determined in accordance with section 5, of the customs duties paid or payable under the *Customs Tariff* in respect of aircraft parts and equipment that, on or after January 1, 1975, are

- (a) purchased in Canada by the carrier, or
- (b) imported into Canada by the carrier for use in qualifying aircraft used to provide commercial air service.

4. Remission is hereby granted to an eligible carrier of a portion, determined in accordance with section 5, of the customs duties, sales tax and excise tax paid or payable under the *Customs Tariff* and the *Excise Tax Act* in respect of materials and commissary and passenger convenience items that, on or after January 1, 1975, are

- (a) purchased in Canada by the carrier, or
- (b) imported into Canada by the carrier for use in qualifying aircraft used to provide commercial air service.

5. The portion of the duties and taxes referred to in section 3 or 4 is that percentage of the duties and taxes equal to the international usage percentage of the fleet of the eligible carrier during the year in which the carrier purchased the goods or imports the goods into Canada.

Conditions

6. Remission is granted pursuant to section 3 or 4 on condition that:

(a) an application is made by the eligible carrier, in a form satisfactory to the Deputy Minister of National Revenue for Customs and Excise, not later than four years after the end of the year in which the carrier purchased the goods or imported the goods into Canada; and

(b) the application required pursuant to paragraph (a) contains a declaration whereby the eligible carrier certifies that the goods for which remission is being claimed were

(i) purchased in Canada by the carrier, or

(ii) imported into Canada by the carrier for use in qualifying aircraft used to provide commercial air service.

7. For the purposes of this Order, the references in section 6 to the Deputy Minister of National Revenue for Customs and Excise should be interpreted as the President of the Canada Border Services Agency.

8. Normally, remission may be claimed, at the time the goods are accounted for under the *Customs Act*, by quoting authorization number "78-3762" in the "Special Authority" field (field 26) of Form B3-3, *Canada Customs Coding Form*.

9. If duties have been previously paid and an importer is authorized to utilize the Order, remission may be claimed on Form K32, *Drawback Claim*.

10. Claims for remission of excise taxes, excluding taxes under Part IX "Goods and Services Tax", under this Order with respect to domestic goods must be made on Form N15 E, *Excise Tax Act Application for Refund/Rebate* and must be filed with the Canada Revenue Agency.

Effects of the Goods and Services Tax Legislation

11. Bill C-62, the enacting legislation for the goods and services tax (GST), amended section 2 of the *Excise Tax Act* to exclude the GST from any regulation or order made prior to 1991, unless the regulation or order specifically provides for the inclusion of the GST. As this Order does not specifically provide for relief of the GST nor has it been amended to provide for such relief, relief of the GST is not provided for under this Order.

12. Under Regulations made pursuant to subsection 215(2) of the *Excise Tax Act*, the amount on which the GST is to be paid, where there has been a remission of customs duties, will be determined as if the duty paid value of the goods was the value for duty of those goods, i.e., GST will not be payable on the duty remitted.

Failure to Comply With a Condition of Relief

13. In accordance with subsection 118(1) of the *Customs Tariff*, failure to comply with a condition of relief in this Order must be reported to the CBSA within 90 days and any amount of duties owing shall be paid.

Interest and Penalties

14. In addition to the duties liable under subsection 118(1) of the *Customs Tariff* for failure to comply with a condition under this Order, section 123 of the *Customs Tariff* provides for the payment of interest at the specified rate on any outstanding amount for the period beginning on the first day after the amount became payable and ending on the day the amount has been paid in full. Interest shall not be payable on any amount owing that is paid within the first 90 days after the day the amount became payable.

GUIDELINES AND GENERAL INFORMATION

1. This Order remits a portion of the customs duties paid or payable on aircraft parts and equipment that are used in qualifying aircraft participating in international service.

2. The Order also remits a portion of the customs duties and excise taxes paid or payable on materials, commissary and passenger convenience items, as defined in the Order, that are used in qualifying aircraft participating in international flights.

3. Any company wishing to use a conditional or performance based Remission Order is to contact the Canada Border Services Agency (CBSA) for assistance.

4. When a company wishes to utilize this Order, it is incumbent upon that importer, prior to the importation of any goods, to satisfy the CBSA that it will meet the conditions and requirements set forth in the Order and that its record keeping is sufficient to establish such compliance. A detailed proposal of how imported goods will be controlled must be supplied to the CBSA prior to using this Order.

5. An application for remission under this Order must be accompanied by evidence confirming the international usage percentage.

6. An application for remission under this Order may be made not later than four years after the end of the year in which the carrier purchased the goods or imported the goods into Canada.

15. Where the importer fails to report the non-compliance with the Order or fails to pay the duties owing, penalties may be applied. Further information regarding the Administrative Monetary Penalty System can be found in Memorandum D22-1-1, *Administrative Monetary Penalty System*.

Additional Information

16. 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 – 6551-2</p>
<p>LEGISLATIVE REFERENCES – Order in Council P.C. 1978-3762, December 14, 1978, SI/79-2, as amended by SI/88-18 <i>Excise Tax Act</i> <i>Customs Tariff</i> <i>Customs Act</i></p>	<p>OTHER REFERENCES – D22-1-1</p>
<p>SUPERSEDED MEMORANDA “D” – D8-2-21, January 28, 1994</p>	

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

