



## Memorandum D8-2-8

Ottawa, September 22, 2016

### Samples of Negligible Value (Tariff Items 9990.00.00 and 9991.00.00)

#### In Brief

This memorandum has been revised to reflect changes to paragraphs 26 and 31. An omission in paragraph 14 of the French version only was rectified in this version as well.

This memorandum outlines the conditions under which imported goods may be classified under tariff items 9990.00.00 or 9991.00.00 of the [Customs Tariff](#), and may qualify for a remission of the goods and services tax/harmonized sales tax (GST/HST) and any other taxes owing under the [Excise Tax Act](#).

#### Legislation

[Samples of Negligible Value Remission Order](#)

[Customs Tariff](#) – Tariff Items 9990.00.00 and 9991.00.00

### Guidelines and General Information

#### Background

1. On June 12, 1974, Canada officially acceded to the International Convention to Facilitate the Importation of Commercial Samples and Advertising Material. This Convention provides for the permanent free importation of samples of negligible value when the samples are used to solicit orders for goods of the kind represented by the samples.
2. On January 1, 1998, with the introduction of the simplified [Customs Tariff](#), the provisions of former tariff item 9824.00.00 were incorporated into tariff item 9990.00.00 while the customs duty relief provisions of the [Samples of Negligible Value Remission Order](#) (Order-in-Council P.C. 1976-2984) were incorporated into tariff item 9991.00.00.
3. The [Samples of Negligible Value Remission Order](#) was not repealed in order to maintain relief from the GST/HST, and any other taxes that might be owed under the [Excise Tax Act](#), for goods imported under tariff items 9990.00.00 and 9991.00.00.

#### **Samples of Negligible Value Remission Order**

4. The [Samples of Negligible Value Remission Order](#) is the legislative tool used to provide a remission of the taxes paid or payable under Division III of Part IX (GST/HST) and under any other part of the [Excise Tax Act](#) and the customs duties paid or payable under section 21 of the [Customs Tariff](#).
5. Consignments may consist of only one sample of each kind or quality, except for consignments of foodstuffs, non-alcoholic beverages, perfumes or chemical products that will be consumed or destroyed during demonstration and are packaged in a manner which precludes their being used otherwise than as samples. Furthermore, the samples must be of negligible value and supplied direct from abroad.

6. A consignment shall be deemed to be of negligible value where the taxes imposed under Division III of Part IX and under any other Part of the [Excise Tax Act](#) and the customs duties imposed under section 21 of the [Customs Tariff](#) payable on the sample would not exceed two dollars if this Order did not apply.
7. Samples that meet the conditions of tariff item 9990.00.00 will also qualify for the benefits of the [Samples of Negligible Value Remission Order](#) provided that:
- (a) There is not more than one sample of each kind or quality in a consignment. If there is more than one sample it must be a consignment of foodstuffs, non-alcoholic beverages, perfumes or chemical products that will be consumed or destroyed during demonstration and are packaged in a manner which precludes their being used otherwise than as samples.
  - (b) The taxes imposed under Division III of Part IX and under any other Part of the [Excise Tax Act](#) and the customs duties imposed under section 21 of the [Customs Tariff](#) payable on the sample would not exceed two dollars.
  - (c) A chief officer of customs may require that a sample be made useless as merchandise by marking, tearing, perforating, gluing or otherwise altering it, but not in such a manner as to destroy its usefulness as a sample.
8. Samples that meet the conditions of tariff item 9991.00.00 will qualify for the [Samples of Negligible Value Remission Order](#).

### **Tariff Item 9990.00.00**

9. When imported from one of the countries listed in the tariff item, a sample can be classified under tariff item 9990.00.00 regardless of the origin of the goods, provided the sample has a value individually, or in the aggregate as shipped, of not more than one United States dollar or the equivalent amount in Canadian currency or the currency of one of the countries listed. There is no quantity or value limit if the samples are marked, torn, perforated or otherwise treated so that they are unsuitable for sale or for use except as samples provided the following two conditions are also met: (a) an invoice, bill of lading or written statement from the foreign supplier of the samples indicating their value; and (b) any documentation establishing that the importer is a representative of the foreign supplier, or is acting on behalf of such a representative. If the actual country of origin of the goods is not one of the countries listed in the tariff item, field 12 (country of origin) is to be completed to match field 13 (place of export).
10. For example, a plastic slide fastener (zipper) of tariff item 9607.19.00, made in Germany and valued at one United States dollar or less, would qualify for tariff item 9990.00.00 if it was imported from one of the listed countries. Furthermore, the shipment would be entitled to a remission of the GST/HST under the [Samples of Negligible Value Remission Order](#).
11. Samples that are marked, torn, perforated or otherwise treated such that they are unsuitable for sale or for use except as commercial samples can be imported duty free in large quantities and higher values under tariff item 9990.00.00. However, in this case, unless the samples meet the requirements of paragraph 7 above, the samples would not be entitled to a remission of the GST/HST under the [Samples of Negligible Value Remission Order](#).
12. For example, a shipment of several ballpoint pens of tariff item 9608.10.00 also made in Germany, each being permanently marked "sample not for sale", would qualify for tariff item 9990.00.00 when imported from one of the listed countries. However, as there is more than one pen (i.e., not a consignment of foodstuffs, non-alcoholic beverages, perfumes or chemical products), the shipment would not be entitled to a remission of the GST/HST under the [Samples of Negligible Value Remission Order](#).
13. On the other hand, a large shipment of single-use French perfume samples of tariff item 3303.00.00, each being permanently marked "sample not for sale" when imported from one of the listed countries, would qualify for tariff item 9990.00.00 and be entitled to a remission of the GST/HST under the [Samples of Negligible Value Remission Order](#) provided the duty and taxes payable on each sample would not otherwise exceed two dollars.

## Tariff Item 9991.00.00

14. A sample imported from any country may be classified under tariff item 9991.00.00 if the aggregate of duties and all taxes otherwise payable on the sample does not exceed two dollars. The sample will be used only in soliciting orders for goods of the kind represented by the samples and these goods will be supplied direct from abroad. Furthermore, there is not more than one sample of each kind or quality in a shipment except in the case of foodstuffs, non-alcoholic beverages, perfumes and chemical products. The inspecting border services officer may require the importer to render the samples useless as merchandise by marking, tearing, perforating, gluing or other alteration. However, the mutilation cannot destroy the usefulness of the sample.

15. Where a sample is customs duty-free, at a GST rate of, for example, five percent, its value for duty cannot exceed \$40.00 before the two dollar limit is exceeded. In the case of foodstuffs, non-alcoholic beverages, perfumes and chemical products, where more than one sample is allowed in a consignment, it is the duties and taxes owing on each sample, not on the entire consignment, which must total less than two dollars.

16. The samples can only be used to solicit orders. Samples that are imported and given to clients free of charge with other purchases are not imported to solicit orders, but to generate sales. For example, samples given to clients when they purchase a product, commonly referred to as “gifts with purchase,” do not qualify. Another example is small bottles of cleaning product attached to a second cleaning product. The fact that the client may purchase the first cleaning product at some future time is incidental to the primary purpose of the sample, which is to generate sales of the second cleaning product.

17. “Sales gifts” are those goods that are provided as incentives to salespeople to encourage them to promote the product or as a reward for superior sales. However, products described as “sales gifts” that are given to journalists as part of a promotional campaign do not qualify under tariff item 9991.00.00 as they are not intended to solicit orders but to solicit publicity.

18. Except in cases where it is the common business practice for clients to purchase samples from suppliers, the importer usually will supply bona fide samples to their clients at no cost. Otherwise, the importer may be considered as having imported the product for the purpose of sale and not to solicit orders. Travel-size samples often fall into this category.

19. The sample can only be used to solicit orders for goods of the kind represented by the sample. For example, a toy truck sample qualifies under tariff item 9991.00.00 even if the toy trucks, used to fill the order, are a different colour or some components (e.g., the wheels, etc.) are made of a different material.

20. The term “supplied direct from abroad” means that the goods supplied must be shipped from the foreign country direct to the client, (i.e., the person placing the order, or that person’s agent). However, where it is the common business practice for the foreign manufacturer to establish a Canadian distributor for the manufacturer’s goods, the samples would qualify. For example, perfume samples imported by a Canadian subsidiary of a foreign manufacturer and distributed by their sales representative to solicit orders would qualify for tariff item 9991.00.00.

21. Only one sample of each kind or quality is allowed in a consignment except in the case of foodstuffs, non-alcoholic beverages, perfumes and chemical products. For example, the ballpoint pens made in Germany in our previous example could only be imported customs duty and tax free under tariff item 9991.00.00 in the singular. As mentioned previously, samples that meet the conditions of this tariff item qualify for the [Samples of Negligible Value Remission Order](#).

22. Section VI of the [Customs Tariff](#) deals with products of the chemical and allied industries. Goods that are classified in Chapters 28 to 38 would qualify as either a chemical or perfume product.

23. The foodstuffs, non-alcoholic beverages, perfumes and chemical products must be packaged in such a manner that they will be consumed or destroyed during demonstration. Generally, this means that the sample is a single serving that will be entirely consumed after one use.

24. The value for duty of any good, including a sample, is established in accordance with the valuation provisions of sections 44 to 56 of the [Customs Act](#). Mutilating a good, either before or after importation is not a factor in determining its value for duty.

25. The Canadian International Trade Tribunal ruled that mutilating the goods did not change their essential characteristics (AP-92-105 Nygard International Ltd.).

26. For example, a sports jacket is sold by a Swiss manufacturer to a purchaser in Canada for \$40.00 CAD and is imported as a sample to solicit orders. The back of the jacket is slit to make it useless as merchandise. For illustrative purposes only, the jacket is classified under tariff item 6113.00.90 and subject to a MFN customs duty rate of 18 percent. The value for duty of the jacket is its transaction value of \$40.00. The amount of customs duties owing on the jacket is \$7.20. The value for tax would be \$47.20. With the GST at a rate of five percent, the amount of GST owing is \$2.36. As the aggregate of customs duties and taxes applicable to the jacket is \$9.56, the jacket is not eligible for tariff item 9991.00.00.

27. Samples that mimic bottles of perfume do not qualify under tariff item 9991.00.00. These products contain, for example, water instead of the real product and are sometimes put up in a cosmetics package. These samples should be classified under tariff item 7020.00.90, as display bottles. Scent sprayers containing water, for example, should be classified under tariff item 9616.10.00.

28. Perfume or cosmetic tester stands, either empty or containing demonstrators, do not qualify for tariff item 9991.00.00 where the stand is neither attached to or an integral part of the sample. Should the display stand be full of demonstrators, the stand and demonstrators are to be classified in their own appropriate heading with tariff item 9991.00.00 applied to the demonstrators that meet the conditions of the tariff item.

## Documentation and Examples

29. The [Customs Tariff](#) requires goods of Chapter 99 to be classified under a dual classification system. Therefore, when accounting for samples that qualify for duty free entry under tariff items 9990.00.00 or 9991.00.00, the applicable Chapter 1 to 97 ten-digit classification number is entered in field 27 of the [Canada Customs Coding Form \(B3-3\)](#) while only the first four-digits of tariff items 9990.00.00 or 9991.00.00 (i.e. “9990” or “9991”) is entered in field 28.

30. If the goods are entitled to a remission of the GST/HST or any other tax under the [Samples of Negligible Value Remission Order](#), special authority code 76-2984 must appear in field 26 of the B3-3.

31. For example, if the importer imports from the United States one ballpoint pen made in Germany with a value of one United States dollar (or less), the appropriate country/state code must appear in both fields 12 and 13, special authority code 76-2984 must appear in field 26, “9608.10.00.00” in field 27 and “9990” or “9991” (importer’s choice) in field 28.

32. A shipment of several ballpoint pens, imported from one of the listed countries in tariff item 9990.00.00, would be classifiable under that tariff item when marked or otherwise treated so as to make them unsuitable for sale or for use except as commercial samples. Such being the case, field 26 would be left blank because the pens are only entitled to a remission of the GST/HST when imported in the singular, “9608.10.00.00” would appear in field 27 and “9990” in field 28.

33. Another example is several single-application French perfume samples imported from one of the countries listed in tariff item 9990.00.00, where the aggregate of duties and all taxes otherwise payable does not exceed two dollars, and are marked “not for sale”. In this example, special authority code 76-2984 will appear in field 26, “3303.00.00” in field 27 and either “9990” or “9991” (importer’s choice) in field 28.

34. However, if the same French perfume samples were not imported from one of the listed countries of tariff item 9990.00.00, only tariff item 9991.00.00 would apply. In this case, special authority code 76-2984 will appear in field 26, and “3303.00.00” in field 27 and “9991” would appear in field 28.

35. For French perfume samples imported into Canada directly from France, where the duties and taxes payable would exceed two dollars, tariff items 9990.00.00, 9991.00.00, and the [Samples of Negligible Value Remission Order](#), would not apply.

## Additional Information

36. For certainty regarding the tariff classification of a product, importers may request an advance ruling on tariff classification. Details on how to make such a request are found in [Memorandum D11-11-3, \*Advance Rulings for Tariff Classification\*](#).

37. 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**.

<b>References</b>	
<b>Issuing Office</b>	Trade and Anti-dumping Programs Directorate
<b>Headquarters File</b>	HS9990.00 and HS9991.00
<b>Legislative References</b>	<a href="#">Customs Act</a> <a href="#">Excise Tax Act</a> <a href="#">Customs Tariff</a> <a href="#">Samples of Negligible Value Remission Order</a> Order-in-Council P.C. 1976-2984
<b>Other References</b>	<a href="#">D11-11-3</a> Form <a href="#">B3-3</a> CITT Appeal AP-92-105 Nygard International Ltd
<b>Superseded Memorandum D</b>	D8-2-8 dated October 22, 2015