



Ottawa, September 18, 2013

MEMORANDUM D8-3-16

IN BRIEF

Instructions Pertaining to the Systems Software Development Contract Remission Order

1. This memorandum is updated to confirm that the *Systems Software Development Contract Remission Order* does not provide relief of the goods and services tax (GST).
2. It is also updated to exclude 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.
3. It also contains editing revisions which do not affect or change policies or procedures.





Ottawa, September 18, 2013

MEMORANDUM D8-3-16

Instructions Pertaining to the Systems Software Development Contract Remission Order

This memorandum outlines and explains the conditions under which remission may be granted on computer equipment imported into Canada by or on behalf of a Canadian company for use in carrying out a systems software development contract.

Remission Order

Order Respecting the Remission of Customs Duties Paid or Payable on Computer Equipment Imported Into Canada for Use in Carrying Out Systems Software Development Contracts

Short Title

1. This Order may be cited as the *Systems Software Development Contract Remission Order*.

Interpretation

2. In this Order, “computer equipment” means

- (a) automatic data processing machines, systems and components;
- (b) accessories, attachments and peripheral equipment for use with any of the goods referred to in paragraph (a);
- (c) electrical or electronic apparatus or equipment to be operated by or in conjunction with any of the goods referred to in paragraphs (a) and (b);
- (d) recorded carrier media; and
- (e) parts of any of the goods referred to in paragraphs (a) to (d). (*matériel informatique*)

“Minister” means the Minister of National Revenue; (*ministre*)

“support” means the correction of deficiencies or other problems encountered in the subsequent use of operational or applications systems software that has been developed pursuant to a systems software development contract; (*soutien*)

“systems software development contract” means a contract between a Canadian company and a foreign company for the development or for the development and support

by the Canadian company of new operational or applications systems software for use with existing or future computer systems, or for the modification of existing systems software by the Canadian company to make it compatible with existing or future computer systems. (*contrat de mise au point de logiciel*)

Remission

3. Subject to section 5, remission is hereby granted of the customs duties paid or payable under the *Customs Tariff* on computer equipment imported into Canada by or on behalf of a Canadian company for use in carrying out a systems software development contract.

4. Repealed.

Conditions

5. Remission is granted under this Order on condition that

- (a) the computer equipment is imported on or after January 1, 1984;
- (b) within three years after the computer equipment was accounted for under the *Customs Act*;
 - (i) the computer equipment is either exported from Canada or destroyed under supervision of a border services officer; and
 - (ii) all the software that has been developed under the systems software development contract is exported from Canada unless the Canadian company is obligated under the contract to provide support for the developed software, in which case, the Canadian company may retain one copy of the software for such purpose;
- (c) the Canadian company maintains records satisfactory to the Minister, of the use that is made of the computer equipment while in Canada, and provides to the Minister such reports or other information as he may require for administering this Order; and
- (d) a claim for remission is made to the Minister within three years after the date the computer equipment was accounted for under the *Customs Act*.

GUIDELINES AND GENERAL INFORMATION

1. This Remission Order provides remission of customs duties paid or payable on computer equipment imported into Canada by or on behalf of a Canadian company for use in carrying out a systems software development contract.
2. The reference in section 2 of the Order to the “Minister of National Revenue” should be interpreted as Minister of Public Safety and Emergency Preparedness.
3. This Remission Order does not provide relief of the goods and services tax (GST).
4. When a company wishes to qualify for this Remission Order, prior to the importation of any goods, it is required to satisfy the Canada Border Services Agency (CBSA) that it will meet the conditions and requirements set forth in the Order in Council and that the records kept are sufficient to establish such compliance. A detailed proposal of how imported goods will be controlled must be supplied to the CBSA prior to using any such Order.
5. This Order provides for a remission of the customs duties paid or payable on computer equipment when imported by or on behalf of a Canadian company for use in carrying out a systems software development contract.
6. For the purposes of this Order, equipment encompasses machines and apparatus which are electronic data processing (EDP) equipment in their own right, as well as peripheral equipment used with accessories and attachments, but does not include replacement parts. Peripheral equipment means devices which serve to feed data into the system or receive information from the system (i.e., input/output devices).
7. Accessories and attachments are devices of secondary or subordinate importance which augment the capabilities of EDP apparatus, but are not essential for their operation. Parts, on the other hand, are those components which are designed for and essential for the operation of the article into which they are incorporated.

Additional Information

8. 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 – 6564-0</p>
<p>LEGISLATIVE REFERENCES – <i>Financial Administration Act</i>, subsection 23(2) Order in Council P.C. 1986-502, SI/86-31, as amended by SI/88-18, February 27, 1986 SI/93-720, December 9, 1993, and SI/95-43, April 19, 1995</p>	<p>OTHER REFERENCES –</p>
<p>SUPERSEDED MEMORANDA “D” – D8-3-16, August 4, 1995</p>	

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

