



AUSTRALIAN CUSTOMS SERVICE PRACTICE STATEMENT

FILE NO: 2008/011957-01

PRACTICE STATEMENT NO: PS2009/01
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AVAILABILITY: Internal and External

SUBJECT: Valuation

PURPOSE: To provide a policy overview on how Customs determines the valuation of imported goods.

APPROVING OFFICER: National Director Trade

CATEGORY: Operational Procedures

CONTACT: Inquiries about this Practice Statement may be directed to the Valuation and Origin Section

Phone: (02) 6275 6781

Fax: (02) 6275 6477

Email: origin@customs.gov.au

Mail: Director Valuation and Origin
Trade Services Branch
Australian Customs Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2600

SUMMARY OF MAIN POINTS

Customs Practice Statements are endorsed Customs policy and must be followed by all Customs employees. This Practice Statement outlines general policies and principles relating to:

- Customs Valuation

The electronic version published on the Customs Internet is the current Practice Statement.

STATEMENT

Introduction

The Customs valuation legislation is contained in Division 2 of Part VIII of the *Customs Act 1901* (the Act) - Valuation of imported goods. The purpose of this legislation is to give effect to Australia's commitment under The General Agreement on Tariffs and Trade (GATT) to facilitate international trade by the implementation of the GATT Valuation Agreement, now the World Trade Organisation (WTO) Valuation Agreement.

Context and scope

This Practice Statement addresses the principles to be used when determining the customs value of imported goods and does not address issues relating to the specific dollar amount of the customs value.

A number of related Instructions and Guidelines specifically address the topics of Valuation Advice, Exchange Rates and Second Hand Motor Vehicles.

Background

The customs value of goods imported into Australia is based on information (in particular, price) advised by the importer. The valuation of imported goods is derived from the WTO Valuation Agreement – the valuation system used by major trading nations throughout the world.

Customs value is used as the basis for calculating customs duty. Customs value is combined with other items, namely customs duty, international transport and insurance costs and, where applicable, Wine Equalisation Tax, to produce the value of the taxable importation (VoTI). VoTI forms the basis for calculating the Goods and Services Tax.

PROCEDURAL STATEMENT

How goods are valued

Where the transaction value of the goods can be determined, that value is the customs value of the goods. The transaction value is the most widely used method for valuing imported goods.

The transaction value relies on the price actually paid (or payable) for the imported goods. However, the use of the transaction value is subject to a number of conditions, a major one being that there is no corporate or personal relationship between the buyer and seller which affects the price.

Where the price paid (or payable) cannot be used as the basis of a customs value, there are alternative methods for determining the customs value.

Methods for determining the customs value

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There are six methods of valuation prescribed by the WTO Valuation Agreement. The primary valuation method is based on the price actually paid (or payable) for the goods as required by Article 1 of the WTO Valuation Agreement and Article 8 which provides for price adjustments as required.

Article 1 describes this derived value as the “transaction value”. It is given effect in Australian legislation by the terms of section 161 of the Act.

Articles 2 and 3 of the Agreement provide for the customs value of identical goods and similar goods respectively. These methods are incorporated in sections 156, 161A and 156, 161B of the Act respectively.

Article 5 of the Agreement provides for the deductive method of valuation which is incorporated in sections 161C, D and E of the Act. Australia chose to define this method at three separate levels, the “contemporary sales”, “later sales” and, “derived goods sales”. The deductive method, as its name suggests, is based on specific deductions from the post-importation cost of the imported goods to obtain the place of export cost.

Article 6 of the Agreement provides for the computed method of valuation which is incorporated in section 161F of the Act. This method is dependent on the goodwill of the overseas supplier/manufacturer to allow the production details relating to the imported goods to be accessed in order to work through to a free on board (or containerised) level.

Article 7 of the Agreement is the “fall back” method of valuation which is incorporated in section 161G of the Act. This Article sets out how to determine the customs value in cases where it cannot be determined under the provisions of any of the preceding Articles. When applying Article 7, the Agreement requires “reasonable flexibility” to be applied in reconsidering the previous Articles in sequence.

The Agreement requires that the methods of valuation be applied in strict sequential order. Each method has to be identified as inappropriate to the circumstances before the next one can be considered.

Article 4 of the Agreement allows the importer to request the Customs administration to apply the computed method (Article 6) before the deductive method (Article 5).

Transaction value

Article 1 of the WTO Valuation Agreement provides that the Customs value of imported goods is the transaction value or the price paid or payable for the goods when sold for export to the country of importation, adjusted in accordance with Article 8 of the WTO Agreement. The transaction value is calculated by taking the *price in the import sales transaction*, making allowable deductions (i.e. *adjusted price*) and adding *price related costs*.

The transaction value is essentially the price paid for the imported goods, adjusted if necessary to derive a Free On Board (FOB) price at the place of export to Australia.

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Although the relevant definitions are extensive, for the majority of commercial transactions adjustments required are simple. For FOB contracts the FOB price will often be the transaction value. For Cost, Insurance and Freight (CIF) contracts, it may only be necessary to deduct the cost of shipping and insurance from the overseas port from the CIF price.

Import sales transaction

The first step in calculating the transaction value is to establish the correct import sales transaction. Before transaction value is applicable there must be an import sales transaction in relation to the imported goods. The sale that brings the goods to Australia, the identity of the buyer and the seller must be established, which if there is only one contract of sale for the importation of the goods into Australia, it is that contract. If there are several such contracts, it is the last of those contracts. The definition also includes any other contract, agreement or arrangement which provides for an increase in the value of the goods, or which the Collector determines is so closely connected with the contract of sale that together they form a single transaction.

Price

The next step is to determine the price paid (or payable) under the import sales transaction. Price is widely defined, and it includes all payments made and the value of any goods or a service provided, by or on behalf of the purchaser to the vendor, or to anyone else to the vendor's benefit, under the import sales transaction, but excludes any Australian taxes on the goods.

Adjusted price

The third step in determining the transaction value requires any deduction from the price of amounts necessary to take account of:

- Deductible financing costs (i.e. any interest payable by the purchaser for late payment which the Collector is satisfied is distinguished from the price for the goods)
- Technical assistance costs. These are any costs that the Collector is satisfied:
 - are payable for the assembly, erection, construction or maintenance of, or any technical assistance in respect of the goods
 - are incurred after importation of the goods into Australia
 - are capable of being accurately quantified by reference to the import sales transaction relating to the goods
- Australian inland freight and insurance costs
- Deductible administrative costs
- Overseas freight and insurance costs

Price related costs

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This step involves making any legal additions to price. These additions are called price related costs and, if not already included, must be added to price. There are six potential additions that may be made to price:

- Production assist costs
- Packing costs and charges for export preparation
- Foreign inland freight and insurance
- Commissions and brokerage except buying commissions
- Royalties and license fees
- Proceeds of the subsequent use, resale or disposal of the goods that accrue to the seller

Freight and insurance

Overseas freight and overseas insurance costs are excluded from the customs value of imported goods. These are actual amounts paid by the vendor, exporter, purchaser or importer of the goods for the transportation or insurance of goods from the *place of export* (defined below) to Australia.

All costs for inland freight and inland insurance incurred by the purchaser prior to the goods leaving the place of export are included in the customs value.

Place of export

Means -

- the place where the goods are posted to Australia;
- the place where the goods are packed in a container of a type defined in the Customs Convention on Containers 1972;
- the place, or last place, from which self-transported goods departed for Australia;
- for goods not referred to above, the place, or first place, the goods were placed on board a ship or aircraft for export;
- for goods not referred to above, the place where the goods crossed the border of the country of export; or
- in any other case, the place determined by Customs.

Rate of exchange

The customs value is required to be in Australian currency. Where currency conversion is necessary, the conversion rate will be the rate for the day of exportation of the goods published in the Commonwealth of Australia Gazette. These rates are also published in the Australian Financial Review and The Daily Commercial News. Where no rate has been so published, the conversion rate will be the ruling rate determined by Customs.

Import documentation

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Customs does not usually require importers to submit commercial documentation. However, to enable Customs to be satisfied of the correctness of the particulars provided by the owner when entering the goods, the owner of goods is required to keep all relevant commercial documents while the goods are subject to Customs control and for five years after the goods are entered for home consumption.

RELATED INSTRUCTIONS AND GUIDELINES

- Valuation Advices
- Exchange Rates
- Second Hand Motor Vehicles

RELATED POLICIES AND REFERENCES

- Practice Statement: Origin
- Customs Act 1901

KEY ROLES AND RESPONSIBILITIES

The policy owner of this practice statement is:

Director Valuation and Origin Section
Trade Services Branch
Australian Customs Service

CONSULTATION

External Consultation

This Practice Statement reflects existing policy previously available to external stakeholders. It will be placed on the Customs website for public comment and feedback on its accessibility, clarity and presentation.

Internal Consultation

The following internal stakeholders were consulted in the development of this Practice Statement:

- Customs Legal Unit (Australian Government Solicitor)

APPROVAL

Approved on 11 November 2008 by:
by:

ENDORSED

Endorsed on 14 November 2008
by:

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Geoff Johannes
Acting National Director Trade
Australian Customs Service

Sue Pitman
Acting DCEO (P&TF)
Australian Customs Service

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