

AUSTRALIAN CUSTOMS SERVICE PRACTICE STATEMENT

FILE NO: C08/00239

PRACTICE STATEMENT No: PS 2008/18
PUBLISHED DATE: 24 APRIL 2008
AVAILABILITY: INTERNAL AND EXTERNAL

SUBJECT: The Duty Drawback Scheme
PURPOSE: This explains Customs policy in relation to the Commonwealth's export concession known as the duty drawback scheme.

APPROVING OFFICER: *National Director Trade*
CATEGORY: Operational Procedures
CONTACT: Director Tariff Concessions – 02 6245 5492

SUMMARY OF MAIN POINTS

Customs Practice Statements are endorsed Customs policy and must be followed by all Customs employees. This Practice Statement outlines:

- Why Customs administers the duty drawback scheme (international obligations);
- What is Australia's duty drawback scheme;
- Who can claim a duty drawback;
- The availability of duty drawback;
- How the duty drawback scheme is administered.

The electronic version published on the intranet is the current Practice Statement.

STATEMENT

Introduction

Most overseas government administrations have in place procedures which help promote export trade in the interest of the national economy. Drawback is one such procedure. The international framework-governing drawback is provided for under the Specific Annex F to the *International Convention on the Simplification and Harmonization of Customs Procedures* which was revised in June 1999 (Revised Kyoto Convention).

That Annex defines the term 'drawback procedure' as 'the Customs procedure which, when goods are exported, provides for a repayment (total or partial) to be made in respect of the import duties and taxes charged on the goods, or on materials contained in them or consumed in their production'. The revised Kyoto Convention defines the

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term drawback as ‘the amount of import duties and taxes repaid under the drawback procedure’. This procedure may grant repayment of import or dumping duty paid on:

- goods used in the manufacture or treatment of exported products;
- goods that were subjected to a process or treatment for the purpose of producing exported products;
- goods lost or wasted in the manufacture of the exported products; or
- imported goods re-exported in the same state (other than second-hand goods).

In Australia duty drawback has long been an accepted part of Customs legislation. Its original purpose was to waive import duty on goods imported and then subsequently exported in the same condition. Later, the scope of drawback was extended in order to cover imported materials used in the production of goods for export. In Australia there is no refund of Goods and Services Tax (GST) through the Commonwealth’s duty drawback scheme. However, importers registered by the Australian Taxation Office (Tax Office) for GST purposes might be entitled to an input tax credit on creditable importations. The input tax credit is claimed via the Business Activity Statement (BAS).

Context and Scope

Customs is committed to transparent policy procedures for the legislation it administers. This Practice Statement addresses the processes that enable Customs to assess a claim for duty drawback under the *Customs Act 1901* (Customs Act) and the *Customs Regulations 1926* (Customs Regulations).

Policy Statement

Australia’s national legislation establishes and defines the legislative framework for the Government’s duty drawback scheme. The scheme is set out in the Customs Act and the Customs Regulations.

The *Duty Drawback Instructions and Guidelines* will guide Customs officers in the processing of a claim for duty drawback. Adherence to Customs legislation and published guidelines will ensure that claimants for duty drawback will have confidence in Customs administration of the duty drawback procedures.

Procedural Statement

Australia’s duty drawback scheme enables exporters, including exporting companies, to obtain a refund of import or dumping duty paid on imported goods where those goods will be treated, processed, or incorporated into other goods for export, lost in the manufacture of exported goods, or are exported unused since importation. There is no refund of GST under the scheme.

Only the person who is the legal owner of the goods at the time the goods are exported, or a person to whom this right has been assigned, can make a claim for duty drawback. A claim for duty drawback can be lodged on the day the goods were exported or within a four-year period from that date. There is a minimum A\$100.00 claim per application (although an application can cover more than one exportation).

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All claims for duty drawback must be lodged manually on the 'Claim for Drawback' Form (B807). This form can be downloaded from the Customs website www.customs.gov.au or obtained from Regional Customs Offices.

The application to claim duty drawback can only be made on the approved form, and must include information as required by the form, and be signed as required by the form. The claim must be given to a Customs officer doing duty in relation to a claim for duty drawback, or be mailed, or electronically transmitted, or left at the Customs office designated for lodgement of claims for duty drawback. All drawback claims are processed centrally within Customs, in its Melbourne office.

Before considering a claim for duty drawback, Customs must verify the particulars in the claim, or be satisfied of any matter that may be relevant to approval of the duty drawback.

If all of the information is completed on the claim for duty drawback, then Customs will electronically lodge the claim into the Integrated Cargo System (ICS). The ICS is Customs on-line mainframe computer based system.

Duty drawback is available on most goods. However, it cannot be claimed where:

- goods have been used in Australia other than for the purposes of inspection, exhibition, processing, treatment or further manufacture (i.e. goods can't be claimed if used in the filtration or as manufacturing machinery of further manufactured product);
- goods are valued at exportation at less than 25 per cent of their imported value; or
- the import duty paid on the goods has been refunded.

Duty drawbacks are processed on the basis of self-assessment. The amount of duty to be drawn back must be calculated, at the determination of the claimant, using one of three (3) calculation methods available for duty drawback. In all 'methods' the amount of a claim for drawback of import duty must not exceed the amount of import duty paid on the goods. The methods are:

- A. Shipment by shipment basis – is used where the claim amount is calculated from import documents which directly relate to export consignments; or
- B. Representative or Averaging shipment basis – is generally used for high volume low value identical goods. A representative shipment for a period is picked as a typically representative sample of the values of identical items. The averaging of shipments are costed over time and must not result in an over-claim; or
- C. Imputation method - is used where the amount of import or dumping duty paid on the goods is not known by the claimant. In general terms, the amount of drawback is 30 per cent of the purchase price of the goods. This method may only be used in relation to imports that are exported in the same state in which they were imported.

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An Australian Business Number (ABN) is used to identify duty drawback claimants. If an ABN is unavailable, personal details must be provided to enable Customs to issue a Customs Client Identification (CCID).

An Export Declaration Number (EDN) is also required as evidence of export for each line claimed. (As a consequence of Paragraph 113(2)(b) of the Customs Act and regulation 97(1)(c) of the Customs Regulations, all goods sent by post/sea/air that are intended for duty drawback must be entered for export whether they are of a value of less than \$2,000 or not.)

Claimants are not required to submit documents with their application. However, if requested by Customs, claimants should be able to provide evidence in relation to the import or interim dumping duty paid on the goods, the use of the goods, and the exportation of the goods or goods in relation to which the imported goods were used or lost in the manufacture of. Claimants are required to keep all documentation for a minimum of five years.

Customs will aim to process a claim for duty drawback within 30 calendar days from the date of its lodgement with Customs, subject to the receipt of all necessary information.

Claims involving the drawback of interim dumping duty (IDD), once lodged within the ICS, are assessed, and processed by the Trade Measures Branch located in Canberra. Claimants for duty drawback must ensure that a repayment of IDD, under section 269 X of the Customs Act, has not already been made to the importer of the goods.

After an initial assessment of the claim for duty drawback by Customs, the claimant will be given up to 30 calendar days to provide all necessary additional information requested to process the claim. During this time Customs will place the processing of the claim for duty drawback on hold.

At the end of the hold period and/or during the 30-calendar day processing period, Customs will make a decision to either reject or approve the claim. A claim for duty drawback can only be considered on the information available to Customs at that time, especially if the following requirements have not been complied with within a requested 30 calendar day period:

- A requirement to deliver documents or information;
- A requirement to answer questions; and
- A requirement to verify information.

Authorisation of a claim for duty drawback sets in train a process that leads to the spending of public monies from the Consolidated Revenue Fund. Appropriation of these funds is prescribed by section 28 of the *Financial Management and Accountability Act 1997* (FMA). The inappropriate exercise of the Customs Act sections that allow a duty drawback will necessarily lead to a breach of the FMA. It

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should be noted, that claims for duty drawback, can also be the subject of real time and post transaction audit activity by Customs Compliance Areas.

The payment of duty drawback claims is made using Electronic Funds Transfer (EFT). Claimants will need to provide their bank details when completing the drawback claim form. Customs will notify claimants of their payment details by email but only if the claimant has provided their contact email address on the drawback claim form.

Review and Appeal

Internal Review

Where a claimant for duty drawback is dissatisfied with the Customs decision to reject a claim for duty drawback, or to amend the amount initially claimed for drawback, the claimant should first discuss the matter with the decision maker.

After that discussion, if the claimant is still dissatisfied with the Customs decision, then the claimant may ask Customs to review its original decision. (A Customs officer other than the original decision maker and at least one level senior must undertake the review of the initial decision.)

An application for a review of a duty drawback decision must be made by the claimant in writing, must clearly and fully address the reasons why the initial decision is disputed, and should include any information not previously provided that may assist in the review. Where a claim for duty drawback was rejected originally because of insufficient information contained in the 'Claim for Drawback' Form, then the claimant should re-lodge the completed and amended claim.

External Review

In keeping with Paragraph 273GA(1)(jb) of the Customs Act if the claimant still does not accept the decision of Customs, then the claimant may appeal the decision to the Administrative Appeal Tribunal (AAT). An application for an AAT review of a decision must be made to the Tribunal within 28 days after the day on which the person is notified of the reviewable decision: section 29(2) of the *Administrative Appeals Tribunal Act 1975*.

Related Instructions and Guidelines

- Export Concessions – Duty Drawback Scheme Fact Sheet
- Customs 'Claim for Drawback' Form (B807 – OCT 2006)
- Drawbacks Standard Operating Procedure (SOPs) Victoria

Related Policies and References

- *Customs Act 1901*
- *Customs Regulations 1926*
- Australian Customs Notice No.2006/53 (Changes to Duty Drawback Regulations)
- Customs Import Cargo Clearance Manual (ICS) - Module 23 Drawback Claims, V1.1 27/08/2007

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- Customs Client Service Standards - 2007 (as amended)

KEY ROLES AND RESPONSIBILITIES

Duty Drawback Section

The processing of duty drawback claims is a centralised function carried out by Customs in Melbourne. Claims may be facsimiled to 03 9244 8440 or mailed to:

Drawback Section
Trade Services Branch
Australian Customs Service
GPO Box 2809AA
Melbourne Victoria 3001

Information on duty drawbacks may also be obtained by contacting Customs on 1300 304 322 Monday to Friday between 8.30am to 5pm (Eastern Standard Time) or Email: drawbacks@customs.gov.au.

The Dumping Liaison & Implementation Section, Trade Measures Branch located in Canberra, provides assistance in the assessment and processing of duty drawback claims involving drawback of IDD.

Tariff Concessions Section, part of Trade Services Branch, located in Canberra provides policy support and advice in relation to duty drawback matters.

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 stakeholders were consulted in the development of this Practice Statement:

- Tariff Concessions Section - Canberra;
- Industry Engagement and User Services;
- Duty Drawback Section – Victoria;
- Customs Legal Unit (Australian Government Solicitor);
- Compliance Division;
- Trade Measures;
- Financial Services Division; and
- Legislation Management Unit.

APPROVAL

Approved on *(date)* by:

ND Trade

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ENDORSED

Endorsed on *(date)* by:

DCEO

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