



Ottawa, April 30, 2012

MEMORANDUM D17-1-8

In Brief

RELEASE PRIOR TO PAYMENT PRIVILEGE

Appendices A and B of Memorandum D17-1-8 dated April 11, 2012 have been revised to update point number 11 of the "Instructions for the Completion of Form D120, *Customs Bond*."





Ottawa, April 11, 2012

MEMORANDUM D17-1-8

RELEASE PRIOR TO PAYMENT PRIVILEGE

This memorandum explains the policies and procedures related to the privilege associated with the release of imported shipments prior to payment of duties and taxes.

GUIDELINES AND GENERAL INFORMATION

1. An importer or customs broker who wishes to obtain the release prior to payment privilege shall:
 - (a) register for an importer/exporter account (refer to Memorandum D17-1-5); and
 - (b) post security (refer to Memorandum D1-7-1).
 2. The release prior to payment privilege entitles holders to:
 - (a) obtain release of goods from the Canada Border Services Agency (CBSA) before paying duties and taxes;
 - (b) defer accounting; and
 - (c) defer payment of duties and taxes.
 3. In addition to the security deposit, a letter with the following information should be provided when applying for this privilege:
 - (a) name and address of importer or customs broker posting security;
 - (b) contact name, telephone and fax numbers;
 - (c) business number; and
 - (d) the central payment office, if requested.
 4. The release prior to payment privilege is subject to the terms and conditions of this memorandum, D17-1-5 and D1-7-1. The CBSA reserves the right to suspend the importer's or customs broker's privilege based on non-compliance.
- ### Importer Security
5. Security can be in the form of cash, certified cheque, money order, transferable bond issued by the Government of Canada, and/or a D120 *Customs Bond* issued by either a surety or financial institution as detailed in Memorandum D1-7-1, paragraph four.
 6. Security is to be posted in the legal entity name as they are registered against their business number.

7. Security is to be posted at CBSA Headquarters, Commercial Licensing and Security Unit (Ottawa) to obtain this privilege.
8. Security for resident importers is based on their average monthly duties and taxes owing (less the GST), up to a maximum of CAN\$10 million.
9. Security for non-resident importers is based on their average monthly duties and taxes owing (including GST), up to a maximum of CAN\$10 million.
10. The minimum security requirement to transact business at all CBSA offices in Canada is CAN\$5,000.
11. The minimum security requirement to transact business at one CBSA office in Canada is CAN\$250.
12. A sample of an importer's D120 *Customs Bond* with completion instructions can be found in Appendix A. This form is available in a fillable format on the CBSA web site under "publications and forms".
13. The Commercial Licensing and Security Unit will send an acknowledgement to the importer and the surety or financial institution, within 21 calendar days confirming receipt of the security. Upon acceptance of the posted security, the five-digit account security number is issued to the importer.

Uncertified Cheque Security

14. Only frequent importers are required to post security for uncertified cheque privilege. The security must be enough to cover all uncertified cheques that might be given to CBSA on a business day.
15. In addition to the security deposit, a letter with the following information should be provided when applying for this privilege:
 - (a) name and address of importer or customs broker posting security;
 - (b) contact name, telephone and fax numbers;
 - (c) purpose for which the security is being posted (i.e. uncertified cheque privilege); and
 - (d) business number.

Using the Services of a Customs Broker

16. Importers may authorize a licensed customs broker to transact business with the CBSA on their behalf.
17. Fees imposed by customs brokers are not regulated by the CBSA.

18. Importers are reminded that although they may choose to use the services of a licensed customs broker to transact business with the CBSA on their behalf, the importer is ultimately responsible for the accounting documentation, payment of all duties and taxes, and subsequent corrections.

Customs Broker Security

19. Security for customs brokers is based on their average monthly duties and taxes owing (including GST) up to a maximum of CAN\$10 million.

20. Security is submitted along with their brokerage application (refer to Memorandum D1-8-1). Any changes to their security once brokerage application is approved is to be sent to the CBSA HQ, Commercial Licensing and Security Unit (Ottawa) for acceptance.

21. The minimum security requirement to transact business at all CBSA offices in Canada is CAN\$25,000.

22. The minimum security requirement to transact business at one CBSA office is CAN\$5,000.

23. A sample of a customs broker's D120 *Customs Bond* with completion instructions can be found in Appendix B. This form is available in a fillable format on the CBSA web site under "publications and forms".

Direct Security Option

24. Customs brokers may arrange for their clients to obtain their own release prior to payment privilege (account security number) by posting security with CBSA. This option allows customs brokers to reduce their level of security by the importer's average monthly duties and taxes, provided the importer completes a direct security letter, authorizing the customs broker(s) to transact on the importer's behalf. Under this option, business is transacted using the customs broker's account security number. Should the importer wish to authorize the disclosure of information regarding their account security profile to the customs broker, the letter is to be submitted to the CBSA, Commercial Licensing and Security Unit to be placed on the importer's file. A specimen of the Direct Security Letter can be found in Appendix C of this memorandum.

25. Importers on the direct security option agree to pay the full amount of duties and taxes owing at a CBSA office, or to their customs broker with a cheque made payable to the Receiver General for Canada by the last business day of the month. If payment is not made by this date, this option may be suspended. Should a customs broker default or fail to pay the amount owing, the importer remains liable for the payment. Importers should advise their customs broker when they submit payment directly to a CBSA office.

26. The customs broker must reconcile the importer's payments on their monthly account statement reconciliation control sheet, as per the requirements of Memorandum D17-1-5.

27. The CBSA no longer acknowledge direct security letters, however, if CBSA, Commercial Licensing and Security Unit receives a valid letter, it will be placed on the importer's account security file. In the event that a bond is amended, cancelled or suspended, the CBSA will notify the customs broker, within 21 calendar days from the date of receipt.

28. The CBSA requires a written letter from the importer if they wish to have a customs broker removed from their account security profile. Once an acknowledgement is sent to all parties, the customs broker will no longer be notified of activities on the importer's account.

29. An importer can not be on the Direct Security and the Goods and Services Tax (GST) option at the same time.

Goods and Services Tax (GST) Option

30. In order to reduce a customs broker's security requirement, the customs broker may place resident importers on the GST Option, thus allowing for a reduction in security equivalent to the importer's monthly GST owing.

31. These importers must agree to provide payment for the full amount of GST for all transactions processed during a billing period, with a cheque payable to the Receiver General for Canada. The cheque must be given to a CBSA office or to the customs broker for remittance to CBSA. Importers should advise their customs broker when they submit payment directly to a CBSA office.

32. The customs broker must reconcile the importer's payments on their monthly account statement reconciliation control sheet, as per the requirements of Memorandum D17-1-5.

33. Failure to provide payment by the due date may result in the loss of the option.

Interim Payment Option

34. Customs brokers may apply for an interim payment in lieu of increasing their current level of security. Under this option, a customs broker must commit to the CBSA, in writing that they will make payments whenever the amount of outstanding duties and taxes exceeds their level of security. Failure to make the necessary payments may result in the customs broker being removed from this option, thereby requiring an increase in their security level.

A request to participate on the interim payment option is to be submitted in writing every year after July 25, to CBSA, Commercial Licensing and Security Unit (Ottawa). The Commercial Licensing and Security Unit will send an acknowledgement notifying of their decision.

Maintaining Security for Importers and Customs Brokers

35. Importers and customs brokers are responsible for the annual review of their security level and are to maintain a record of their review on file as CBSA may request a copy for verification purposes. When additional security is required, the importer or customs broker will submit a rider, endorsement or an amendment (refer to Memorandum D1-7-1, paragraph 23). The review period is from July 25 of the previous year to July 24 of the current year.

36. Failure to comply with security requirements may result in the suspension of the release prior to payment privilege.

Monitoring of Late Payment and Non-compliance

37. Payment history will be monitored by the CBSA, Commercial Licensing and Security Unit. Importers who are late paying three times in a one-year period may be removed from the GST or direct security option, and their customs broker will be notified by CBSA Headquarters, Commercial Licensing and Security Unit. Should the customs broker continue to use their own account security privilege for these importers, the customs broker will be held responsible for these payments. The importer may be placed back on the GST or direct security option after one year following their date of suspension.

38. Importers with their own release prior to payment privilege and are not on the direct security option, may be suspended after their third late payment. The Commercial Licensing and Security Unit will notify these importers, in writing, of their non-compliance; the third letter may result in a suspension of their Release prior to payment privilege.

39. The Administrative Monetary Penalty System (AMPS) contravention applies to late payments on duties and taxes owing, please refer to Memorandum D22-1-1 for further information.

Customs brokers non-compliance

40. Customs brokers who do not pay their monthly K84 amount in full, by the due date, may be placed on a daily K84 payment schedule until the outstanding debt is paid. In addition, customs brokers may be required to pay at least 5% of the outstanding amount on all previous K84s, each day, until the outstanding debt is cleared.

41. Once a customs broker has been placed on daily payments, any failure to pay the daily K84 in full may result in the suspension of the customs brokers release prior to payment privilege until the outstanding amount has been paid.

42. If the outstanding amount is not paid in full by the end of the following month, the customs brokers release prior to payment privilege may be suspended until the outstanding amount is paid with a certified cheque. Further actions on the part of the CBSA will be determined on a case-by-case basis.

Claims Against Security

43. When the terms and conditions for which security is taken are not met, the CBSA will withhold a sufficient portion of the security to cover the amount owing. The CBSA will provide relevant documentation to substantiate the claim.

44. If the CBSA files a claim against the importer's security for the release prior to payment privilege, the importer will no longer be eligible for the privilege, nor the direct security or GST options for a three (3) year period following the resolution of the collection action.

Additional Information

45. General questions may be addressed to the following:

Border Information Service (BIS)

Calls within Canada:

Toll-free

Service in English: **1-800-461-9999**

Service in French: **1-800-959-2036**

For those with hearing or speech impairments:
1-866-335-3237

Calls outside of Canada:

Long distance charges apply

Service in English: 204-983-3500 or 506-636-5064

Service in French: 204-983-3700 or 506-636-5067

E-mail address:

General questions and information:
cbsa-asfc@canada.gc.ca

46. Documents for the release prior to payment privilege should be submitted to the CBSA via registered mail:

Commercial Licensing and Security Unit
Canada Border Services Agency
Ottawa ON K1A 0L8


APPENDIX A**INSTRUCTIONS FOR THE COMPLETION OF FORM D120, *CUSTOMS BOND*****For Importers**

1. Indicate the bond number.
2. In field 1, enter the specific bonded activity that will be secured. For this privilege, indicate the following: "Release of goods from the CBSA prior to payment of duties".
3. Identify the relevant authority by writing in the appropriate legislation. "Accounting for imported goods and payment of duties regulations".
4. Write the amount of security in words.
5. Write the amount of security in figures.
6. In field 3A, insert the effective date (month day, year) release prior to payment bonds are continuous.
7. In field 4, enter the CBSA office where the activities are to be conducted. For the national privilege, enter "All CBSA offices in Canada". For the local privilege input the applicable CBSA office.
8. In field 7, enter the principal's legal name and address, along with the principal's nine digit business number.
9. Affix the signatures of two duly authorized officers of the principal, indicate their names, titles if applicable and impress the customs bond with the corporate seal.
10. Enter the surety's or financial institution's name and address.
11. Affix the signature(s) of authorized individual(s) of the surety company or financial institution, indicate their names, titles and impress the customs bond with the corporate seal.
12. In field 8 if required, affix the name, signature and the seal of the witness.
13. In field 9, the surety or financial institution is to enter the date the bond is being completed.

APPENDIX B**INSTRUCTIONS FOR THE COMPLETION OF FORM D120, *CUSTOMS BOND*****For Customs Brokers**

1. Indicate the bond number.
2. In field 1, enter the specific bonded activity that will be secured. For the release of goods prior to payment privilege, insert the following: “Remittance to Canada Border Services Agency, within the delays applicable to the importers and/or owners under relevant legislative authority for the release of goods prior to the payment of duties, of all monies that the principal, as agent for the importer and/or owner has taken to remit on account of duties”.
3. Identify the relevant authority by writing in the appropriate legislation. “Accounting for imported goods and payment of duties regulations”.
4. Write the amount of security in words.
5. Write the amount of security in figures.
6. In field 3A, insert the effective date the bond is being completed by the surety or financial institution. Release prior to payment bonds are continuous.
7. In field 4, enter the CBSA office where the activities are to be conducted. For the national privilege, state “All CBSA offices in Canada”. For the local privilege input the applicable CBSA office.
8. In field 7, enter the principal’s legal name and address, along with the principal’s nine digit business number.
9. Affix the signatures of two duly authorized officers of the principal, indicate their names, titles if applicable and impress the customs bond with the corporate seal.
10. Enter the surety’s or financial institution’s name and address.
11. Affix the signature(s) of authorized individual(s) of the surety company or financial institution, indicate their names, titles and impress the customs bond with the corporate seal.
12. In field 8 if required, affix the name, signature and the seal of the witnesses.
13. In field 9, the surety or financial institution is to enter the date the bond is being completed.

CUSTOMS BROKER BOND SAMPLE

	Canada Border Services Agency Agence des services frontaliers du Canada	Help	Restore	Bond No.
CUSTOMS BOND				
In accordance with the Acts, Regulations and other authorities governing the customs activity identified below, we, the "principal" and "surety", jointly and severally bind ourselves, our respective heirs, executors, administrators, successors and assigns in the amount stated below unto Her Majesty in right of Canada, her heirs and successors. We, the principal, further acknowledge that we are required to furnish and maintain security in the amount noted.				
1. Activity to be secured Remittance to the CBSA, within the delays applicable to importers and/or owners under relevant legislative authority for the release of goods prior to the payment of duties, of all monies that the principal, as agent for the importer and/or the owner has taken to remit on account of duties.				
Relevant legislative authority <u>Accounting for Imported Goods and Payment of Duties Regulations</u>				
Bond amount <u>Is to be written in words (example: five thousand dollars)</u> <small>(in words)</small>				
dollars (\$ <u>X,XXX</u>)				
2. Legislative authorities <i>Customs Brokers Licensing Regulations</i> <i>Transportation of Goods Regulations</i> <i>Customs Bonded Warehouse Regulation</i> <i>Customs Sufferance Warehouse Regulations</i> <i>Duty Free Shop Regulations</i> <i>Temporary Importation (Tariff Item No. 9993.00.00) Regulations</i> <i>Accounting for Imported Goods and Payment of Duties Regulations</i> <i>Other authorities may be accepted</i>				
The condition of the above written obligation is such that, if the obligation imposed by these legislative authorities is well and truly performed, this obligation shall be void and of no effect, but, otherwise, shall be and remain in full force, virtue and effect. Notwithstanding the foregoing, it is understood and agreed that the liability of the surety under this bond shall be limited to the amount stated herein and shall not be cumulative during the existence of this bond.				
3. Specify the period of validity of this bond as determined by the relevant Regulations (check one box only) a) <input checked="" type="checkbox"/> Continuous bond — Effective date: <u>(example: January 1, 20XX)</u> b) <input type="checkbox"/> Bond for a specified period — Starting on the _____ day of _____ year _____ and terminating on the _____ day of _____ year _____				
4. It is understood that the above-written obligation shall apply to activities conducted at <u>All CBSA offices in Canada OR Local Office</u>				
5. a) Provided that the surety gives the CBSA office holding the security 30 days notice by registered mail of its intention to terminate the obligation undertaken, this obligation and all liability shall cease insofar as any act or dealing by the principal subsequent to the termination date is concerned, but, otherwise, shall remain in full force and effect. b) The liability of the principal and of the surety hereunder, shall arise upon receipt by the surety of a written demand from the Canada Border Services Agency (CBSA) containing relevant documentation to substantiate the claim. However, if the principal or the surety provides, within 60 days of the date of such demand, evidence to disprove the claim, then such liability, if any, arises on the date of the notice confirming that the demand is valid. All such demands shall be given to the surety within one year following the date of termination of this bond.				
6. Notwithstanding this bond, it is understood that the CBSA may, at any time, as it sees fit, refuse the privileges associated with this bond.				
7. In witness whereof, the principal has hereunto set his hand and seal and the surety has caused those present to be sealed with its corporate seal, attested to be the signature of its duly authorized officials, the day and year written below. We the principal further testify that we have read and understand the relevant Acts, Regulations and other authorities indicated herein, and hereby undertake to be strictly governed by the provisions thereof.				
Principal (name and address) XX Customs Brokers		Signature and seal		
Address		President's name Name		
City, Province		Signature		
Postal Code		Secretary or treasurer's name Name		
Business number 123456789		Signature and seal		
Surety (name and address) Name of Surety/Financial Institution		Name and title Name + Title		
Address		Signature		
City, Province		Name and title Name + Title		
Postale				
8. Signed, sealed, and delivered in the presence of _____ <small>(witness for principal, notary public, commissioner of oath or by a lawyer)</small>				
9. Dated this _____ day of _____ year _____				
D120 E (08)		Print		BSF259 E 

APPENDIX C**DIRECT SECURITY LETTER**

Date

NAME OF IMPORTER has posted security for the release of goods prior to the payment of duties and taxes, and has been given the account security number A/S NUMBER.

The business number of NAME OF IMPORTER is xxxxxxxxx.

NAME OF BROKER will release and account for imports by NAME OF IMPORTER under the broker's account security number A/S NUMBER.

NAME OF BROKER and NAME OF IMPORTER agree that:

NAME OF IMPORTER will provide payment for the full amount of duties and taxes owing on imported goods;

NAME OF IMPORTER agrees to pay the Canada Border Services Agency (CBSA) directly by the last business day of the month, or to provide NAME OF BROKER with a cheque made payable to the Receiver General for Canada each month, for the full amount of duties and taxes owing. The cheque is to be made available to NAME OF BROKER for remittance to CBSA, by the last business day of the month;

NAME OF IMPORTER accepts responsibility and liability for the payment of penalties and interest applied by the CBSA resulting from any late payment of duties and taxes. Failure to provide payment to the CBSA by the due date will result in the application of penalties and interest to NAME OF IMPORTER on any amounts owing. Importers who are late paying 3 times in a one-year period may be removed from this option. NAME OF IMPORTER may benefit once again from the option program after one year from the date of suspension.

NAME OF IMPORTER is reminded that although they may choose to use the services of a licensed customs broker to transact business with the CBSA on their behalf, the importer is ultimately responsible for the accounting documentation, payment of all duties and taxes, and subsequent corrections;

NAME OF IMPORTER authorizes NAME OF BROKER to communicate with the Canada Revenue Agency (CRA) regarding collections activity related to amounts owing on imported goods released under this agreement, and to release information on these transactions to the CRA;

NAME OF IMPORTER authorizes the disclosure of information pertaining to their Account Security Profile by officers of the Commercial Licensing and Security Unit, CBSA, to NAME OF CUSTOMS BROKER.

All queries regarding this letter and the payment of duties and taxes on imported goods by NAME OF IMPORTER should be directed to:

Contact name
Title
Address
Telephone
Fax number

Signed (Importer) Si

igned (Broker)

APPENDIX D**GST LETTER**

Date

NAME OF IMPORTER is a resident of Canada.

The business number of NAME OF IMPORTER is xxxxxxxxx.

NAME OF BROKER will release and account for imports by NAME OF IMPORTER under the broker's account security number A/S NUMBER.

NAME OF BROKER and NAME OF IMPORTER agree that:

NAME OF IMPORTER will provide payment for the full amount of the goods and services tax (GST) levied on imported goods under the *Excise Tax Act*;

NAME OF IMPORTER agrees to pay the Canada Border Services Agency (CBSA) directly by the last business day of the month, or to provide NAME OF BROKER with a cheque made payable to the Receiver General for Canada each month, for the full amount of GST owing. The cheque must be made available to NAME OF BROKER for remittance to CBSA, by the last business day of the month;

NAME OF IMPORTER accepts responsibility and liability for the payment of penalties and interest applied by the CBSA resulting from any late payment of GST. Failure to provide payment to the CBSA by the due date will result in the application of penalties and interest to NAME OF IMPORTER on any amounts owing. Importers who are late paying 3 times in a one-year period may be removed from this option. NAME OF IMPORTER may benefit once again from the option program after one year from the date of suspension;

NAME OF IMPORTER is reminded that although they may choose to use the services of a licensed customs broker to transact business with the CBSA on their behalf, the importer is ultimately responsible for the accounting documentation, payment of all duties and taxes, and subsequent corrections;

NAME OF IMPORTER authorizes NAME OF BROKER to communicate with the Canada Revenue Agency (CRA) regarding collections activity related to amounts owing on imported goods released under this agreement, and to release information on these transactions to the CRA.

All queries regarding this letter and the payment of GST on imported goods by NAME OF IMPORTER should be directed to:

Contact name

Title

Address

Telephone

Fax number

Signed (Importer) Si

igned (Broker)

REFERENCES

<p>ISSUING OFFICE – Licensing Unit Assessment and Licensing Division Program Branch</p>	<p>HEADQUARTERS FILE – 7640</p>
<p>LEGISLATIVE REFERENCES – <i>Customs Act</i>, Section 35, 133(1) & (2)</p>	<p>OTHER REFERENCES – D1-7-1, D1-8-1, D17-1-5, D22-1-1</p>
<p>SUPERSEDED MEMORANDA “D” – D17-1-8 dated February 16, 2010</p>	

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

