



Ottawa, January 14, 2011

MEMORANDUM D7-4-1

In Brief

DUTIES RELIEF PROGRAM

1. This In Brief page has been revised to denote changes made as a result of the Government of Canada's Paperwork Burden Reduction Initiative. The revisions are aimed at eliminating obsolete and duplicated requirements. This revision replaces Memorandum D7-4-1 dated January 31, 1996.
2. In accordance with the above, the following changes were made:
 - (a) All information regarding customs bonded warehouse can be found by referencing D7-4-4, *Customs Bonded Warehouses*.
 - (b) All information regarding the North American Free Trade Agreement can be found by referencing D7-4-3, *NAFTA Requirements for Drawback and Duty Deferral*.
 - (c) All links to forms and reference material, including the *Duties Relief Regulations* are located in the Additional Information section of this memorandum.





Ottawa, January 14, 2011

MEMORANDUM D7-4-1

DUTIES RELIEF PROGRAM

This memorandum outlines and explains the conditions and circumstances under which relief of duties at the time of importation can be obtained.

GUIDELINES AND GENERAL INFORMATION

1. The Duties Relief Program relieves the payment of duties on imported goods that will eventually be exported either in the same condition or after being consumed, expended or used in the processing of other goods.

Who May Apply

2. This program is for businesses who:
- (a) import goods into Canada; or
 - (b) receive goods that were imported into Canada; and
 - (c) export those goods from Canada;
- and want to relieve the payment of duties at the time of importation.
3. Imported goods, for export from Canada which are for:
- (a) further processing;
 - (b) display or demonstration in Canada;
 - (c) development or production in Canada of goods for subsequent export; or
 - (d) export without having been used in Canada for any purpose other than indicated in subparagraphs (a), (b), or (c);

may qualify for relief at the time of importation. In most cases, this means there is no payment of customs duties, anti-dumping and countervailing duties, or excise taxes, other than the Goods and Services Tax (GST)/Harmonized Sales Tax (HST), at the time of importation, as long as the goods are for export. Relief of the duties or taxes levied or imposed under the *Excise Act 2001*, the *Excise Tax Act* or section 21 may not be granted under duties relief on tobacco products or designated goods. The amount of relief becomes payable once the goods no longer qualify for this program, i.e. are no longer for export.

GST/HST Relief

4. Although the GST/HST is not relieved under the Duties Relief Program, the GST/HST payable is reduced by the amount of duty remitted (based on the new value for tax).
5. Relief of GST/HST is available through two programs administered by the Canada Revenue Agency (CRA). These are the Exporters of Processing Services (EOPS) program or the Export Distribution Centre (EDC) program. For more information regarding these programs please visit the CRA Web site at www.cra.gc.ca or contact the CRA Business Information Services (BIS) line at **1-800-959-8287**.

Application Process

6. Participation in the Duties Relief Program requires the completion and Canada Border Services Agency (CBSA) approval of Form K90, *Duties Relief Application*. To expedite the approval process, submit the detailed application to the closest CBSA office. The information is treated confidentially by CBSA in accordance with Section 107 of the *Customs Act*.
7. Identify the type of records maintained on the application for Duties Relief. The records, including tracking of all receipts, activities and movement of the goods included under the program, must be sufficient to enable CBSA to conduct an audit.
8. CBSA will review the completed application and schedule a visit to the company premises to confirm adequate control records are in place to track the imported goods while they remain in Canada.
9. Anyone who has debts due or payable to the Government will not be authorized to participate under this program.

Program User Procedures

10. If authorized by CBSA, a unique licence number will be issued. When importing goods under this program, the licence number must to be placed in field No. 26, "Special Authority" of Form B3-3, *Canada Customs Coding Form*.
11. When using the licence number on the B3-3, the company retains responsibility for the goods until:
- (a) the goods are transferred to another duties relief program participant;

- (b) the goods are exported from Canada;
- (c) the amount relieved is paid when the goods are no longer for export;
- (d) the goods are reclassified to an eligible duty-free status;
- (e) the goods are transferred to another relief program; or
- (f) the goods qualify for destruction under the *Refund of Duties on Obsolete or Surplus Goods Regulations*.

12. The imported goods must be exported from Canada within four years, or within five years in the case of imported spirits used to manufacture distilled spirits, of the date of release of the goods.

13. The authorization is not retroactive. For any inventory that was duty-paid prior to the company receiving the authorization, a claim for drawback may be filed once the goods are exported from Canada. Please refer to Memorandum D7-4-2, *Duty Drawback Program*, for further details. When duties are paid on goods after the date of issuance of the certificate/licence, they can be refunded under the program by submitting Form K32, *Drawback Claim*, to the CBSA office that approved the licence.

14. Periodic audits and/or verifications will be conducted at your premises to monitor compliance. CBSA will send a notification in advance of the visit and may ask for an activity summary since the last audit and/or verification period.

Certificates and Waivers

15. When goods imported under the Duties Relief Program are sold or transferred to another program participant, the liability for the payment of any duty owing transfers to the participant who receives the goods. Transferring the duty liability is documented by means of either Form K32A, *Certificate of Importation, Sale or Transfer*, or other commercial documentation.

16. Commercial documentation is acceptable as a means of indicating the duty liability as well as the transfer and acceptance of responsibility. The documentation should clearly show the licence number, amount of duty relieved, contain the date of release, transaction number, quantity of goods transferred, and a complete description of the goods. The completed transfer certificate represents acknowledgement of transfer and acceptance of liabilities to the transferee. For a sample of a transfer certificate please see the Appendix.

Deemed Exportation

17. Subsection 89(3) of the *Customs Tariff* identifies goods deemed to be exported. This means the goods may not have physically left Canada, but are for export.

Consumable and Expendable Goods

18. Goods, other than fuel or plant equipment, that are consumed or expended in the direct manufacture of goods that are for export from Canada are eligible for duties relief.

19. Consumables are goods that virtually disappear in the manufacturing process and do not form part of the finished product.

20. Expendables are goods that, after use, retain some physical characteristics but have become useless or devitalized and do not form part of the finished product.

Equivalence

21. Equivalence is a term used in duties relief where both imported and domestic goods of the same class are used interchangeably in the manufacture of end products, some of which are exported. The imported goods must be in sufficient quantities to produce the goods exported and be used in production prior to the domestic goods. The imported goods must be used in the different manufacturing facilities producing the exported products. The finished product, when incorporating domestic goods, must be exported within two years of the imported goods' release date.

22. Equivalence can only be applied to goods that are further manufactured, including consumable or expendable goods.

23. In order to consider domestic and imported textile fabrics composed of different fibres equivalent for duties relief purposes, the fabrics must be made from fibres that fall within the same class, as listed in Section 10(2) of the *Duties Relief Regulations*. Where the fabrics are composed of fibres of different classes, they will only be considered equivalent if they meet the weight requirements of the regulations.

Examples:

Eligible Equivalent Blends or Mixtures

Polyester/Cotton 65/35 and 50/50
 Polyester/Cotton 80/20 and 50/50
 Wool/Viscose 70/30 and 40/60
 Nylon/Cotton 15/85 and 40/60
 Nylon 100 per cent and Nylon/Acetate 96/4

Ineligible Equivalent Blends or Mixtures

Polyester/Cotton 45/55 and 80/20
 Nylon/Cotton 50/50 and 15/85

Scrap or Waste

24. Scrap or waste resulting from a processing operation is also eligible for relief under this program when the imported goods are processed and exported. However, if the scrap or waste is dutiable if imported and has a

merchantable value, it is not entitled to the relief, unless the scrap is exported. In this case, the duties applicable to the scrap must be paid. The rate of duty in effect on the date the scrap or waste was produced, is applicable.

Non-qualifying Use

25. When the imported goods no longer qualify for duties relief, submit Form B2, *Canada Customs – Adjustment Request*, and voluntarily pay the duties owing. Examples of non-qualifying use include, but is not limited to:

- (a) a sale in Canada; or
- (b) goods that are no longer for export.

26. If the imported goods qualify for a refund, drawback or some other form of relief or remission, no duties are owing. However, the goods must be reported to CBSA specifying how they qualify for the relief, remission, refund or drawback.

27. Payments of duties for failing to comply with a condition of the program must be received by CBSA within 90 days from the date the goods no longer qualified.

Sanctions

28. Instances of non-compliance with the requirements of the Duties Relief Program will result in a demand for payment of any outstanding duties owing and may result in the possible removal from the program and the assessment of a penalty under the Administrative Monetary Penalty System (AMPS).

North American Free Trade Agreement (NAFTA)

29. Information regarding the effects of NAFTA can be found in Memorandum D7-4-3, *NAFTA Requirements for Drawback and Duty Deferral* or by visiting our Web site at www.cbsa.gc.ca.

Additional Information

30. To view the *Duties Relief Regulations* please visit the following Department of Justice Canada Web site at <http://laws-lois.justice.gc.ca>.

31. To access the Form K90, *Duties Relief Application* please visit the CBSA Web site at www.cbsa.gc.ca or contact your local CBSA Trade Compliance Division office.

32. For a listing of the CBSA, Trade Compliance Division (TCD) offices, please visit the CBSA Web site at www.cbsa.gc.ca.

33. For more information regarding CBSA programs, within Canada call the Border Information Service at **1-800-461-9999** for service in English or **1-800-959-2036** for service in French. TTY is also available within Canada: **1-866-335-3237**. Long distance charges will apply to calls from outside Canada using 204-983-3500 or 506-636-5064. Agents are available from 08:00 to 16:00, Monday to Friday, except holidays.

APPENDIX

TRANSFER CERTIFICATION

A.

I hereby certify that the information contained herein is correct and hereby transfer the responsibility of the duties to the purchaser.

Company Name: _____

Business No.: _____

Licence No.: _____

Executive Officer Name: _____

Phone No.: _____

Title: _____

Signature

Date

B.

I accept responsibility for the specified duties on the goods enumerated on this document from the seller.

Company Name: _____

Business No.: _____

Licence No.: _____

Executive Officer Name: _____

Phone No.: _____

Title: _____

Signature

Date

REFERENCES

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|---|--|
| <p>ISSUING OFFICE –</p> <p>Tariff Division Post-Border Programs Directorate Programs Branch</p> | <p>HEADQUARTERS FILE –</p> <p>6553-22</p> |
| <p>LEGISLATIVE REFERENCES –</p> <p><i>Customs Tariff</i>, sections 89 to 99 P.C. 1995-2252, Dated December 28, 1995 <i>Duties Relief Regulations</i> (SOR/96-44)</p> | <p>OTHER REFERENCES –</p> <p>D7-4-2, D7-4-3</p> |
| <p>SUPERSEDED MEMORANDA “D” –</p> <p>D7-4-1, January 31, 1996</p> | |

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

