

# Customs Valuation Essentials for Importing

Hosted by Amber Road's Global Trade Academy on  
Thursday, October 27<sup>th</sup>, 2016

## Responses from the Q&A Portion of the Broadcast

This information has been provided by the webinar presenter, Suzanne Richer of Amber Road.

**1. Does Customs have guidelines as to what constitutes acceptable "proof" to validate any deductions on the import value?**

According to the Evidence of Actual Cost of Freight guidelines, Customs considers actual costs to constitute those amounts ultimately paid to the international carrier, freight forwarder, insurance company, or other appropriate provider of such services. Commercial documents to and from the service provider, such as an invoice or written contract separately listing freight/insurance costs, a freight/insurance bill, a through bill of lading, or proof of payment of the freight/insurance charges (i.e., letters of credit, checks, bank statements), are examples of some documents which typically serve as proof of such actual costs.

Customs goes on to address other types of documentary evidence that is acceptable at the discretion of the appropriate Customs port official: "A Customs official has discretion in accepting various types of evidence to verify the amounts deducted for freight."

**2. If I'm importing equipment but sent my technician overseas with my tools to test the equipment before I pay for it, is that an assist?**

The approach generally taken by Customs is whether the testing services and associated testing equipment is essential to the production of the item at issue or is just a post-production quality check. If the former, then it is an assist, if the latter, generally not.

**3. In regard to packing costs, what if companies send pallets back and forth and no one charges the other for the cost of the pallet?**

These appear to be reusable and, as such, are considered "Instruments of International Trade" (IIT) classifiable under subheading 9803.00.50, HTSUSA. Their value would not be included in the value of the shipments sent with the pallets. The pallets would instead be separately entered with their individual values under the Chapter 98 provision, which is duty-free. See HQ 54857 (March 19, 2003).

**4. Would a royalty paid to use their trademarks be dutiable?**

CBP has established a three-part test for determining the suitability of royalty or license fee payments. In determining the suitability of such payments, the importer should ask the following questions:

1. Was the imported merchandise manufactured under patent?
2. Was the royalty involved in the production or sale of the imported merchandise?
3. Could the importer buy the product without paying the fee?

The most important part of this test with regard to trademarks is whether the importer could have bought the imported product without paying the fee. See also, HQ 545035 (August 23, 1995).

This test is specified in the General Notice, Suitability of Royalty Payments, Vol. 27, No. 6 Cust. B. & Dec. at 1 (February 10, 1993)

**5. Can an assist be done on a repair (i.e.: inspections, goods supplied, engineering support)?**

Certainly: if you review the Chapter 98 classifications (Heading 9802) they give you a duty allowance on foreign repaired goods, in that they apply duty to the value of the foreign repair and not the underlying product. It's the same approach as with "production assists" – are you supplying something of value, free of charge or at a reduced rate of value, that would the foreign repairer would ordinarily have to buy itself? If so, you are reducing the cost of the repair and the amount dutiable; accordingly, any item you provide to the foreign repairer must be recognized in the customs valuation of the returned, repaired products. It would not appear that inspections or engineering support from the US would be part of the assist, but any "goods" supplied almost certainly would be.

**6. Can you explain the transaction value for discounted products? If the sales price is \$800 (after 20% discount), is \$800 the TV or original value \$1000.00?**

Remember, transaction value is the "price actually paid or payable." If the price you paid was the discounted price of \$800 - that would be the transaction value for customs purposes.

**7. Must assists be declared at the time of entry, or can the entry be flagged for value reconciliation, and the assist be later accounted for on a recon?**

From the CBP Website, page entitled "What is Reconciliation":

Reconciliation allows the importer, using reasonable care, to file entry summaries with CBP with the best available information, with the mutual understanding that certain elements, such as the declared value, remain outstanding. At a later date, when the specifics have been determined, the importer files a Reconciliation which provides the final and correct information. The Reconciliation is then liquidated, with a single bill or refund, as appropriate.

In the ACS Reconciliation Prototype, the following issues are allowed reconciliation: Value (Assists, Royalties, etc.)

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