



business meeting

IMPORTING GOODS INTO CANADA

In an era of globalization, it's almost inevitable that most goods sold in Canada are manufactured or processed elsewhere and then exported for resale. In some cases, comparable goods are not available from Canadian manufacturers, while in others it is more cost-effective for a business owner to source goods for resale from other markets, even after the costs of exchange, shipping, and customs duties are factored in to the final purchase price.

No matter what a business owner's reasons for purchasing commercial goods from outside Canada, doing so makes that business owner an importer, with all of the myriad (and sometimes complex) obligations that come with that status someone to keep on top those tasks or outsource them to a third-party provider of such services.



The Canada Revenue Agency (CRA) provides, on its website, a checklist of the steps to be taken by anyone who seeks to import commercial goods into Canada. That checklist includes the following items, and what follows is a guide to the details of how each step in the process works and can be implemented by a Canadian business owner.

- Obtain an import/export business number from the CRA.
- Identify what type of goods are to be imported.
- Determine whether the services of a licensed customs broker will be needed.
- Determine the country of origin for the goods being imported.
- Verify whether the goods are controlled, regulated, or prohibited by the Canada Border Services Agency (CBSA) or any other government department or agency.
- Ensure that the goods are marked and labelled as required.
- Determine the 10-digit tariff classification number and the applicable rate of duty for each of the items being imported, using the Customs Tariff.
- Determine whether the goods are subject to any other duties or taxes including the goods and services tax (GST).
- Obtain invoices, certificates of origin, and any other required documents.
- Determine the value for duty of the goods being imported.
- Select the method of shipping and communicate with the transportation company on cross-border requirements.
- Await notification that the shipment has arrived.
- Submit the required CBSA documents and pay any duties and taxes owing in order to have the goods released. Shipments valued at CAN\$2,500 or less arriving by mail or courier may be assessed for duties and taxes and then released by the CBSA or the courier company.

Obtaining a Business Number

The Business Number is the nine-digit identifier which is used by any business in most of its dealings with the federal government. Consequently, any business which is already up and running will already have such a business number. However, what

any business which is new to importing goods into Canada won't have is an import-export account.

Each business has only one business number, but can have a number of accounts under that single number, including an income tax account, a payroll account or a harmonized sales tax/goods and services tax account. A business owner who already has a business number consequently needs only to add an import-export account. Doing so is relatively simple. The business owner can call the CRA's Business Window at 1-800-959-5525 to have the account set up, or he or she can visit the CRA's Business Registration Online service at www.cra-arc.gc.ca/tx/bsnss/tpcs/bn-ne/bro-ide/nu-eng.html.

Getting information about a product or goods to be imported

It may seem redundant to advise a business owner to obtain information about the goods which will be imported — after all, as the person who will be paying for and trying to resell those goods in the Canadian market, he or she is presumably already familiar with them. However, the level of detailed knowledge needed about goods to be imported is significantly greater than would be the case for goods sourced domestically, because of the impact that those details have on tariff classification and duty payable, and even whether such goods can be legally imported.

So, where a product or goods are being considered for import into Canada, it's necessary to become knowledgeable about the composition of that product, through product literature and, where at all possible, product samples. It's also critical to determine the country of origin for the product or goods (and, where applicable, the country of origin of individual parts of a product). While that may again seem obvious, it's often the case that the country from which goods are being shipped is not also the country of origin. Once again, country of origin will have an impact on duty payable, as the same or similar goods may or may not qualify for preferential or special tariffs depending on that country of origin.

Finally, it's important to be certain that the goods under consideration can be imported into Canada and, if so, whether such goods are considered "controlled goods" for Canadian purposes. Some goods are barred from import regardless of source or origin. Other, like controlled goods, can be



TAXES

imported into Canada but special registration requirements are imposed on individuals or businesses which seek to do so. For customs purposes, controlled goods are generally those which have military or national security significance, and more information on the importation of such goods can be found at <http://ssi-iss.tpsgc-pwgsc.gc.ca/dmc-cgd/consultations/avis-notice-eng.html>.

The list of goods which may not, under any circumstances, be imported into Canada is lengthy and detailed. While some of the items on that list are obvious (like counterfeit coins), others (like some used automobiles) are not. A full listing of what is and what is not permitted to be imported into Canada can be found on the CRA website at www.cbsa-asfc.gc.ca/publications/dm-md/d9-eng.html.

The prohibition on the importation of certain goods also extends to the way in which such goods were manufactured. One of the categories on the CRA's list of prohibited goods is for goods manufactured or produced by prison labour and, as the CRA notes, such goods commonly include everyday items like bicycles, garbage bags, recordings, souvenirs, leather goods, and wood products.

Finally, there is a lengthy list of goods which, while not necessarily prohibited, may require an importer to obtain a permit and/or certificate from other federal government departments, and a listing of those is available at www.cbsa-asfc.gc.ca/import/reflist-listeref-eng.html.

Determining the tariff classification number

All goods legally imported into Canada must be assigned a 10-digit tariff classification number. That number, together with the country of origin of the goods, and the existence of any trade agreements or preferential tariffs, is used to determine the rate of duty which will be payable on the goods. Canada, like most of its major trading partners (including the U.S., China, and India) uses the Harmonized System (HS) to assign a tariff classification number to a particular category of goods. Fortunately, the first six digits of that classification number are a common identifier used by all countries employing the HS system. Only two of the final four figures are used to establish duty rates for Canadian purposes. An example of the breakdown of each 10-digit classification number is as follows:

Example

9506.11.90.10

Complete Tariff Classification Number

9506

Heading — International

9506.11

Sub-heading — International

9506.11.90

Tariff item — Canadian

9506.11.90.10

Statistical suffix — Canadian

The information needed to determine a tariff classification number for a particular kind of available at www.cbsa-asfc.gc.ca/trade-commerce/tariff-tarif/2016/menu-eng.html. The Customs Tariff is, as can be imagined, a very lengthy document, but the information contained in it is organized into sections and chapters. Each section deals with a particular type of goods (for instance, Textiles and Textile Articles) and each chapter in that section provides the tariff classification for a particular sub-category (for instance, Carpets and other textile floor coverings) of that type of goods.

Determining the tariff treatment of the goods

Once the tariff classification number for the goods to be imported is determined, a further step is needed to establish the correct tariff treatment and tariff rate which will apply to goods having that classification and coming from the particular country of origin. Goods having the same tariff classification can attract different tariff treatment or rates, depending on whether Canada has entered into a trade agreement with the country of origin, and whether a preferential tariff has been established for such goods from that country.

The tariff treatment for all goods from all countries is set out in the Customs Tariff Schedule. However, the tariff payable on goods having a particular tariff classification will be determined, in the first instance, by whether the country of origin of those goods fall under the “Most-Favoured-Nation (MFN) Tariff”, or under the “Applicable Preferential Tariffs” categories.

The determination of which category applies is relatively easy: goods originating from all countries except North Korea are eligible for the rate of duty specified under the MFN tariff. Where, however, the goods originate from a country with which Canada has entered into a trade agreement, the goods may be eligible for the preferential tariff rates agreed to the particular trade agreement. Currently, the following trade agreements which Canada has entered into may provide for preferential tariffs (and therefore reduced rates of duty) for goods covered by those agreements:

- North American Free Trade Agreement (NAFTA): United States Tariff (UST), Mexico Tariff (MT), Mexico-United States Tariff (MUST);
- Chile Tariff (CT);

- Canada-Israel Agreement Tariff (CIAT);
- Canada-Costa Rica Tariff (CRT);
- Canada-European Free Trade Association Free Trade Agreement: Iceland Tariff (IT), Norway Tariff (NT), Switzerland-Liechtenstein Tariff (SLT);
- Canada-Peru Free Trade Agreement: Peru Tariff (PT);
- Canada-Colombia Free Trade Agreement: Colombia Tariff (COLT);
- Canada-Jordan Free Trade Agreement: Jordan Tariff (JT);
- Canada-Panama Free Trade Agreement: Panama Tariff (PAT); and
- Canada-Honduras Free Trade Agreement: Honduras Tariff (HNT); and
- Canada-Korea Free Trade Agreement: Korea Tariff (KRT).

Special rates of duty based on the following special tariff provisions may also apply:

- General Preferential Tariff (GPT);
- Least Developed Country Tariff (LDCT);
- Commonwealth Caribbean Countries Tariff (CCCT);
- Australia Tariff (AUT); and
- New Zealand Tariff (NZT).

In order to claim a reduced tariff and pay a lower rate of duty (or none at all) on goods imported from countries with which Canada has entered into a trade agreement, the Canadian importer must satisfy the requirements of the particular trade or tariff agreement and must have proof of origin for that particular agreement at the time the goods are imported. What constitutes proof of origin under the different trade and tariff agreements is outlined on the CRA website at www.cbsa-asfc.gc.ca/publications/dm-md/d11/d11-4-2-eng.html.

Are the goods subject to goods and service tax (GST) or harmonized sales tax (HST)?

As is the case for most goods sold in Canada, the majority of goods imported will also be subject to the federal goods and services tax at a rate of 5%. There are, of course, certain classes of goods, including basic groceries and prescription drugs, which are not subject to GST when sold in Canada, and such goods are subject to similar tax



treatment when imported. A full list of such goods is provided in schedules to the GST legislation, which are available at <http://laws-lois.justice.gc.ca/eng/acts/e-15/page-173.html#docCont> and <http://laws-lois.justice.gc.ca/eng/acts/e-15/page-174.html#docCont>.

Determining value for duty

The amount of duty which must be paid on any goods imported into Canada is simply the customs duty rate multiplied by the value of the particular goods — or, more specifically, the “value for duty” of those goods.

While there are multiple methods by which a value for duty can be established, in most cases that value for duty will simply be the price paid by the Canadian importer to the vendor from whom the goods were purchased. And, where that is the case, the importer’s declaration of value for duty has to be supported by a sales invoice or other receipt as evidence of the amount paid. Any such documentation also has to include, along with the selling price (in Canadian dollars), a complete description of the goods sold and information on the conditions and terms of the sale.

In a minority of circumstances, value for duty will be something other than the price paid for the goods imported. The legislation sets out six methods of valuation for the purposes of arriving at value for duty, and the method to be used is the first one listed for which all of the criteria are satisfied. Generally speaking, the methods for determining value for duty where a transaction price can’t be established use a price for identical or comparable goods, with adjustments as required.

In many cases, the invoice price of goods being imported will be listed in the currency of the country in which the vendor is located. In all cases, that price must be converted into Canadian dollars, and the

exchange rate to be used is the one in effect on the date the goods were shipped directly to a specific Canadian destination. Information on the exchange rate in effect for a particular currency on a particular day can be obtained from the Border Information Service, and toll-free telephone numbers for that service are available at www.cbsa-asfc.gc.ca/contact/bis-sif-eng.html.

The following is an example, from the CRA website, of a calculation of customs duty and GST on imported goods with a value for currency conversion of US\$100. The example exchange rate is US\$1 = CAN\$1.15. The goods are subject to 4% customs duty and 5% GST:

Example

US\$100 x 1.15 = CAN\$115 (**value for duty**)

\$115.00 (value for duty) x 4% (customs duty rate) = \$4.60 (**customs duty**)

\$115.00 (value for duty) + \$4.60 (customs duty) = \$119.60 (**value for tax**)

\$119.60 x 5% (GST) = \$5.98 (**GST**)

Total of customs duty and GST payable

(in Canadian dollars) is \$4.60 + \$5.98 = \$10.58

Shipping and reporting goods

Anyone importing goods into Canada must determine the CBSA office at which the goods will be held for release to the purchaser. In most cases, that release will take place at the same office to which the goods were shipped; however, if the goods are transported by a bonded carrier, they can be brought to a location closer to the purchaser, if he or she does not happen to be located near a CBSA office.

All imports of commercial goods must be reported to the CBSA, regardless of where they are from or how they are transported. The procedure which is followed once the goods have arrived depends on their method of shipment and their value. Specifically, different procedures are followed for shipments having a value of more or less than \$2,500.

Where the shipment of goods is valued at more than \$2,500, a commercial carrier will notify the purchaser of the arrival of those goods. If the goods are being shipped via Canada Post, the CBSA will notify the purchaser that the goods have arrived. Shipments of goods valued at less than \$2,500 can be delivered directly to the purchaser by Canada Post, which will collect from the purchaser the amount of any duty and taxes owed. Where such shipments are brought in by courier, the courier company will often, for a fee, complete the necessary customs procedures for their client.

Getting the goods released — and using a customs broker

Where imported commercial goods are of sufficient (i.e., over \$2,500) value, they will usually be held by the CBSA until the requisite documentation is provided and required duties and taxes are paid. The associated documentation requirements are extensive and detailed, and for that reason many businesses engage the services of a registered customs broker to obtain the release of the goods from the CBSA. Typically, the services of such a licenced customs broker would include the following:

- obtaining the release of the imported goods;
- paying any duties that may apply;
- obtaining, preparing and presenting, or transmitting the necessary documents or data;
- maintaining records; and
- responding to any CBSA concerns after payment.

In order to act as a licensed customs broker, an individual or company must be approved by the CBSA. A list of such licensed customs brokers can be found on the CBSA website at www.cbsa-asfc.gc.ca/services/cb-cd/cb-cd-eng.html.

While the CBSA generally requires full accounting and payment of duties before higher-value shipments are released, there is an alternative. Businesses which have a high volume of commercial imports may choose to take advantage of the CBSA program which allows goods to be released to the importer prior to the payment of duties and taxes. To qualify for the “Release on Minimum Documentation (“RMD”)” program, an application is required and security must be posted. More information on the requirements to qualify for the RMD program are outlined on the CBSA website at www.cbsa-asfc.gc.ca/import/release-dedouanement-eng.html#p214_17746.

Verification and record-keeping

An individual or business which imports commercial goods is required to maintain records of those imports, and the records kept must include the following information: quantities of goods received, price paid, country of origin, vendor, and product.

Such records are required to be kept, in either paper or electronic format, for a period of six years following importation. In addition, the CBSA has the right to verify and adjust commercial importations for origin, value for duty, or tariff classification for up to four years after the date the goods were imported.

Conclusion

It is apparent, even from a brief overview, that the rules governing the importation of commercial goods into Canada can be complex, and the documentation and administrative requirements onerous. However, it is a fact of business life that most business owners will, at one time or another, be subject to those rules and the need to comply with them. Those who have questions or concerns can get help from the CBSA. Designated commercial offices of the CBSA (a listing of which can be found at www.cbsa-asfc.gc.ca/do-rb/services/dco-bcd-eng.html) provide help with the reporting and clearing of commercial goods 24 hours a day, 7 days a week. Those wishing more general information on the rules and procedures governing the importation of commercial goods can find it on the CBSA website at www.cbsa-asfc.gc.ca/comm-eng.html.