

Are Third Party Compliance Tests Dutiable Upon Entry into U.S.?

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In a recently released headquarters ruling, Customs and Border Protection (“CBP”) addressed the issue of the dutiability of payments for compliance testing. The scenario is as follows: The importer purchases merchandise from a foreign seller and imports them into the U.S. The merchandise undergoes various product compliance tests outside of the U.S. Sometimes the importer hires a third party tester directly and pays the tester directly and other times the seller hires the test vendors and either invoices the related fees to the importer or incorporates the costs into the imported merchandise.

Upon entry into the U.S. most merchandise is valued according to the transaction value of the goods which is the “price actually paid or payable for the merchandise...plus any assists.” (19 U.S.C. section 1401a(b)(1)(c)) The value includes total payment for the merchandise by the buyer to, or for the benefit of the seller. CBP has already issued rulings holding that testing costs done by the seller are included in the dutiable value of the merchandise. In this matter, CBP considered the question of third party testing costs. CBP concluded that if the importer is paying a third party tester directly, then those payments are excluded from the transaction value of the goods. In the instances where the importer relies on the seller to arrange the tests and pays the seller accordingly, the costs become part of the transaction value. Therefore, it is important to keep in mind Customs valuation regulations when negotiating with manufacturers. To read the full ruling, please [click here](#).