

# Canada Changes its Policy on Price Adjustments for Dutiable Value of Imported Goods

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The Canada Border Services Agency (CBSA) has recently issued a reversal in its policy on imported goods which have had their values decreased, thus permitting qualifying importers to file for duty refunds. This change in policy is good news for importers with post-import amended values. Prior to the January, 2015 issuance of Customs Notice 15-0001, "Treatment of Downward Price Adjustments in Value for Duty Calculations," CBSA did not issue duty refunds for post-importation downward price adjustments even if the parties had agreed to the rebate prior to importation. Under the new policy, importers, particularly from related parties, will be able to take advantage of this change. In fact, Canadian importers can go back four years from the date of the Notice to claim refunds and should put in place procedures for refunds going forward. While not all policies by CBSA are in line with U.S. Customs and Border Protection, this change in policy does in fact bring Canada and the U.S. onto the same page.

In order to qualify for the refund, the agreement triggering the reduction in value must be entered into before the importation of the merchandise and the agreement must be in writing. For related parties, sufficient transfer price documentation to justify the change in valuation must be in order. Canada's change in policy also applies to unrelated party transactions with pre-importation agreements in place for post-importation rebates or other price reduction mechanisms. Post importation rebates not pursuant to a pre-importation agreement are not within the parameters of this policy shift.

Of course, the new benefits create additional compliance requirements. Beginning immediately, importers also have the new obligation to self-correct an entry within 90 days of finalizing the value adjustment. For corrections made after the 90 day deadline, importers should make a voluntary disclosure in order to avoid a monetary penalty. In addition, it can be expected that CBSA will increase the frequency of its valuation audits.

Next steps for Canadian importers:

- Review entries for the past four years to determine if refund opportunities exist;
- Put in place procedures to ensure that any future post-importation downward price adjustments qualify for refunds; and
- Create mechanisms to timely report any value adjustments to avoid penalties.