

ASSISTS:

HOW HIDDEN DUTIABLE VALUE MAY RESULT IN CUSTOMS DUTIES AND PENALTIES

An Assist is an item of value provided to the foreign seller directly or indirectly, *by the U.S. buyer or importer**, without cost or at a reduced value, which is used to produce IMPORTED articles. Assists are a dutiable addition to the value of the imported articles. Assists are defined as any of the following:

- Materials or components that are incorporated into the imported articles.
- Tools, molds, or machinery used to produce the imported articles.
- Materials and articles consumed during production of the imported article.
- Engineering, development, artwork, design work, plans and sketches that are undertaken outside of the United States except if performed by a person domiciled within the USA, performed while that person is acting as an employee or agent of the buyer and incidental to other engineering, development, artwork, design work, plans and sketches undertaken within the USA.

The concept of adding the value of assists applies whether the assistance is supplied from a foreign country or is supplied from the United States. All assistance adds value to the article being manufactured regardless of the origin of the assistance. When this value is not added to the value of the product and omitted from the seller's invoice, the article is undervalued for duty purposes. Importers should consult with our office where assistance of any kind is being supplied and is not being included in the manufacturer's costs and/or prices for the article subsequently produced and sold. Follow these guidelines to avoid problems:

- Declare all assist costs to U.S. Customs even though some of the costs may not be dutiable.
- Declare the *pro rata* cost of the assist on each article imported. This may be done through a single declaration on one entry summary or on each entry summary covering the imported articles.
- Maintain good cost accounting records at the time of assist.
- The assist must apply to the product imported. If the assist was issued for a variety of products the value must be pro-rated per product.
- Prototypes are assists only if the prototype met specifications.
- If the actual tangible assist is eventually imported into the U.S., it is not excused from duty liability even if the assists were properly declared on the importation of the manufactured articles.
- Undeclared assists can lead to additional duties and penalties assessed against the Importer. In addition, if you do not declare an assist, the Internal Revenue Service will deny the tax deduction as either an expense or cost of inventory.

* Only the Importer of Record (IOR) is responsible to United States Customs for properly declaring Assists! The IOR does this through the adjustment of entered value on the relevant Consumption Entry(s).