

NON-RESIDENT IMPORTER ADVANTAGE

BECOMING A NON-RESIDENT IMPORTER

A non-resident importer (NRI) is a company whom does not have a physical presence in Canada. This company though imports from the USA into Canada. And they may do this under their own name. The practical effect of an NRI is that the NRI may become both the exporter (in the USA) and the importer of record (Canada).

NRI status confers certain advantages:

1. Successful USA sellers to Canadian business can offer a delivered price (DDP) to Canadian customers by assuming the responsibility of being the Canadian Importer of record. Transportation costs, customs clearance, duties, VAT can be folded into the price of the product.
2. USA companies can expand their business in Canada and avoid or reduce the expenses of maintaining a physical presence in Canada. Increasingly, Canadian market penetration is being affected by the distribution channel of your products.

Registering for NRI

A Company must set up an account with Canada customs. You must apply for a business number (BN). Contact Canada Customs and Revenue Agency (CCRA) and ask for [Form RC1 – Request for a Business Number \(BN\)](#). This form is also available from the [CCRA's web site](#), Forms and Publications page.

Return this completed form to CCRA along with a copy of your certificate of Incorporation. CCRA will process this request. The BN is a number that is 15 characters long. :

123456789RM0002

You must show your import/export account number on all release documents and final accounting packages for most shipments entering Canada. If this number is not used for two years, it will expire. You can, however, reactivate it by contacting any CCRA office. You must report any changes in your status, i.e. name or address change, to the CCRA as soon as possible.

Maintenance of records

Unlike US Customs (CBP) CCRA regulations stipulate that proper records must be maintained in Canada for a period of six years plus the current year of the importation of goods. All records for transactions relating to the origin, purchase, importation, costs, value, payment and disposal of goods in Canada must be

kept in such a manner that CCRA officers are able to perform a detailed audit of the records.

Non-resident importers may have a third party, such as a customs broker, maintain these records for you in Canada, or you can maintain them yourself in the United States. If you decide to maintain your own records in the U.S., you must apply to the CCRA for permission to do so. If the CCRA decides to audit your records and you are maintaining these outside Canada, you will be required to pay all related expenses, including travel and accommodation, for customs officers to conduct the audit at your premises in the U.S., for the entire duration of the audit.

Two Common NRI Errors Surfacing in Customs Audits

Thousands of U.S. businesses have established themselves as Non-Resident Importers (NRI) in Canada, getting access to the Canadian marketplace without incurring the bricks and mortar costs of building a physical presence in the country.

While non-residents companies are discovering that doing business with Canadians is easier than it has ever been, many are finding that compliance with Canadian laws is not always straightforward. Businesses looking to set themselves up as an NRI are strongly advised to consult with trade experts well before shipping goods across the border.

With Non-Resident Importers appearing to be the focus of an increasing number of recent Customs audits, Custom Brokers are reinforcing the importance of proper NRI set-up with Canadian revenue authorities, particularly concerning Valuation for Duty and recovery of GST through input tax credits. Increasingly, errors surrounding these two issues have been surfacing during Customs audits.

Valuation for Duty

The valuation for duty regulations were amended in September 1997. Before the amendment, the only prerequisite for using the transaction value method was the sale of goods clearly destined for Canada as a condition of that sale.

These revised regulations have an impact on non-resident importers or importers without a significant presence in Canada (such as a branch operation of a non-resident parent) unless the goods are purchased on speculation for the Canadian market, with no resale buyer at the time of import.

Non resident importers or importers without substantial operations in Canada should familiarize themselves with the approach the Canada Border Services Agency takes in these matters.

GST Recovery

Both Canadian purchasers and Non-Resident Importers alike need to be aware of new “de facto importer” rules introduced October 3, 2003. These new rules may dictate or change which of these parties can legally claim GST input tax credits in respect of imported goods.

The “de facto importer” issue affects the following importation scenario:

- A non-resident, GST registered vendor supplies goods to a Canadian purchaser with delivery and ownership transfer of the goods occurring outside of Canada.
- The non-resident vendor acts as the importer of record of the goods and pays the Division III GST at the border, and,
- The non-resident vendor then submits a claim for an input tax credit in respect of the Division III GST.

The Canada Border Services Agency rules that the non-resident vendor is not legally entitled to claim the input tax credit because the Canadian purchaser was the true importer of the goods. This is because the delivery of the goods and ownership of the goods occurred prior to importation. This rule effectively prohibits a non-resident vendor, even though they are GST registered, who has paid Division III GST from claiming input tax credits if the supply of the goods has been made outside of Canada.

There are several ways of working with the new rules, which will require a restructuring of the transaction to allow the recovery of the GST.

These new rules do not apply to all importations. They only potentially apply when goods are delivered and ownership transfers to the purchaser outside of Canada. It would be wise for all Non-Resident Importers to review the new rules and structure their business accordingly.

A non resident importer must pay a 7% value added tax known as the goods and services tax (GST) on good imported into Canada. But US companies registered as NRI can recover all of the GST paid to the CCRA.