

ROYALTIES

For many years Royalties were considered a non-dutiable charge. However, Customs has increasingly found Royalties to be a dutiable charge. In order to establish the duty status of the Royalty paid, one must go through a Royalty checklist.

First, one must consider how most imported merchandise is valued for duty purposes. Most imported merchandise is based on Transaction value. Transaction value is the price paid or payable for the merchandise when sold for exportation to the United States. Transaction value must be amended also to cover (if not included already) packing costs, selling commissions, assists, royalties or license fees and the proceeds of any subsequent resale, disposal or use of the imported merchandise that accrue directly or indirectly to the seller.

How does Customs measure the duty status of royalties or license fees paid?

Royalties or license fees are dutiable if the buyer is required to pay, directly or indirectly, as a condition of the sale of the imported merchandise. Customs will determine duty status through the following three questions:

- Was the imported merchandise manufactured under patent copyright or trademark?
- Was the royalty involved in the production or sales of the imported merchandise?
- Could the importer buy the product without paying the fee?

However, Customs will look further to see if there are any proceeds from any subsequent resale, disposal or use of the imported merchandise that accrue directly or indirectly to the seller.