

CUSTOMS REGULATION

CFR 152.103, Transaction value. Summary

General:

In determining dutiable value, we use the term:

price actually paid or payable

for the imported goods. The word "payable" refers to a situation in which the price has been agreed upon, but actual payment has not been made at the time of importation. We can take discounts and finance charges into account.

Example 1. In a transaction with foreign Company X, a U.S. firm pays Company X \$10,000 for a shipment of meat products, packed ready for shipment to the United States. No selling commission, assist, royalty, or license fee is involved. Company X is not related to the U.S. purchaser and imposes no condition or limitation on the buyer.

What is the customs value (dutiable or transaction value)?

The customs value of the imported meat products is \$10,000 - the transaction value of the imported merchandise.

Example 2. A foreign shipper sold merchandise at \$100 per unit to a U.S. importer. Subsequently, the foreign shipper increased its price to \$110 per unit. The merchandise was exported after the effective date of the price increase. The invoice price of \$100 was the price originally agreed upon and the price the U.S. importer actually paid for the merchandise.

How should the merchandise be valued?

Actual transaction value of \$100 per unit based on the price actually paid or payable.

Example 3. A foreign shipper sells to U.S. wholesalers at one price and to U.S. retailers at a higher price. The shipment being valued is a shipment to a U.S. retailer. There are continuing shipments of identical and similar merchandise to U.S. wholesalers.

How should the merchandise be valued?

Actual transaction value based on the price actually paid or payable by the retailer.

Example 4. Company X in the United States pay \$2,000 to Y Toy Factory abroad for a shipment of toys. The \$2,000 consists of \$1,850 for the toys and \$150 for ocean freight and insurance. Y Toy Factory would have charged Company X \$2,200 for the toys; however, because Y owed Company X \$350, Y charged only \$1,850 for the toys.

What is the transaction value?

The transaction value of the imported merchandise is \$2,200, that is, the sum of the \$1,850 plus the \$350 indirect payment. Because the transaction value excludes C.I.F. charges, the \$150 ocean freight and insurance charge is excluded.

Example 5. A seller offers merchandise at \$100, less a 2% discount for cash. A buyer remits \$98 cash, taking advantage of the cash discount.

What is the transaction value?

The transaction value is \$98, the price actually paid or payable.

Additions to price actually paid or payable.

If any of the following are not already included in the value, they must be added in (and no others).

- The packing costs incurred by the buyer with respect to the imported merchandise;
- Any selling commission incurred by the buyer with respect to the imported merchandise;
- The value, apportioned as appropriate, of any assist;
- Any royalty or license fee related to the imported merchandise that the buyer is required to pay, directly or indirectly, as a condition of the sale of the imported merchandise for exportation to the United States; and

- The proceeds of any subsequent resale, disposal, or use of the imported merchandise that accrue, directly or indirectly, to the seller.
- Special Caution: Royalties or license fees for patents covering processes to manufacture the imported merchandise *generally* will be dutiable.

Questions on the issue of assists

Example: Assist 1. The importer previously has supplied an unrelated foreign assembler with fabricated components ready for assembly having a value or cost at the assembler's plant of \$1.00 per unit. The importer pays the assembler 50 cents per unit for the assembly.

What is the transaction value?

The transaction value for the assembled unit is \$1.50.

Example: Assist 2. Same facts as Example 1 above except the U.S. importer furnishes to the foreign assembler a tooling assist consisting of a tool acquired by the importer at \$1,000. The transportation expenses to the foreign assembler's plant for the tooling assist equal \$100.

What is the transaction value?

The transaction value for the assembled unit would be \$1.50 per unit plus a pro rata share of the tooling assist valued at \$1,100.

Example: Assist 3. A U.S. importer supplied detailed designs to the foreign producer. These designs were necessary to manufacture the merchandise. The U.S. importer bought the designs from an engineering company in the U.S. for submission to his foreign supplier.

Should the valued value of the merchandise include the value of the assist?

No, design work undertaken in the U.S. may not be added to the price actually paid or payable.

Example: Assist 4. A U.S. importer supplied molds free of charge to the foreign shipper. The molds were necessary to manufacture merchandise for the U.S. importer. The U.S. importer had some of the molds manufactured by a U.S. company and others manufactured in a third country.

Should the value of the merchandise include the value of the molds?

Yes. It is an addition required to be made to transaction value.

The issue of Royalties or license fees

Example Royalty 1. A foreign producer sold merchandise to an unrelated U.S. importer. The U.S. importer pays a royalty to an unrelated third party for the right to manufacture and sell a product made in part from the imported merchandise. The royalty is based on the selling price of the further-manufactured product in the U.S.

Is the license fee part of the value?

No. The license fee is not a condition of the sale of the imported merchandise for export to the U.S.

The issue of Proceeds of subsequent resale.

Example: Subsequent Sale 1. A buyer contracts to import a new product. Not knowing whether the product ultimately will sell in the United States, the buyer agrees to pay the seller initially \$1 per unit with an additional \$1 per unit to be paid upon the sale of each unit in the United States.

What would be the transaction value?

Assuming the resale price in the United States can be determined in a reasonable period of time, the transaction value of each unit would be \$2. Otherwise, the transaction value could not be determined for want of sufficient information.

The issue of Right to reproduce.

Example Right to Reproduce 1. The importer purchases a painting. By purchasing the painting, the owner possesses the right to resell, lease, or otherwise place it on display. Absent an agreement to the contrary, he does not

possess the right to reproduce copies of the painting. Are the fees paid for the right to reproduce the painting dutiable?

No, they would not be dutiable.

Exclusions from transaction value.

If the following are included in the transaction value, they may be deducted. As long as they are separately identified on the invoice

- The reasonable costs of construction, erection, assembly, or maintenance of, or the technical assistance provided after the merchandise is imported into the United States.
- The transportation of the merchandise after its importation.
- Concerning sales other than ex-factory. If foreign inland freight is included in the invoice value. You may deduct it from the invoice value only if the shipment moved under a through bill of lading.
- Marine insurance
- Charges for the right to reproduce the imported merchandise. The concept of the right to reproduce relates only to the following: originals or copies; of artistic, scientific works, models or industrial drawings; model machines and prototypes; and plant and animal species.

Changes in value that must be disregarded

- Rebate. Any rebate of, or other decrease in, the price actually paid or payable made or otherwise effected between the buyer and seller after the date of importation
- You may not deduct foreign inland freight from transaction value unless is part of a through bill of lading and the through bill of lading quantifies the amount of freight.

Erroneous and false information. This regulation shall not be construed as prohibiting Customs from making appropriate additions to the dutiable value of merchandise in instances where verification reveals that foreign inland freight charges or other charges for services incident to the international shipment of merchandise have been overstated.