



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 and must be reported to Customs. 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, and are necessary for the production of the imported merchandise. U.S. Customs & Border Protection will not treat engineering, development, etc. as an assist if the work is (1) performed by a person domiciled within the United States; (2) performed while that person is acting as an employee or agent of the buyer; and (3) incidental to other engineering, development, artwork, design work, or plans or sketches, undertaken within the United States.

In most cases, the concept of adding the value of assists applies whether the assist is supplied from a foreign country or is supplied from the United States. All assistance adds value to the article being manufactured. When this value is not added to the purchase price and is omitted from the seller's invoice, the article is undervalued for duty purposes. At the time of discovery, additional duties are due plus interest and potentially penalties. Importers should consult with our Customs Compliance Division or a Customs attorney when assistance of any kind is being supplied and is not being included in the manufacturer's price for the article imported. Follow these guidelines to avoid problems:

- Declare all assist costs to U.S. Customs even though some of the costs may not be dutiable
- To reduce record keeping, declare the full value of the assist on the customs entry filed for the first shipment of merchandise produced with the assist if practical. If that method is cost prohibitive, declare the pro-rated cost of the assist on each article imported until the value of the assist has been completely reported.
- 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. Additionally, if you do not declare an assist, the Internal Revenue Service will deny the tax deduction as either an expense or cost of inventory.

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 related Consumption Entry(s).

DETERMINING THE VALUE OF AN ASSIST

1. The value is either a) the cost of acquiring the assist, if acquired by the importer from an unrelated seller, or b) the cost of producing the assist, if produced by the importer or a person related to the importer.
2. The value includes the cost of transporting the assist to the place of production.
3. The value of assists used in producing the imported merchandise may be adjusted to reflect use, repairs, modifications, or other factors affecting the value of the assists
4. In the case of engineering, development, artwork, design work, and plans or sketches undertaken elsewhere than in the United States, the value is; a) the cost of obtaining copies of the assist, if the assist is available in the public domain; b) the cost of the purchase or lease if the assist was bought or leased by the buyer from an unrelated person; c) the value added outside the United States, if the assist was produced in the United States and one or more foreign countries.

To the extent possible, the buyer's commercial record system is used to determine the value of an assist.

Examples:

- If the importer previously used the assist, regardless of whether he acquired or produced it, the original cost of acquisition or of production may be decreased to reflect the use. Alternatively, repairs and modifications may result in the value of the assist having to be adjusted upwards.
- A U.S. buyer supplied detailed designs to the foreign producer. These designs were necessary to manufacture the imported merchandise. The U.S. importer bought the U.S. produced designs from an engineering company in the U.S. for submission to his foreign supplier. Should the appraised value of the merchandise include the value of the assist. No.



Design work undertaken in the U.S. is not considered an assist and need not be added to the price actually paid or payable.

- A U.S. buyer supplied molds free of charge to the foreign seller. 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 appraised value of the merchandise include the value of the molds? Yes. It is a required addition to the transaction value.

HOW IS THE VALUE OF AN ASSIST APPORTIONED?

Having determined the value of an assist, the next step is to apportion that value to the imported merchandise. In general, the apportionment is done according to generally accepted accounting principles and is somewhat dependent on the details of the assist. For example, if the entire anticipated production using the assist is to be exported to the United States, then the value of the assist could be prorated by one of several ways:

- over the first shipment if the importer wants to pay duty on the entire value at one time
- over the number of units produced up to the time of the first shipment
- over the entire anticipated production run. If the entire anticipated production is not destined for the United States, some other method of apportionment will be used that is consistent with generally accepted accounting principles.

Resources:

Title 19 Code of Federal Regulations, section 152 <https://ecfr.io/Title-19/pt19.2.152>

Customs Informed Compliance Publication Customs Value
<https://www.cbp.gov/document/publications/customs-value>