ALTAN DUTY FREE SHOPS LTD

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D Memo Concerns

Receipt of Goods #16

-immediately reporting the receipt of goods has been burdensome for the following reasons:

-shipments may arrive when staff are very busy, and they have to stop serving customers to phone customs.

-the same also goes for customs when they are busy, to have an officer go to the Duty Free desk to write down goods received.

-some shipments do not always arrive together. One box may be a Day late, which only increases customs phone calls.

If this must remain, it needs to be streamlined. Our port requires name of company, exact number of boxes, and whether or not the shipment is domestic or imported. They also require us to put the control number on each box. This is burdensome for the following reasons:

-Liquor comes in pallets (usually 10-15) we have to unpack each pallet to label the boxes, which is very time consuming. Also for staff to go through and differentiate whether it is domestic or imported is very time consuming. It should be phoned in as 10 pallets of liquor, that's it.

-Any new products the staff are unaware if it is imported or domestic.

-We should be able to price and unpack the shipment in the bonded area while we are waiting for customs clearance. So when we have to wait days for clearance it is ready to be sold.

-JTI has both imported and domestic on one invoice. To separate and give it 2 different control numbers makes book keeping troublesome.

Goods cannot be taken into shop until customs clearance. This is burdensome for the following reasons:

-Liquor arrives Friday afternoon customs will not clear it until Monday, leaving us no room to move in the warehouse all weekend.

-Food requiring refrigeration needs to immediately go in coolers not sit out

-When items are out of stock, but we are waiting on customs clearance we lose sales.

#17 Provision of Information

-The B11 report is very time consuming. Since the changes in the form our computer system does not print it out. The cost to have this done is unreasonable. Many different reports and hand adding have to be done. We do not use any of these sales statistics. If an issue arises I am confident the FDFA can obtain the specific statistics needed.

Security

-I see no reason for a security bond.

#14 Transferring from holding area to elsewhere in the warehouse.

-Our customs does not allow this 1.5 hours they have to clear the goods before we can touch the product.

Documenting Goods:

#21 -Our customs requires all documents on the B116

#41 Value for Samples

-We should not have to pay or do any paperwork on samples. It discourages us from receiving them.

#42 Imported Display Goods

-We should not have to pay or do any paperwork on displays. This only discourages us from obtaining them.

Audits

Our customs requires us to do monthly audits. Resulting in every item in our store being counted once a year, with thousands of items this is getting very time consuming. Customs is at our store one full day at least once a month and we also have to provide a staff member to accompany them that whole day. We count everything in our store for yearend and submit the proper adjustments. To be repeating doing this is very burdensome.

Domestic goods do not need to be reported to Customs.

-reporting pop, and potato chips should not be required.

-Example: we stopped selling potato chips due to the fact they take the expired and bring new product, the paperwork was just too much.

North Portal Comments:

Hello Laurie:

The B116 has a place for inventory control on high tax items. ie alcohol, tobacco, and fragrances that have duty or excise taxes on them.
On all other goods that have no duty or excise at stake, it is just wasted paper. The only thing not collected or paid is GST. When an entry is done on shortages of these items, (if a shortage occurs), the only monetary line filled in is the GST payable, which comes back at the end of the month as an input tax credit????? Talk about a make work project.
All other retail outlets simply absorb the cost of shinkage on these items and do not chase the GST around.

I have no problem doing the paper work on goods that have a tax liability to CRA, all the rest is simply bureaucratic job creation.

Gene Davis

West Coast Comments: Len DaSilva Comments –

- Electronic reporting of all B116 Entries
- 2 - Electronic reporting of B3's
- 3 - Direct Billing for B3's
- 4 - Electronic Notification of B3 Payments

Fort Duty Free – B116 better efficiencies

Philipsburg and Highwater Comments:

1. B116 electronic transfer to customs
2. Flexibility to process B3 independent of the B116 receiving (currently, our shipment is not released until we have completed the paperwork for the B3 and paid the calculated amounts)
3. Value of testers used to calculate B3 to be based on invoice value for tester and not value of live product

BHT de La Beauce

1. No longer pay duty on products other than tobacco, alcohol, fragrance and cosmetics. The costs involved to calculate the payments is far greater than the amount paid.

2.to no longer be required to maintain 20% of domestic products

If you have any questions, you can speak to Eric (or call me and I will contact him).

Canada Border Services Agency | Agence des services frontaliers du Canada

Ottawa, May 7, 2009

MEMORANDUM D4-3-5

In Brief

DUTY-FREE SHOP – INVENTORY CONTROL AND SALES REQUIREMENTS

1. This memorandum replaces Memorandum D4-3-5, dated September 9, 2008.

2. In accordance with the above, the requirements, guidelines or procedures listed below have been changed, or deleted and/or abolished:

Submission of

(a) Notification of arrival of goods

(b) Licensees are not to act as distributors

(c) Transfer of intoxicating liquors

(d) Sales receipts requirements

Printed in Canada

Canada

Canada Border Services Agency | Agence des services frontaliers du Canada

Ottawa, May 7, 2009

MEMORANDUM D4-3-5

DUTY-FREE SHOP – INVENTORY CONTROL AND SALES REQUIREMENTS

LEGISLATION

For the regulations governing the guidelines and general information contained in this directive, refer to the *Duty Free Shop Regulations.*

GUIDELINES AND GENERAL INFORMATION

1. Duty free shop licensees are required to follow basic procedures as outlined below. The duty free shop licensees will endeavour to promote Canadian made goods by sourcing domestic origin goods (exclusive of tobacco). Land-border and airport licensees must submit an outline of the inventory control system to be used in the duty free shop to the local Canada Border Services Agency (CBSA) chief of operations. Reporting and control of inventory, including the sale or disposal of goods, must be carried out in a manner satisfactory to the CBSA for land-border and airport licensees.

Definitions and Reporting of Goods

(a) **Domestic Goods**

Domestic origin goods are goods wholly obtained or produced in Canada (e.g. mineral goods extracted in Canada, goods harvested in Canada) are considered as Canadian. More information on "Made in Canada" guidelines can be found on the Competition Bureau's Web site at **www.competitionbureau.gc.ca**. The goods and services tax (GST) will be collected when there are unjustified shortages in inventory. The payable amount is calculated based on the value of the missing goods. As the manufacturer will have already paid the excise duty and excise tax on domestic tobacco products they will not be owed.

(b) **Imported goods, duty and tax paid**

Goods manufactured abroad and imported by a Canadian company on which the duties and taxes were paid are to be accounted for as imported goods, duty and tax paid. The GST will be collected when there are unjustified shortages in inventory. The payable amount is calculated based on the value of the missing goods. (The excise duty and excise tax on tobacco products, which were paid at the time of import, will not be owed.)

(c) **Imported goods, duty and tax not paid**

Goods manufactured abroad and obtained from a Canadian company or a foreign supplier on which the duties and taxes were not paid and goods that have been subject to a drawback claim are considered to be imported goods, duty and tax not paid. These goods are to be accounted for as imported goods, duty and tax not paid, in accordance with their country of origin. All duties and taxes applicable including the GST will be collected when there are unjustified shortages in inventory. The payable amount is calculated based on the value of the missing goods. (The excise duty and excise tax on tobacco products, which were paid at the time of importation, will not be owed).

Composition of Inventory: Domestic and Imported Goods

2. Currently, the Duty Free Shop Program recognizes the following commodity groups as part of an inventory for duty-free shops. Any attempt to add a class of goods to inventory that is not previously approved by the Program may result in an amendment to the duty-free shop licence restricting the classes of goods that may be received into that shop. Goods in the "Others" category will only include low-value goods that do not fit into existing categories.

3. Commodity list (domestic and imported goods)

(a) Accessories (purses, wallets, sunglasses, belts, lighters)

(b) Alcohol (liquor, liqueurs, wine, coolers)

(c) Beer

(d) Clothing (including hats, furs, leathers)

(e) Crafts, arts

(f) Electronics, cameras, binoculars, telescopes, TVs

(g) Food

(h) Glassware, crystal, china, figurines, porcelain

(i) Jewellery, watches, clocks

(j) Office and travel supplies (suitcases, calculators, key holders, all types of bags, pens, luggage)

(k) Perfumes, cosmetics, skincare products

(l) Souvenirs (no clothing)

(m) Tobacco, cigars, pipe tobacco

(n) Others

Canada

4. Known controlled or prohibited goods that have been identified as such under the laws of a country of destination are not to be sold unless specific exemptions are allowed for under those laws.

5. Duty-free shop licensees will not stock or sell any specimen of endangered wild flora or fauna or derivatives thereof as outlined in the Export and Import Permits Act Handbook. Refer to Memorandum D19-7-1, Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), for listings of goods subject to export and import control and any conditions under which exceptions would be permitted.

6. Licensees are expected to provide travellers on an ongoing basis with a quality and mix of merchandise that affords travellers with a choice of brands based on the market at different price levels wherever possible.

Inventory Control System

7. The operating and administrative procedures in use at a duty free shop should reflect normal retail business practices with appropriate emphasis given to ensuring that the physical security of the inventory is not compromised.

8. Accurate accounting and inventory control systems are up!cf!n bjoubjof e!cz!ui f!rjdf otff!boe!bnfsf rbufe!epdvn foubjpo is to be retained for a period of six years after the sale or disposal of the goods as specified in the Imported Goods Records Regulations. Where an officer request, the licensee shall make the records available within the time specified by the officer, and answer any questions asked by an officer in respect of the records.

9. The licensee of a duty free shop is liable for applicable taxes on domestic goods and applicable duties and taxes on imported goods that are received in his or her duty free shop unless he or she can prove that the goods have been sold for export, are still in the shop, have been destroyed or have been lawfully removed. Customs Act section 28 (1).

Notification of arrival of goods

10. Refer to the Duty Free Shop Regulations, section 16 (1), (2).

Electronic reporting and numbering of arriving goods (optional)

11. The purpose of the electronic reporting system is to permit a better use of the holding area (in bond).

12. The licensee is to report the arrival of goods (notification report) to the local CBSA chief of operations and/or a CBSA officer through the use of electronic messaging (e-mail or other approved means). These reports must be pre-numbered using the numbering convention outlined below.

(a) local CBSA port code (e.g. 8211)

(b) current fiscal year (e.g. 2008)

(c) imported goods, taxes and duties paid (IP)

(d) imported goods, taxes and duties not paid (IF)

(e) domestic goods (D)

(f) sequential running number

13. The heading "Arrival Notification" followed by the number should be stated in the subject field of the e-mail or the other approved electronic means (see Figure 1). Note ui bujmu f!npdbrfDCTB!pgjdf!i bt!rjn juf e!i pvst!pgjpqf sbujpot- the electronic transmission must be sent at least two hours before the office closes.

Transferring from the holding area (in-bond) to elsewhere in the warehouse

14. When the CBSA receives an electronic arrival notification (system retrieved), it will respond within 1.5 hours (subject to approval by the local CBSA office) as to whether the goods must be held in the holding area. However, if the CBSA does not respond within 1.5 hours, the goods may be placed into the duty free shop warehouse inventory as temporarily released goods.

Temporary electronic declaration and numbering of Form B116

15. Electronic submissions of Form B116 to the CBSA may be sent to the local CBSA chief of operations by e-mail or by other approved electronic means. Form B116 must be transmitted using the same corresponding arrival notification report number so that the CBSA can verify the Form B116 against the arrival notification report. The licensee will assign the numbering (the number must correspond with the arrival notification report number). The letter "I" or "O" or "T" IN or "T" OUT must also be added to the number to indicate "in" or "out" or "transfer" for the Form B116.

System failure

16. In the case of a system failure or messaging failure, the arrival notification and/or Form B116 will be submitted as per the documentation procedures listed below under "Documenting goods."

Adjustments

17. All corrections or changes to the electronic declaration or paper copy of Form B116 must be submitted when noted. The number on the arrival notification and on the original Form B116 must be indicated on the amended document as references.

* Not consistant we are not required to keep goods in a holding area

* Not consistant @ every Port ie. we do not have to notify customs

Customs comes here to Stamp Bills, every other week

Documenting goods

18. The licensee will provide the local CBSA chief of operations with an electronic declaration or paper copy of the arrival notification and/or Form B116 within five business days of the arrival of the shipment declared to the CBSA. Only when the CBSA has stamped the original Form B116 or approved the electronic version that the goods can be removed from the warehouse and placed for sale in the duty-free shop.

19. On the paper copy of the Form B116, the licensee will cross-reference the same corresponding arrival notification report number and cross-reference numbers to the cargo control numbers, etc.

20. Shipments received at a duty free shop may be accompanied by the following documents:

(a) shipping, commercial and/or CBSA invoice(s)

(b) cargo control documents

(c) Form B3, Canada Customs Coding Form, (ex-warehouse) documents

(d) Form B116 (transfer) documents

21. The documentation in support of the information indicated on Form B116 — such as the shipping papers, commercial invoices, cargo control documents, sales slip and B3 forms do not have to be submitted with the Form B116 but must be kept on the premises and made available upon CBSA request.

22. All documents must accompany transfers between duty free shops.

Inventory coding

23. Goods being entered into inventory can be identified in one of two ways: by specific product lines or by pre-determined product or commodity groups composed of the same or similar goods. When a licensee chooses to use the latter method, all unsubstantiated discrepancies will be calculated on the basis of the highest value item within the product grouping, unless the licensee can provide proof that the goods were of a lower value.

24. The goods must also be identified in the unit size in which they will be sold.

Examples of the two reporting methods

Product line method:
– Rum – brand X (1 litre)
– Rum – brand Y (.75 litre)
– Cigarettes – brand Z (king size, 200)

or

Product or commodity group method:
– Rum – all brands (1 litre)
– Rum – all brands (.75 litre)
– Fragrance – all brands (all sizes)

25. Unique reporting codes or stock-keeping units are to be assigned to each product line carried in the duty free shop to allow perpetual inventory records on each item to be maintained. The stock-keeping units must also indicate whether the goods are imported duties and taxes paid (I), imported duties and taxes not paid (IF) or domestic (D).

Goods sold and exported — Forms B116 and B117

26. Domestic and imported goods sold and exported from a duty-free shop are to be reported out of inventory on a monthly basis on Form B116 (OUT). The local CBSA chief of operations may request more frequent reporting. The reporting method used must also be in accordance with that which was used at the time of initial accounting (i.e. same inventory codes, values, etc.). Sales slips are not to be included with the form but must be made available upon CBSA request; a summary report is acceptable in lieu.

27. CBSA is to be informed if a change in the description of a department (product line) or product code is done.

28. Form B117, Duty Free Shop Summary of Monthly Sales, is to be completed by the licensee and submitted to the local CBSA office no later than 15 days after the last day of the month in which the sales described on the form were made (stamped or date retrieved by the system). Electronic submissions of the form can be sent directly to the Duty Free Shop Program with a cc to their local CBSA office. Failure of the duty free shop licensee to submit the form on time may result in the imposition of a monetary penalty under AMPS. Forms B116 and B117 can be found on the CBSA's Web site at www.cbsa.gc.ca.

Alternative disposal methods — Form B116 (OUT)

29. With the approval of the Program office, goods can be removed from inventory for reasons other than that they have been sold for export.

(a) Imported goods may be

(i) duty and tax-paid by the licensee;

(ii) returned to a supplier (in bond);

(iii) transferred to another duty-free shop (in bond); or

(iv) abandoned to the Crown or, as the law permits, destroyed under CBSA supervision.

(b) Excisable goods subject to the Excise Act (all domestic or imported liquor, wine or tobacco products) may be

(i) returned to the supplier (in bond);

(ii) transferred to another duty-free shop (in bond); or

(iii) abandoned to the Crown for disposal.

(c) Domestic goods may be

(i) tax paid by the licensee if the goods were initially delivered into inventory tax-free or a drawback was claimed and paid on the goods;

(ii) transferred to another duty-free shop (in bond, if tax is payable including the excise tax where applicable); or

(iii) abandoned to the Crown or, as the law permits, destroyed under CBSA supervision.

30. Documentation procedures will vary depending upon the circumstances but in all cases a Form B116 (OUT) together with the applicable supporting documentation must be presented to the CBSA before the goods are physically removed from the duty-free shop.

(a) Form K24, Non-Monetary General Receipt, is used when goods in inventory are abandoned to the Crown.

(b) Form B3, Canada Customs Coding Form, is used when a licensee wishes to remove imported goods from inventory by voluntarily paying the applicable duties and taxes.

Transferring goods

31. Refer to the Duty Free Shop Regulation ,section 15.

Reporting shortages or overages in shipments

32. The following procedures are to be followed when accounting for shortages or overages identified in a duty free shop inventory.

33. Shortages or overages may have come to light during an inventory verification undertaken by the CBSA or any other person authorized by the Minister of Public Safety (Minister), or may be the result of a voluntary disclosure made by the duty free shop licensee.

34. When a shortage or overage in a shipment is identified after its arrival has been reported to the CBSA, the Form B116 (IN) presented by the licensee to enter that shipment into inventory should still reflect the total invoiced quantity but a notation should be added on the form indicating the type and number of items found missing or in excess. All such shipments will be subject to verification by ui f!DCTB/!Jgui f!jowpjdf!jt!fr vjwbrfoulp!ui f!hppet!sfdfjwfe, but different from the goods ordered from the supplier, no adjustment is required.

35. The licensee will have 60 days from the date of accounting to produce evidence that a short shipment actually occurred (e.g. a credit memo or equivalent document from the supplier) or that the missing goods arrived at a later date. If adequate proof is not provided, duties and taxes on the shortage will be assessed as applicable.

Part one: imported goods — duty and tax not paid

36. These procedures will be followed by the local CBSA office when accounting for shortages or overages in imported goods in a duty-free shop inventory.

Disclosure of shortages and overages (imported)

(a) Verify appropriate inventory adjustments.

(i) Verify whether any adjustments were made from overages in the same category before arriving at net shortages.

(ii) Confirm that any potential adjustments are appropriate according to the parameters stated in this memorandum, bearing in mind the requirements for adjustments.

(iii) Prepare appropriate adjustments and identify a net shortage or overage for each product in the commodity category.

(iv) Note that excise duty and excise tax will have already been paid on tobacco products at the time of importation and so they will not be owed.

(b) Verify and process the Form B3 and the Form B116 (OUT) submitted by the duty-free shop operator for shortages.

(i) The duty-free shop operator must present a completed Form B3 to account for duty-free shop duties and taxes owing on shortages of imported goods. Process this form according to existing procedures.

(ii) Stamp the Form B3 as a receipt or issue a Form K21, Cash Receipt, once the payment is made.

(iii) The duty-free shop operator must also submit a completed Form B116 (OUT) for the shortages covered by the Form B3. The Form B116 (OUT) is an inventory control document that reduces the duty-free total inventory by the number of items that were found to be short in the count and informs the CBSA of the new net balance in the duty-free shop inventory for all commodities accounted for.

(iv) If applicable, issue the penalty and still follow steps (a) and (b).

(c) When there is a net overage in a certain commodity, the duty-free shop operator must submit a completed Form B116 (IN) to enter the goods into his or her inventory. The form is processed according to existing procedures. The B116 (IN) is an inventory control document that increases the duty-free total

inventory by the number of items that were found to be over in the count and informs the CBSA of the new net balance in the duty-free shop inventory for all commodities accounted for.

(d) For more information and copies of these forms, visit the CBSA's Web site at www.cbsa.gc.ca. More information is also available in Memorandum D17-1-0, Accounting for Imported Goods and Payment of Duties Regulations.

Part two: domestic goods and imported goods — duties and taxes paid

37. These procedures will be followed by the local CBSA pggjdf!x i fo!bddpvoujoh!gpslti psubhft!pslpwfsbhft!jo!epn ftujd hppet!jo!b!evuz.gsff!ti pq!jowfoupsz/!Ui f!DCTB!jt!bvui psj{fe to collect the GST on shortages of domestic goods in a duty-free shop inventory under section 28 of the Customs Act and under section 296 of the Excise Tax Act. The GST will be owed for domestic goods, except on shortages of domestic jewellery, wine, watches and cigars. For these products, applicable excise duties and taxes will be owed.

Disclosure of shortages and overages (domestic)

(a) Verify appropriate inventory adjustments.

(i) Verify whether any adjustments were made from overages in the same category before arriving at net shortages.

(ii) Confirm that any potential adjustments are appropriate according to the parameters stated in this memorandum, bearing in mind the requirements for adjustments.

(iii) Prepare appropriate adjustments and identify a net shortage or overage for each product in the commodity category.

(iv) The manufacturer will have already paid excise and special duty and excise tax on domestic tobacco products so they will not be owed (with the exception of cigars).

(b) Verify and process the Form B116 (OUT) submitted by the duty-free shop operator for shortages.

(i) The licensee must present a completed Form B116 (OUT) to inform the CBSA of the new net balance in his or her inventory for domestic goods in the appropriate categories and will have to account for the GST on shortages of domestic goods and for the GST on shortages of duty-paid imported goods. Process this form according to existing procedures.

(ii) Prepare and issue a Form K23 invoice according to existing procedures, showing the GST amount owing on shortages.

(iii) Issue the Form K21 receipt once payment is received for the K23 invoice.

(c) When there is a net overage in a certain commodity category, the duty-free shop operator must submit a completed Form B116 (IN) to enter the goods into his psli fsljowfoupsz/!Qspdftt!ui jt!gpsn !bddpsejoh!up!fyjtujoh procedures. The B116 (IN) is an inventory control document that increases the duty-free total inventory by the number of items that were found to be over in the count and informs the CBSA of the new net balance in the duty-free shop inventory for all commodities accounted for. Form B116 can be found on the CBSA's Web site at www.cbsa.gc.ca.

Reporting damaged or destroyed goods

38. When goods are damaged, a Form B116 is to be prepared by the licensee and certified by the local CBSA office. If the damaged goods are detected at the time of arrival of a shipment, the information is to be entered on the B116 (IN). If the goods are damaged after having been reported into inventory, Form B116 (OUT) is to be used to adjust the inventory records. These damaged goods can then be sent back to the supplier, as applicable.

* E-15 used for this.

39. When goods have been destroyed or are to be destroyed under CBSA supervision, Form B116 (OUT) is to be prepared by the licensee to adjust the inventory records. All such goods are to be made available for inspection by the CBSA at the time the form is submitted. A CBSA officer stating that the goods to be destroyed were verified must sign the form before the goods were destroyed. The form must not be signed without doing the actual verification.

Reporting samples and display goods

40. Samples, perfume testers or other promotional items for use in the duty free shop must be duty and tax paid. These goods are to be reported to the CBSA when received and, when applicable, a Form B3 must be submitted to account for the goods. For more information on completing Form B3, refer to Memorandum D17-1-4, Release of Commercial Goods, and Memorandum D17-1-10, Coding of Customs Accounting Documents.

Calculating the value for duty of samples

41. Duty free shop operators must pay duty and tax on all samples, perfume testers and other promotional items used in their duty-free shop.

(a) While there may not be any dollar value declared for a perfume sampler, there are procedures that must be followed regarding the value of such items for the purpose of paying duties and taxes.

(b) In general, the value for duty of goods that are purchased by a Canadian importer from foreign vendors should be based on the declared value and adjusted in accordance with subsection 48(5) of the

Customs Act. However, in situations where the goods are not sold for export but are given to the importer free of charge and are not being resold but are being given bx bz-!ui f!wbmf!gpslevuz!n vtulcf!cbtfe!po!bo!bmfsobujwf valuation method. Section 47 of the Act sets out a hierarchy of alternative methods that includes a value based on the transaction value of identical goods, the transaction value of similar goods, the deductive value of the goods, the computed value of the goods and a residual method.

(c) The following valuation methods should be followed where applicable. Goods that are provided free of charge and are identical to goods in the duty-free shop should be valued according to the identical goods residual method by flexibly interpreting the identical goods method. For example, the value for duty of a 100-millilitre (ml) bottle of fragrance provided free of charge should be appraised based on the value for evuz!pg!bo!jefoujdbmh211.n rhcpuurh!pg!ui f!tbn f!gsbhsbodf. All other conditions concerning the application of the identical goods method must also be met. These conditions are set out in section 49 of the Customs Act.

(d) In situations where a fragrance sampler is a different size than the rest of the bottles received for sale in the duty-free shop, the residual value method should be applied. The value for duty may be identified by determining the cost of the fragrance on a per ml basis and appraising the value for duty based on the volume of the fragrance that is imported free of charge. For example, a 250-ml bottle may have a value of $100 or $0.40 per ml. Therefore, a 10-ml container of the same fragrance should have a value of $4 under the residual method.

Calculating the value of imported display goods

42. Duty-free shop operators must pay duty and tax on all displays for use in the duty-free shop.

(a) In general, the value for duty of displays should be based on the declared value for the displays. Again, if nothing is paid for the displays, an alternative method of valuation should be used.

(b) If the transaction value of identical or similar displays is known, this amount should be used as a basis for valuation, assuming that all other conditions to bqqmz!tvdi !n fui pet!bsf!n fu!Bmfsobujwfmz-!ui f!dpn qvufe method can be used that bases the value for duty on the cost of materials, labour, profit and general expenses, if these details are known. When in doubt, the supplier should be contacted for assistance in determining the value.

43. Goods that have been reported and accounted for as duty-free shop inventory on a Form B116 may not be used for display purposes except within the shop. When approved by the local CBSA chief of operations, land border stores that have exterior display showcases that cannot be accessed from the outside can display goods and airport licensees can display goods in specified locations elsewhere in a terminal building.

Audits

44. Periodic verifications to compare goods on hand with inventory records will be conducted by the CBSA officials as well as verifying the level of compliance to duty free shop regulations and operational guidelines. The licensee is up!n bl f!bwbjrbcrfh!bmhjowfoupsz!sfdpset!ui buln bz!cf!sfrvftufe gps!ui f!qvsqptf!pg!tvdi !b!wfsjgjdbujpo/!Bddftt!up!ui ftf!sfdpset is also to be accorded to any other person authorized by the Minister to conduct such verifications.

45. In accordance with section 28 of the Customs Act, unsubstantiated inventory shortages identified during a physical audit will be assessed all applicable duties and taxes. When a deficiency can be justified, however, as in the case of goods having been destroyed, previously duty paid, etc., an inventory adjustment may be authorized and duties and taxes would be calculated only on the resulting net shortage. The assessment of duties/taxes on shortages will be based on the value of the goods as reported on their respective B116 (IN) forms (the most recent document if inventory is reported on a "first in, first out" basis).

Adjustments

46. It is recognized that, as a retail operation, a duty free shop can experience a rapid turnover in inventory resulting in a greater likelihood that clerical or recording errors will occur. A discrepancy detected during verification could, at times, be attributable to this type of error rather than being an actual shortage or overage in inventory. When reasonable evidence can be provided that such an error has occurred, a licensee may seek CBSA approval to offset (in whole or in qbsu!!b!ti psubhf!x jui !b!dpodvssfoulpwfsbhf!jo!jowfoupsz/!Tvdi an inventory adjustment will not, however, be authorized between domestic and imported goods.

47. Factors considered in assessing a request for an offset jodmvef!ui f!epdvn foubsz!ps!pui fs!qi ztjdbmfiwjefodf!qspevdfe in support of the claim, the nature and value of the goods and their respective tariff treatments, and the type of internal controls in use at the duty-free shop. In general, the fewer the controls or the greater the discrepancy in the value, nature or tariff treatment of the goods, the more stringent the requirement to prove reasonableness.

Sale or Disposal of Inventory

48. All goods sold at a duty free shop are for immediate export only and must be declared to the CBSA if returned to Canada.

49. In accordance with the Duty Free Shop Regulations, personal exemption entitlements for persons departing Canada and/or returning to Canada must be applied.

50. Sales invoices must be prepared in duplicate where no automated system exists. When an automated system is in use, electronic receipts will be accepted. The licensee must be capable of producing accurate sales reports that refer back to an actual receipt, of re-printing any past transactions boe0ps!pg!qspwjejoh!b!usbotbdujpo!i jtupsz!vqpo!DCTB!sfrvftu Standard operating practice is to back up all system media on a regular basis.

51. At an airport, a boarding pass or ticket showing a foreign destination must always be presented by the traveller at the time duty free goods are sold. For flights departing from Canada on a progressive boarding basis, duty free goods may be sold to boarding passengers at each airport of embarkation, subject to the conditions outlined in Memorandum D2-5-5, Progressive Clearance at Airports.

52. Where a delivery system is in operation, the licensee is to ensure that goods are delivered to a point of no return for export (an area that ensures the immediate export of goods). At the point of delivery, the customer's copy of the sales invoice would be given to the customer, along with the goods, in exchange for the licensee's delivery copy. Where a duty free shop is located in an area not readily serviceable by the CBSA and it is necessary for the CBSA to verify the export of goods, the licensee may be required to pay special service charges.

Restrictions

53. Liquor and tobacco products are not to be sold to persons deemed to be minors under the laws of the province in which the duty-free shop is located.

Record Keeping and Declaration

54. The licensee must maintain separate accounting systems and records if there are other commercial activities jo!pqfsbujpo!jo!uif!evuz.gsff!ti pq!)f/h/!tobdl !cbs-!dpggff!ti pq*/

ADDITIONAL INFORMATION

55. Any inquiries regarding this memorandum should be directed to the following:

Export Process and Duty Free Shop Program
Licensing, Export and Accounting Division
Border and Compliance Programs Directorate
Admissibility Branch
Canada Border Services Agency
Ottawa ON K1A 0L8

Telephone: 613-948-7117 or 613-954-7215
Fax: 613-946-0241

REFERENCES

ISSUING OFFICE –

Export Process and Duty Free Shop Program
Licensing, Export and Accounting Division
Admissibility Branch

HEADQUARTERS FILE –

LEGISLATIVE REFERENCES –

Customs Act
Duty Free Shop Regulations

OTHER REFERENCES –

SUPERSEDED MEMORANDA "D" –

D4-3-5, December 16, 2008

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Canada Border Services Agency | Agence des services frontaliers du Canada

Ottawa, December 16, 2008

MEMORANDUM D4-3-7

In Brief

DUTY-FREE SHOP – CONTRAVENTIONS AND PENALTIES

1. This memorandum replaces Memorandum D4-3-7, dated September 9, 2008.

2. This memorandum is revised as a result of the Paper Burden Reduction Initiative, the revisions are aimed at eliminating obsolete and duplicated requirements, streamlining certain commercial processes and modifying complex policies and forms.

3. In accordance with the above, among major realignment between the D4-3 series of Customs Memorandum (D4-3-2 to D4-3-7), the guidelines and general information of licensee evaluation and monitoring system from Memorandum D4-3-7 have been deleted and abolished.

Printed in Canada

Canada

Canada Border Services Agency | Agence des services frontaliers du Canada

Ottawa, December 16, 2008

MEMORANDUM D4-3-7

DUTY-FREE SHOP – CONTRAVENTIONS AND PENALTIES

This memorandum outlines the contraventions and possible enforcement actions that may result from a duty-free shop licensee's failure to comply with the legislative provisions governing the operation of a duty-free shop.

LEGISLATION

For the regulations governing the guidelines and general information in this directive, refer to the *Duty Free Shop Regulations*.

GUIDELINES AND GENERAL INFORMATION

1. Failure of the duty-free shop licensee to adhere to the provisions of the *Customs Act* or the *Duty Free Shop Regulations* may result in the imposition of a monetary penalty under the Administrative Monetary Penalty System (AMPS) and/or the suspension or cancellation of the licence. This memorandum only provides information and guidelines on the application of AMPS penalties and licence suspension or cancellation. **Note that other penalties not listed in this memorandum could also be applied.** For more information, refer to Memorandum D22-1-1, *Administrative Monetary Penalty System,* and Memorandum D4-3-2, *Duty Free Shop – Licensing* or to link: **www.cbsa.gc.ca**.

2. AMPS is a civil penalty regime that secures compliance with customs legislation through the application of monetary penalties. AMPS penalties apply to contraventions of the *Customs Act*, the *Customs Tariff*, the *Special Import Measures Act* and the Regulations, as well as contraventions of the terms and conditions of licensing agreements and undertakings.

Contraventions

3. The AMPS Master Penalty Document lists a number of contraventions that relate to the Duty Free Shop Program. It should be kept in mind that licensees may also be required to comply with other Canada Border Services Agency (CBSA) requirements than those discussed here, depending on the nature of their business. The following are examples of AMPS contraventions that may apply to the Duty Free Shop Program's licensees. These examples **do not** supersede any description or prescription of the penalties as enumerated in the AMPS Master Penalty Document.

4. Contravention **C005** may apply to a person who provided to an officer late, incorrect, not true, accurate or complete information required in any permit, certificate, licence, document or declaration in respect of imported or exported goods. For a person who intentionally provided untrue or false information in documentation, see contravention C348.

5. Contravention **C046** may apply when the operator of a duty-free shop fails to allow an officer free access to the duty-free shop or other premises that form part of the shop, including an off-site storage facility. This contravention may occur after a request by the officer to enter the premises has been refused or prevented by the person in charge of the facility.

6. Contravention **C047** may apply when the licensee of a duty-free shop fails to open any package or container of goods in the shop or remove any covering from them to allow free access to the goods. This contravention may occur after a detailed request has been made by the officer to make the goods available for examination.

7. Contravention **C051** may apply when the licensee of a duty-free shop fails to ensure that goods are stored and marked in the manner prescribed in the *Duty Free Shop Regulations*. This contravention may occur when goods are found to be improperly inventoried (stored and identified) during an examination or during an inventory audit.

8. Contravention **C052** may apply when the licensee of a duty-free shop fails to ensure that goods received are held in an area designated by the CBSA until they have been accounted for through the use of e-mail or other approved reporting method. This contravention may occur if no designated holding area is found to exist in the shop and/or off-site storage facility, if goods do not remain in the designated holding area until a release from the holding area has been given, or if goods do not remain in the warehouse until the documentation is stamped by the CBSA and the goods are approved for entry into the duty-free shop inventory.

9. Contravention **C053** may apply when the licensee of a duty-free shop fails to ensure that the shop was locked and sealed when requested by a border services officer or other officer as prescribed in the Regulations. This contravention may occur when a licensee is required to lock and seal the shop for the purposes of a complete inventory to be undertaken by the CBSA. It may also occur when the licensee has failed to renew his or her licence or when the licence has been suspended or cancelled, in which case authorization to lock and seal the shop has been given by the Duty Free Shop Program office.

10. Contravention **C054** may apply when the licensee of a duty-free shop fails to ensure that the shop is kept suitable for the safekeeping of the goods stored in the shop and/or off-site storage facility. This contravention may occur when the licensee fails to meet any specified measure intended to ensure the physical security of the goods.

11. Contravention **C055** may apply when the licensee of a duty-free shop fails to acknowledge receipt of goods as prescribed by the Regulations. This contravention may occur when the licensee fails to endorse a bill of lading, waybill or similar document presented by the carrier.

12. Contravention **C056** may apply when the licensee of a duty-free shop fails to immediately notify the local CBSA chief of operations of the receipt of goods. While the term "immediately" may be subject to some latitude in interpretation by the local CBSA office, this contravention may occur when the licensee fails to notify the local CBSA office at the very least within 24 hours of the same business day the goods are received at the shop or off-site storage facility, based on the business hours of the local CBSA office.

13. Contravention **C057** may apply when the licensee of a duty-free shop fails to present required documents to the local CBSA chief of operations before any goods are taken into the duty-free shop.

14. Contravention **C061** may apply when the licensee of a duty-free shop fails to provide a summary of monthly sales on the prescribed Form B117, *Duty Free Shop Summary of Monthly Sales,* no later than 15 days after the last day of the month in which the sales described on the form were made.

15. Contravention **C064** may apply when the licensee of a duty-free shop sells, gives or in any manner conveys tobacco and/or alcohol products to a person deemed to be minor under the laws of the province in which the duty-free shop is located.

16. Contravention **C155** may apply when a person who imports commercial goods or causes commercial goods to be imported failed to keep, at his or her place of business in Canada or at a designated place, for six years following importation, records relating to the sale or the origin, marking, purchase, importation, costs and value of commercial goods in the prescribed manner. This applies when an audit, verification or examination determines that there are no records in existence. This contravention is subject to a flat penalty amount of $25,000.

17. Contravention **C302** may apply when a person who imports commercial goods or causes commercial goods to be imported failed to keep, at his or her place of business in Canada or at a designated place, for six years following importation, records relating to the sale or the disposal of the goods in Canada when an audit, verification or examination determines that specific records of disposal were formally requested by an officer in writing. The penalty is applied per written request.

18. Contravention **C348** may apply to a person who intentionally provided false information in any permit, certificate, licence, document or declaration required to be provided for imported or exported goods under the *Customs Act,* the *Customs Tariff* or the *Special Import Measures Act* or under any other Act of Parliament that prohibits, controls or regulates the importation or exportation of goods.

Penalties

19. Penalties will be issued for the contraventions listed above in the amounts specified in the AMPS Master Penalty Document.

20. Suspension of the duty-free shop licence may also be applied simultaneously with monetary penalties applicable for contraventions C046 and C047. However, the suspension of a licence will only be applied by the Duty Free Shop Program office acting on the instructions of the Minister of Public Safety.

21. Suspension or cancellation of the duty-free shop licence may be applied by the Minister of Public Safety in any instance where the licensee fails to comply with any Act of Parliament or regulation relating to the importation or exportation of goods, or that relates to the customs and excise, irrespective of any AMPS contravention that may or may not be applied.

Effect of Contravention History on the Renewal of an Existing Licence

22. The Regulations state that the Minister of Public Safety may renew an existing licence where no grounds exist to suspend or cancel the licence. The Regulations further explain that grounds to suspend or cancel the licence include a failure to comply with any Act of Parliament or regulation relating to the importation or exportation of goods, or that relates to customs and excise. As a result, the licensee's AMPS contravention history will be taken into account at time of renewal.

23. The Duty Free Shop Program office could recommend to the Minister of Public Safety the non-renewal of a licence based on a history of non-compliance. It will take into account the types of contravention, the frequency of non-compliance and the severity of particular contraventions during the most recent licensing period. For example, should a licensee demonstrate a general disdain for CBSA requirements, which is reflected in numerous types of contraventions indicating a deliberate pattern of non-compliance, the licence may not be renewed. Similarly, should a licensee consistently commit the same infraction without applying the required corrective measures, indicating a deliberate defiance of specific CBSA requirements, the licence may not be renewed. As well,

should certain serious contraventions occur that clearly demonstrate deliberate dishonesty in dealing with the CBSA, the licence may not be renewed.

Effect of Contravention History on the Award of a New Licence

24. The Duty Free Shop Program office could recommend to the Minister of Public Safety not to award a new licence based on a history of non-compliance. It will take into account the types of contraventions, the frequency of non-compliance and the severity of particular contraventions that may exist in an applicant's AMPS compliance history as they may relate to another duty-free shop licence held by the applicant or to any other commercial dealings that the applicant may have with the CBSA.

ADDITIONAL INFORMATION

25. Any inquiries regarding this memorandum should be directed to the following:

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Ottawa ON K1A 0L8

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OTHER REFERENCES –

SUPERSEDED MEMORANDA "D" –

D4-3-7, September 9, 2008

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