

Customs ruling (valuation of imported goods)

Operational Policy

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About this policy

Introduction

1. This policy outlines what valuation rulings are and why Customs provides them to importers. It explains the rationale for the fee and the maximum timeframe to make a Customs ruling (valuation of imported goods), and explains when an application for a valuation ruling may be withdrawn.

Related documents

2. Use this operational policy in conjunction with the following documents:

Document name	Document type
Customs rulings (publication)	Operational Policy
Issue Customs ruling (valuation of imported goods)	Process group
Check application form completeness	Process and procedures
Make valuation ruling	Process and procedures
OPS PRO 082 Customs rulings	OPS PRO
OPS PRO 039 Valuation of goods	OPS PRO

Overview

3. Customs provides rulings on a range of matters. Rulings provide importers with certainty about how to meet Customs' requirements, and what Customs will accept at the border. Customs provides rulings on the tariff and excise classification of goods, the origin of goods, whether goods are subject to a duty concession, and the valuation of imported goods.
4. The objective of valuation rulings is to provide applicants with legal certainty about Customs view of the correct application of any provision of Schedule 4 of the Act, and therefore how much duty they need to pay on their goods.
5. The value of imported goods is established according to methods outlined in Schedule 4 of the Customs and Excise Act 2018. These methods follow the World Trade Organization Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (the Customs Valuation Agreement) which promotes uniformity of the valuation of trade by members of the World Trade Organization.
6. The fee for valuation rulings, and the maximum timeframe for Customs to make a valuation ruling is set by Regulation 72 of the Customs and Excise Regulations 1996.

Further description of valuation rulings

7. Valuation rulings consider how the valuation methods apply in a particular set of facts and circumstances, whereas other types of rulings focus on the nature of the goods. As well as rulings on methodology, valuation rulings may also be sought on the interpretation of a particular clause or word in Schedule 4.

Fee for valuation rulings

8. Applicants are charged an application fee of \$300 (including GST), which is due at the time the application is made. This application fee is non-refundable except in the situation where Customs declines to consider making a ruling on an application made post-importation.
9. Valuation rulings are partially cost recovered. Eighty percent of the cost is met by the applicant on the basis that valuation rulings are made for the benefit of the applicant. Twenty percent of the cost is met by Customs, on the basis that for an initial implementation period of two years, costs may be higher while Customs familiarises itself with the new service and becomes more efficient in its delivery.
10. Customs records the total chargeable hours spent directly on making a valuation ruling. The hourly charge for Customs to make valuation rulings is \$116.48 (including GST) for all hours in excess of 2.5. The first 2.5 hours is not charged for. This is 80% of the full cost recovery amount of \$145.60. GST does not apply to the fee and charge in the case of non-resident applicants.
11. Customs may also charge the applicant for the full cost of any additional actual and reasonable expenses. Customs may need to employ specialist skills or knowledge, such as that of a tax specialist, to have all the information necessary to make a ruling. Customs must obtain prior agreement from the applicant for any actual and reasonable expenses to be incurred.

Time limit for valuation rulings

12. The time limit is the maximum amount of time Customs can take to make a ruling after it has received all of the relevant information from an applicant. Customs must complete valuation rulings in 150 calendar days. If this time limit is exceeded, an applicant can make a complaint to the Ombudsman or seek judicial review. The 150-day time limit allows for robust rulings to be made on complex valuation issues.
13. Customs reports publicly on performance standards for the completion of valuation rulings.

Informal Customs advice

14. Some valuation questions may not require a binding valuation ruling in response, such as when the issue is very minor and straightforward. In such situations, Customs will aim to provide advice on the issue. The aim is to enhance customer confidence.

Withdrawal of valuation ruling applications

15. The Act is silent on whether an applicant can withdraw their application for a valuation ruling. Customs' policy is that an applicant can withdraw their application up to the point when Customs provides an applicant with a draft Customs ruling (valuation) report. The provision of the draft report is a courtesy and not a legislative requirement. It ensures factual errors can be corrected but is not an avenue to dispute the analysis as this is more appropriately disputed on appeal.
16. An applicant cannot withdraw their application for a ruling once Customs has sent the draft report, as this would effectively make redundant the appeal provisions in the Act. The Act binds Customs to the outcome of its rulings, which means that Customs does not have the ability to withdraw a ruling at the request of an applicant, once it has been made. The Act allows Customs to cease and amend rulings under specific circumstances, such as when there is a change in the facts on which the ruling was made.
17. If an applicant withdraws their application before the ruling is made, Customs can charge for the time spent making the ruling up until the point Customs received formal notice of the withdrawal.

Right of appeal

18. If an applicant disagrees with the outcome of a ruling or any conditions imposed, they have a right to appeal to the Customs Appeal Authority. A decision to decline an application for a ruling is also appealable to the Customs Appeal Authority.

Applications lodged post-importation

19. Usually an application for a valuation ruling will be lodged before the goods are imported into New Zealand. Customs will consider applications lodged post-importation on a case by case basis.
20. Providing rulings after importation can potentially conflict with other matters in train, such as when duty is already due and payable, audit or investigation is underway, or when a matter is before the courts. It is therefore important that Customs has the discretion to decline an application for a ruling post-importation of goods.
21. If an applicant has lodged an application post-importation and paid the application fee, and Customs subsequently declines to consider the ruling due to the timing of the application, Customs will refund the application fee.

REFERENCES

Customs and Excise Act 2018

- Section 333: Application for Customs ruling
- Section 334: Time when application may be made
- Section 335: Making application

- Section 336: Making of Customs ruling
- Section 337: When chief executive may decline to make ruling
- Section 338: Notice of Customs ruling
- Section 339: Effect of Customs ruling
- Section 340: Confirmation of basis of Customs ruling
- Section 341: Amendment of Customs ruling
- Section 342: Effect of amendment to Customs ruling
- Section 343: Cessation of Customs ruling, etc.
- Section 344: Appeal from decisions of chief executive
- Section 345: No liability where Customs ruling relied on
- Section 346: Publication of Customs rulings
- Section 403: Regulations generally
- Section 408: Regulations for recovering costs for attendance of Customs officers, etc.
- Schedule 4: Valuation of goods for purposes of Tariff

Customs and Excise Regulations 1996

- Regulation 72: Fee for application for a ruling
- Regulation 73: Time for making of Customs ruling

Customs Rules

- Customs (Application for Valuation Rulings) Rules 2018