Last sale - Customs valuation of imported goods

Customer guide

## Introduction

Use this guide to help determine which is the last sale specified in the definition of **sold for export to New Zealand** in [Clause 2 of Schedule 4](http://www.legislation.govt.nz/act/public/2018/0004/latest/DLM7040084.html?search=sw_096be8ed8175f7b1_250_25_se&p=1) of the Customs and Excise Act 2018 (the Act).

Customs officers may need to establish which is the relevant ‘sale for export to New Zealand’ occurring prior to importation of goods into New Zealand to assess the correct Customs value of the goods under the Transaction Value Method ([Schedule 4, Part 1](http://www.legislation.govt.nz/act/public/2018/0004/latest/DLM7040108.html?search=sw_096be8ed8175f7b1_250_25_se&p=1) of the Act).

## New definition of ‘sold for export to New Zealand’ under Transaction Value Method

[Section 101](http://www.legislation.govt.nz/act/public/2018/0004/latest/DLM7039338.html?search=sw_096be8ed8175f7b1_250_25_se&p=1) of the Act requires that every entry for imported goods must include the Customs value of the goods determined in accordance with [Schedule 4](http://www.legislation.govt.nz/act/public/2018/0004/latest/DLM7040081.html?search=sw_096be8ed8175f7b1_250_25_se&p=1), *Valuation of goods for purposes of Tariff.*

The primary method of valuation under [Schedule 4](http://www.legislation.govt.nz/act/public/2018/0004/latest/DLM7040081.html?search=sw_096be8ed8175f7b1_250_25_se&p=1) is the Transaction Value Method, which is the price paid or payable for the goods when **sold for export to New Zealand** plus other relevant adjustments. See information on the Customs website about the [transaction value method](https://www.customs.govt.nz/business/import/valuation-for-import/methods-for-determining-customs-value/).

**There is a significant change to the meaning of this definition.**

The phrase “**sold for export to New Zealand” (**[Clause 2 of Schedule 4](http://www.legislation.govt.nz/act/public/2018/0004/latest/DLM7040084.html?search=sw_096be8ed8175f7b1_250_25_se&p=1)) is now defined as the **last sale** of the goods **occurring prior to the importation** of the goods into New Zealand.

Previously, in situations where:

* + the Transaction Value Method is used to determine the Customs value of imported goods; and
	+ there were successive sales of goods leading to the importation of the goods into New Zealand; and
	+ there was more than one transaction with more than one ‘price actually paid or payable’ fulfilling the requirements of a sale for export to New Zealand; then

New Zealand Customs has allowed the importer to select any of those prices for the purposes of determining the transaction value, as long as the importer held documentary proof of the transaction.

**This is no longer an option under the Customs and Excise Act 2018.**

An importer can no longer choose any transaction price in a chain of sales, and only the price in respect of the last sale that occurs immediately before the goods enter into New Zealand can be used to determine a transaction value.

## Transaction value of imported goods

The change to ‘last sale’ does not affect the fundamentals of determining the Customs value of imported goods under the Transaction Value Method. To determine the Customs value of goods under the Transaction Value Method, the importer must show that:

* + there is a sale between an independent buyer and seller[[1]](#footnote-1) in respect to the goods; and
	+ the sale took place with a view to export the goods to New Zealand.

If there is only one sale for export to New Zealand leading to the importation of the goods into New Zealand, then the price paid or payable (plus any relevant adjustment) by the buyer for the goods will form the basis of determining the Customs value of the imported goods under the Transaction Value Method.

However, if there is more than one successive sale that led to the importation of the goods into New Zealand, then only the last invoice price may be used to determine the transaction value of the imported goods.

## Last sale occurring prior to importation of the goods into New Zealand

In a situation involving successive sales, determining which is the ’last sale’ will depend on the specific circumstances.

The sale to determine the value of the goods must be the last sale of the goods occurring **prior to importation** of the goods into New Zealand.

To identify which is the last sale Customs will consider the following key elements:

* + Who are the suppliers and importer/recipient of the goods?
	+ Who are the buyers and sellers of the goods?
	+ What was agreed between the buyer and seller?
	+ When does the transfer of property or title to the goods for consideration take place under each of the sales transactions?

**NOTE** that an importer of record may not necessarily be the actual buyer or the last buyer of the goods. The importer could have on-sold the goods to another buyer in New Zealand and passed on ownership or title in respect to the goods to a new buyer before the goods enter New Zealand.

## Evidence of last sale

You are obliged to hold proof of the sale transaction or transactions that led to the importation of the goods into New Zealand.

The sale transaction being used as the basis for determining the Customs value must take the form of an actual sale.

Customs will examine your capacity, the terms of the contract, and when payment and transfer of property or title to the goods were made.

Once the sale transaction(s) is established for particular goods and the date(s) of the sale(s) is available, the ‘last sale’ can be more easily determined.

## Examples

These examples illustrate the relevant last sale for export to New Zealand for determining the transaction value under [Part 1 of Schedule 4](http://www.legislation.govt.nz/act/public/2018/0004/latest/DLM7040108.html?search=sw_096be8ed8175f7b1_250_25_se&p=1) of the Act.

### Figure 1

Company B

NZ

Supplier A

Overseas

 Sale

Delivery of goods

Company B in New Zealand buys and pays for shoes from Supplier A. Supplier A ships the shoes directly to Company B in New Zealand. This is the primary sale that led to the goods being imported into New Zealand. Therefore, the sale between Company B and Supplier A is the relevant sale for determining the transaction value of the imported goods (the question of which is the last sale does not arise).

### Figure 2:

Company D

NZ

**Last Sale**

Company E

NZ

Supplier C

Overseas

 Sale Sale

**Last sale**

Delivery of goods

Company D in New Zealand buys building materials from Supplier C for importing into New Zealand. Before the materials are delivered to New Zealand, Company D on-sold the goods to Company E in New Zealand and ask Supplier C to deliver them directly to Company E.

Both sales took place successively prior to importation of the goods into New Zealand. The sale between Company D and Company E was the relevant transaction that occurred last prior to importation of the goods into New Zealand.

Therefore, the sale between Company D and Company E should be use for determining the transaction value of the imported goods.

### Figure 3:

Company G Overseas or NZ

**Last Sale**

Sale

Sale

Company H

NZ

Factory F

Overseas

Delivery of goods

Company H in New Zealand places an order for goods with Company G (which could be located either overseas or in NZ). Company G then contracts with Factory F to fill the order and ship the goods directly to Company H.

In this case, both the sales led to the importation of the goods into New Zealand:

1. From Factory F to Company G;
2. From Company G to Company H.

The sale between Company G and Company H is considered to be the last sale occurring (i.e. property and title transferred etc) before the goods are imported into New Zealand.

Use this sale for determining the transaction value of the imported goods.

### Figure 4:

**Last Sale**

Distributor J

NZ

Sale

Sale

NZ retailers

Factory I

Overseas

Delivery of goods

Delivery of goods

Distributor J based in New Zealand buys washing machines from Factory I to supply in New Zealand. Upon importation of the goods in New Zealand, Distributor J then on-sells the goods to retailers in New Zealand.

In this case, the sale between Distributor J and the New Zealand retailers effectively occurred after the goods were imported into New Zealand. The only sale occurring prior to importation of the goods into New Zealand is the sale between Factory I and Distributor J.

Therefore, the sale between Factory I and Distributor J should be used for determining the transaction value of the imported goods.

### Figure 5:

Company L

Online – Overseas or NZ

**Last Sale**

Sale

Sale

Person M

NZ

Factory K

Overseas

Delivery of goods

Person M in New Zealand orders and pays for a new laptop from Company L via online Company L. Company L then orders the laptop from Factory K. Factory K ships the laptop directly to M

In this case, both the sales led to the importation of the goods into New Zealand:

1. From Factory K to Company L;
2. From Company L to M.

Although person M has an agreement to purchase the goods with Company L prior to the agreement between Factory K and Company L, the sale between person M and Company L was only completed when the goods were delivered to person M.

Effectively, the sale between Company L and person M occurred (i.e. property and title transferred etc.) subsequent to the sale between Factory K and Company L.

Use the sale between person M and Company L to determine the transaction value of the imported goods. The online company can be either overseas or in New Zealand. Person M is the importer.

1. For instance, not a branch of a company or agent who do not have ownership of the goods. [↑](#footnote-ref-1)