Australian Customs Notice 1998 03

**Valuation - privately Imported Motor Vehicles &amp; Motor Cycles**

# Background

A review of the administrative procedures and Customs policy in regard to the Valuation of privately imported motor vehicles and motor cycles has been completed. The review considered the appropriateness of the current policy having regard to the requirements of the World Trade Organisation (WTO) Valuation Agreement (which is the basis for the Australian valuation legislation), current trading trends and legal precedents.

# Introduction

The Customs Act (the Act), s159 prescribes the methods to be used to value imported goods. These methods are to be applied in the order set out by the legislation.

# Transaction Value Method

In determining the Customs Value of privately imported motor vehicles and motor cycles, the Transaction Value method will apply where the importer can demonstrate that the sale under consideration took place for the purpose of exporting the vehicle or cycle to Australia.

The determination of Customs Value using this method will be based on the price actually paid or payable for the vehicle in a bona fide sale where the price is not influenced by any other factors.

Transaction Value may not apply when Customs considers that there is insufficient and unreliable information (s160 of the Act) made available. Where the Transaction Value method cannot be applied, the Act requires that the alternate valuation methods are considered.

# Identical, Similar, Deductive and Computed Methods

The legislation provides for the sequential application of the Identical, Similar, Deductive or Computed Valuation methods. As such, regard must be had to each method. However, to utilise these methods the Collector needs to be in possession of specific and relevant information including details concerning sales of equivalent vehicles or cycles which have occurred "about the same time" (as defined in s.154(2) of the Act) as the vehicle or cycle to be valued. It is highly unlikely that the information necessary to allow the Collector to utilise these valuation methods would be accessible to the Collector. Unless that information is available to the Collector, it is likely that the application of these methods to the valuation of privately imported motor vehicles and cycles would not be practical.

Where it is not possible to utilise the Identical, Similar, Deductive or Computed Valuation methods, the Fall Back method (s161G of the Act) will be applied.

# Fall-Back Method - Section 161G

The fall-back method will be applied when the previous methods cannot be used to determine a correct Customs Value. This provides some flexibility in comparison with the other methods as the Collector, while still having regard to each of those methods in turn, can also have regard to any other matter considered relevant.

Section 161G of the Act requires the Collector to determine value having regard to the methods of Valuation contained in the Act and in the same sequence. The Collector will determine "fall-back" values in the following way:

## Fall-Back Transaction Value method

The limitation on using the price paid in respect of the Fall-Back Transaction Value method is affected by the fact that, potentially, the sale of the vehicle or motor cycle in the exporting country could be regarded as a sale on the domestic market of that country. Australian Customs legislation prohibits the price of those goods on the domestic market (of the exporting country) being used as the basis for Customs Value.

## Fall-Back Identical and Similar Valuation methods

The limitations on using the Identical or Similar Valuation methods (see previous discussion on identical and

similar methods) are also relevant here.

## Fall-Back Deductive method

Customs considers the Fall-Back Deductive method to be the most appropriate method for establishing the Customs Value of privately imported motor vehicles and motor cycles when it is unable to be determined using the previous methods. The methodology for the Fall-Back Deductive application is based on the Australian landed cost of the imported vehicle or cycle. This cost may be established by referring to an 'expert' appraisal or by the Collector's reference to a recognised motor vehicle or motor cycle dealer's guide. In this context the 'expert' appraisal should provide a cost for the vehicle or cycle which is the 'landed cost' (ie the cost of the vehicle at the Australian wharf). Therefore, the 'expert' appraisal will not include post importation charges but will take account of any modifications or accessories which have been made or added to the vehicle or cycle prior to its importation to Australia. Once the Australian landed cost has been satisfactorily established, prescribed deductions (e.g. overseas freight and insurance) will be made. That value will be the Customs Value.

## Fall-Back Computed Value method

The limitations on using the Computed Value method (see previous discussion on computed value method) are also relevant here.

# Importer's Responsibility to Obtain an Australian Valuation

Where an 'expert' appraisal is necessary to establish the price of the vehicle or cycle, it is the importer's responsibility to obtain and pay for that service. Such appraisal must be to the satisfaction of the Collector. Where Customs requires a further appraisal, the cost will be borne by Customs.

# Requirement to lodge an Entry for Home Consumption

It is recognised that there may be instances where the Customs Value is calculated to be less than $250 and may well result in a zero amount of duty. Even in such cases, there still remains a requirement to lodge an Entry for Home Consumption for the imported vehicle or cycle. For the purpose of producing the Entry for Home Consumption, in cases where the Customs Value may be calculated as zero amount, the entry will show "zero" (0.000) in the Customs Value field.

# Operational Application

The new procedures for valuing privately imported motor vehicles and motor cycles will be applied by the Australian Customs Service on vehicles or cycles purchased by the importer after 2 March 1998.

Any enquiries regarding this Notice should be directed to the Director Valuation, Ms Lee Deegan, phone 02 6275 5610, facsimile 02 6275 6477.

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