



## DEPARTMENT OF IMMIGRATION AND BORDER PROTECTION NOTICE

No.2016/33

### DECLARING OVERSEAS FREIGHT AND INSURANCE FOR CUSTOMS VALUATION AND VALUE OF THE TAXABLE IMPORTATION PURPOSES

#### Purpose

1. To provide advice for importers about the calculation of overseas freight and insurance for customs valuation purposes when the amounts for overseas freight and insurance are unknown at the time of importation.
2. To explain the impact of an additional option when determining the value of the taxable importation (VoTI), allowed by the *Tax and Superannuation Laws Amendment (2016 Measures No. 1) Act 2016* (the amending Act), which received Royal Assent on 5 May 2016.

This Notice supersedes Australian Customs Notices (ACNs) 2005/23 and 1990/71 and any previous notices on overseas freight and insurance for the purposes of calculating customs value.

#### Calculating Customs Value

Customs value is used as the basis for calculating customs duty. The relevant customs valuation legislation is contained in Division 2 of Part VIII of the *Customs Act 1901* (the Customs Act).

The amending Act does not affect the way customs value is calculated or the information, including the overseas transport and insurance amounts, that the Department requires for determining customs value in accordance with the Customs Act. This is of particular significance for Cost Insurance Freight (CIF), Cost and Freight (CFR) and similar contracts, where the overseas freight and insurance amounts are included in the contract price.

For Free on Board (FOB) contracts, the invoice amount does not include the cost of overseas freight and overseas insurance.<sup>1</sup> Subject to any additions or deductions in accordance with the Customs Act, the FOB amount as shown on the invoice will, in most circumstances, be the customs value.

#### What if the importer does not know the overseas freight and insurance amount for customs valuation purposes?

The calculation of customs value requires the use of actual figures paid or payable for overseas freight and insurance. However, the Department recognises that in some circumstances, the amount paid or payable for overseas freight and insurance:

- will not be known at the time the import declaration is prepared; or
- may never be known.

If owners wish to obtain customs clearance before accurate information about the transport or insurance costs is available or in situations where it may never be known, they may choose to use an estimate.

<sup>1</sup> International trading terms, including FOB, CIF and CFR are defined in 'Incoterms® 2010', published by the International Chamber of Commerce. More information about Australia's position in relation to these terms of trade is available in the Department's Instructions and Guidelines – Customs Valuation, on the Department's website.

In deciding to estimate the amount of transport or insurance paid or payable, an owner or their authorised agent would need to ensure that the estimate was soundly based and closely approximates the amount actually paid or payable.

In circumstances where the actual amount paid or payable for overseas freight and insurance is not known, the importer or their agent must be able to demonstrate that reasonable efforts were made to obtain these amounts if required by the Department.

If, or once, information about the actual overseas freight and insurance is received by the owner or their authorised agent and the estimate turns out to be incorrect to a material extent, an amended import declaration must be made, regardless of whether:

- the owner is entitled to an input tax credit in relation to the importation; or
- the owner is approved for GST deferral; or
- the owner's underpayments are "offset" by overpayments.

Examples of circumstances where an estimate may be used include:

- the supplier of the transport or insurance does not issue an invoice until a later date;
- the owner will not pay the foreign currency amount of transport charged by a subcontracted transport provider because the owner will pay an Australian currency amount that is still to be invoiced by the owner's service provider;
- the owner will not pay the amount of transport charged by a subcontracted transport provider because the owner's service provider will add its own service charge; and
- another entity is responsible for paying the transport or insurance costs (e.g. CFR and CIF contracts) and the amount paid or payable is commercially confidential.

## **Calculating VoTI**

VoTI is used as the basis for the levying of Goods and Services Tax (GST) for imported goods. VoTI is the sum of the customs value of the goods, the amount of overseas transport and insurance, any customs duty payable and any wine equalisation tax payable.

## **Declaring Transport and Insurance**

The amending Act provides an alternative to providing actual transport, insurance and ancillary costs for imported goods for the purposes of calculating the VoTI. The amending Act will come into force on 1 October 2016.

### *FOB Contracts*

From 1 October 2016, GST-registered importers or their agents may, when calculating the VoTI, use actual freight and insurance amounts or use a specified percentage<sup>2</sup> (10 per cent from 1 October 2016) of the customs value as the freight and insurance amount on an import declaration, when goods are imported under an FOB contract, or any other contract which does not include overseas freight and insurance in the contract price.

When using a specified percentage, a GST-registered importer or their agent will have the option of apportioning the 10 per cent between the freight and insurance fields on an import declaration.

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<sup>2</sup> The amending Act states that, unless the A New Tax System (Goods and Services Tax) Regulations 1999 (the amending Regulations) prescribe another amount, the specified percentage would be 10 per cent.

For example, if the customs value of the goods is AUD10,000, the importer or their agent may declare that the total amount paid for freight and insurance is AUD1,000, with the AUD1,000 apportioned between the overseas freight and insurance fields as deemed suitable.

If the actual freight and insurance amounts become known after the specified percentage has been used, the import declaration will not require amendment.

#### *Contracts other than FOB Contracts*

The amending Act does not change how importers or their agents report the overseas freight and insurance amounts for goods imported under CIF, CFR or another contract in which the overseas freight and insurance amounts are included in the contract price. Importers or their agents are required to declare the actual amounts paid or payable for freight and insurance if they are available. Refer to the 'What if the importer does not know the overseas freight and insurance amount for customs valuation purposes?' section above if the overseas freight and insurance amount is not known.

### **Compliance Approach**

The Department through its operational arm, the Australian Border Force (ABF), will continue to undertake compliance activities in accordance with policy settings described above, to ensure overseas freight and insurance is declared in line with the intent of this notice.

Where overseas freight and insurance has not been declared in line with this notice, appropriate treatments will be applied. Treatments can range from education and awareness for those genuinely trying to comply, a demand for payment of outstanding duty and taxes, to the issuing of infringement notices and prosecution for more serious and systemic breaches.

The Department and the ABF are committed to working with industry to increase industry understanding and awareness on the correct declaration of overseas freight and insurance, and to encourage higher levels of voluntary compliance.

### **Further information**

Inquiries about this notice should be directed to the Department's Cargo Support Centre at [cargosupport@border.gov.au](mailto:cargosupport@border.gov.au).



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