



ADVANCE RULINGS

TARIFF, VALUATION AND ORIGIN ADVICE

ADVANCE RULINGS

What is an advance ruling?

Advance rulings are formal advices on how Customs and Border Protection will apply certain laws to goods for importation. These rulings are:

- by request – you or your representative request the ruling and provide the information;
- private – only you can use them;
- documented – these rulings are in writing; and
- binding – we agree to abide by any valid ruling that we give you while it is in force.

Customs and Border Protection has three forms of advance rulings – Tariff Advices, Valuation Advices and Origin Advices.

Tariff Advices provide rulings on the tariff classification and Tariff Concession Order eligibility of imported goods.

Valuation Advices provide rulings on specific matters relating to the assessment of the Customs value of imported goods.

Origin Advices provide rulings on whether particular imported goods qualify as originating from a particular country.

Customs and Border Protection endeavours to provide rulings within 30 days of receiving a request completed correctly. In general, advance rulings are valid for five years. But Customs and Border Protection may revoke or modify an advance ruling earlier in a range of circumstances.

Why do people ask for advance rulings?

Advance rulings are a proven trade facilitation tool for both traders and Customs administrations that enhance the certainty and predictability of Customs operations.

Traders can obtain precise and binding information in advance of the actual transaction and for analogous future transactions during a specified period. This represents the safest approach for a trader, and processes are often quicker and delays reduced at the time of clearance of the goods in question.

The quoting of an advance ruling at the time of entry does not prevent Customs and Border Protection from examining the goods or other relevant material to ensure the ruling covers the goods.

What happens when an advance ruling is issued?

Once we have issued an advance ruling, any import of the goods must be in accordance with the ruling.

If you have past import transactions for identical goods or issues, then you should check these for compliance with the ruling. Where incorrect amounts of duty and/or indirect taxes (GST, LCT or WET) were paid, you may be eligible for a refund or liable for additional payments. In the latter circumstance, voluntary disclosure and payment to Customs and Border Protection within thirty (30) days from the date of finalisation of the ruling may exempt you from penalty.

When might an advance ruling not be valid?

The acceptance of a ruling as binding does not apply if the information on which we made the ruling was false, misleading or not a full and proper disclosure of relevant information. In such cases, the ruling is invalid and it is not binding on Customs and Border Protection.

What if I do not agree with an advance ruling?

You can request an internal review of the advance ruling. You must make this request in writing and give reasons why you believe the decision to be wrong. If the reviewing Customs and Border Protection officer finds that the original decision was incorrect, they can vary or revoke, the advance ruling.

Under Australian Customs law, a person does not have a direct right of review against an advance ruling in the Administrative Appeals Tribunal (AAT). However, a person can dispute payment of duty in the AAT and the reasons for disputing the duty could include matters covered by an advance ruling (that is valuation, origin and tariff classification of the goods). The AAT can exercise all the powers of the original decision-maker and will affirm, vary or set aside the decision under review. Fees apply when appealing to the AAT.

From the AAT, either Customs and Border Protection or the importer can appeal to the Federal Court if they can show that the AAT decision was incorrect on a point of law.

What if Customs and Border Protection changes their mind?

If Customs and Border Protection made an error in the ruling, we will revoke the ruling.

The treatment applied to affected goods will depend on the status of the advance ruling at the time of the goods entry.

For goods imported between the issuing of an advance ruling and its revocation or under in-transit provisions:

- If the error was in your favour (you paid less duty under the incorrect ruling), we will honour the ruling for the period it applied and will not seek repayment of revenue. This is because we recognise that you were relying on our advice at the time you imported these goods. If the error caused you to pay more duty than required, you may claim refunds.
- For goods imported before the commencement of the incorrect ruling, you must assess your duty liability as if Customs and Border Protection had never issued the ruling. We take this position because there was no reliance on the ruling at the time you imported the goods.

HOW DO I APPLY FOR AN ADVANCE RULING?

Forms and Contacts

You can find all of the forms and guidelines referred to below on the Customs and Border Protection website at www.customs.gov.au under the Forms section of 'Media, publications and forms'. You can also find contact details on the website under the 'Contact Customs' section or on the Quick Guide to Imports – Contacts and References fact sheet.

Tariff Advices

Brokers and others with access to the TAPIN system can electronically submit Tariff Advices (TA) applications. You must lodge a paper copy, with supporting documents, within five days of the creation of the request in TAPIN.

You can request a TA manually by completing a Tariff Advice Application Form B102. Information on how to complete a B102 is on the back of the form, so it is important to print and view both sides.

There are also guidelines for the lodgement of Tariff Advices, which apply to both documentary and electronic lodgements.

Please send applications and supporting information within 5 days of TAPIN submission to the Tariff Section at: tariffclassification@customs.gov.au or to Tariff Section, Australian Customs and Border Protection Service, GPO Box 2809, MELBOURNE VIC 3001 or to the Customs House in your region.

If you have any enquiries about a tariff advice application please email tariffclassification@customs.gov.au or phone 1800 053 016.

Valuation Advices

Brokers and others with access to the TAPIN system can electronically submit Valuation Advice (VA) applications. You must lodge a paper copy, with supporting documents, within five days of the creation of the request in TAPIN.

You can request a VA manually by completing a Valuation Advice Application Form B174. You will find issue codes listed on the back of the form. Documents can be lodged at a Customs House, mailed, faxed (03 9244 8680) or emailed to valvic@customs.gov.au.

For applications regarding transfer pricing valuation advice, you can find more information regarding the procedural and documentary requirements at:

http://www.customs.gov.au/webdata/resources/files/PS200921-Valuation_Advice_Transfer_Pricing.pdf

Origin Advices

Origin Advices (OAs) are requested manually. For rulings in relation to the Australia–United States Free Trade Agreement (AUSFTA), use Form B178; for the Thailand–Australia Free Trade Agreement (TAFTA) use Form B184; for all other origin rulings, use Form B659.

These are two sided forms, so it is important to print and view both sides. You can either email these forms to origin@customs.gov.au or send them to the Valuation and Origin Section of the Trade Services Branch in Customs and Border Protection's Melbourne office.

Please note: the information contained in this fact sheet is intended as a guide only.

RELATED FACT SHEET

You can access the following related fact sheet from www.customs.gov.au:

- 'Quick Guide to Imports – Contacts and References'

FOR MORE INFORMATION

You can obtain copies of forms, and information on Customs and Border Protection matters, by contacting the Customs Information & Support Centre (CI&SC) on 1300 363 263 or via email to information@customs.gov.au.