



Australian Government

**Department of Immigration
and Border Protection**

Classifying Functional Units

The Department of Immigration and Border
Protection's Tariff Classification Guide on the use of
Section XVI Note 4 in Section XVI and Chapter 90

NOTICE:

This publication is intended to provide guidance and information to the trade community. It reflects the position on, or interpretation of, the applicable laws or regulations by the Department of Immigration and Border Protection as of the date of publication, which is shown on the front cover. It does not in any way replace or supersede those laws or regulations. Only the latest official version of the laws or regulations is authoritative.

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Classifying 'Functional Units'

What is covered in this Tariff Classification Guide

This guide provides advice on how the Department of Immigration and Border Protection applies Section XVI Note 4 in Schedule 3 of the *Customs Tariff Act 1995* (Section XVI Note 4).

This Note allows groups of goods, being machines or components of a machine, to be classified together to a single classification under certain circumstances. This Tariff Classification Guide (TCG) helps to explain what those circumstances are.

This TCG also applies to using the provisions of Section XVI Note 4 to classify goods in Chapter 90 by applying Chapter 90 Note 3.

Also provided is advice on the information you need to supply with Tariff Advice or Tariff Concession Order Applications claiming Section XVI Note 4. An application for a Tariff Advice or Tariff Concession Order may be rejected or reclassified if you do not meet these requirements.

The legal provisions

Classification in Schedule 3 of the *Customs Tariff Act 1995* (the Act) is governed by Schedule 2 of the Act (GENERAL RULES FOR THE INTERPRETATION OF SCHEDULE 3). The Act requires that you must use Schedule 2 to classify goods.

The Rules in Schedule 2 are usually referred to in Australia as the 'Interpretive Rules' or 'IRs'.

The first Rule is IR 1, which reads as follows.

The titles of Sections, Chapters and sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions:

Under IR 1, you are required to classify in accordance with any Notes in Schedule 3 that apply to your goods.

Section XVI Note 4 reads as follows.

Where a machine (including a combination of machines) consists of individual components (whether separate or interconnected by piping, by transmission devices, by electric cables or by other devices) intended to contribute together to a clearly defined function covered by one of the headings in Chapter 84 or Chapter 85, then the whole falls to be classified in the heading appropriate to that function.

You may also use this Note to classify goods in Chapter 90. Provision for this is given by Chapter 90 Note 3, which reads as follows.

The provisions of Notes 3 and 4 to Section XVI apply also to this Chapter.

How the Note is applied

In order for Section XVI Note 4 to apply, the machine, being the group of components or machines, must:

- have a single clearly defined function, and
- all components or machines of the group must contribute together to that function, and
- the function must be covered by one of the headings of Chapter 84 or Chapter 85.

Section XVI Note 4 only applies to machines and combinations of machines, which have a 'clearly defined function' that is covered by one of the headings.

Each individual component of the machine, or the individual machines where the machine is made up of a number of machines, must contribute to that function.

A component or component machine will only be classified as contributing to the function of the overall machine when it is essential to the performance of the specific function of the overall machine. The Harmonized System Explanatory Notes on Section XVI Note 4 explain this further:

..the expression "intended to contribute together to a clearly defined function" covers only machines and combinations of machines essential to the performance of the function specific to the functional unit as a whole, and thus excludes machines or appliances fulfilling auxiliary functions and which do not contribute to the function of the whole.

Section XVI Note 4 does not apply to goods that perform multiple functions. Such goods, when they are classifiable in Chapters 84, 85 or 90, are usually classified either separately, when they consist of multiple machines, or under the provision of Section XVI Note 3.

The above also applies to the use of Section XVI Note 4 for Chapter 90 goods through Chapter 90 Note 3. However, a heading in Chapter 90 must cover the clearly defined function.

What is the function

In order to use Section XVI Note 4, the goods must all contribute together to a clearly defined function. The function is what the goods actually do rather than the business purpose of the importer.

Example

An importer, who brings in machines comprising a number of units that sheet, gauge and cut dough pieces, may plan to make biscuits. The importer's purpose is making biscuits.

However, what the imported machines do when they work together is to take dough and cut it into slices.

For classification purposes, the function of the machines when shipped together would be the overall activity that the group of machines performed, which in this case is cutting dough.

In describing the function, the function is the action that the machines collectively perform. That is, the function is "the kind of action or activity proper to a ... thing"¹

Example

A manufacturer of picture frames brings in a group of machines. The machines function to angle-cut one end of lengths of wood; apply glue to the angled ends; apply heat to activate the glue; position two ends to make joints; and apply pressure to the joint to set the join. Individually, the machines are variously classifiable to 8419, 8424 and 8465.

The collective activity of the machines is to assemble an angle joint between lengths of wood.

The type of article that this joined wood might be used to make is irrelevant. The machines would perform the same actions regardless of what might eventually be made of the two pieces of wood.

Determining if a function is covered by an allowable heading

To classify by this Note, the function must be a clearly defined function. It must also be covered by a heading in Chapter 84 or 85, or, if using Chapter 90 Note 3, Chapter 90.

Some headings clearly refer to specific functions, e.g. 'Machinery and apparatus for soldering, brazing or welding'. Others refer to specific machines e.g. 'Pumps for liquids' or specific types of machines for performing a function, e.g. 'Machine-tools for ...'.

Those covering a function are clearly usable by Section XVI Note 4.

¹ The Macquarie Dictionary Online © Macquarie Dictionary Publishers Pty Ltd.

Where specific machines are clearly defined by the function they perform, a heading for the machines also covers that function. For example, “Pumps for liquids” covers the function of pumping liquids.

Some headings only cover a function when performed by a specific type of machine. For example, heading 8464 is the only heading that covers working stone, but it only covers “Machine-tools for working stone”. However, for the purposes of Section XVI Note 4, we consider that the function of working stone is covered by 8464 and hence Section XVI Note 4 can extend the coverage of 8464 to include functional units with the function of working stone.

Example

The group of machines described in the example above assembled two lengths of wood by forming an angle joint.

Heading 8465 covers:

MACHINE-TOOLS (INCLUDING MACHINES FOR NAILING, STAPLING, GLUEING OR OTHERWISE ASSEMBLING) FOR WORKING WOOD, CORK, BONE, HARD RUBBER, HARD PLASTICS OR SIMILAR HARD MATERIALS:

We would consider 8465 to cover the function of assembling wood.

A functional unit has only one function

To use Section XVI Note 4, the goods must together perform one function: that is they are a ‘functional unit’.

Generally a plant, particularly a large-scale plant, consists of multiple functional units. Where goods imported form multiple functional units, you must classify each individual functional unit separately.

Example

A shipment for a factory that consists of pump house equipment (groundwater pumps, motors, controllers, flow meters, etc.) and filtration equipment (screen filters, sand filtration units, hollow fibre micro-filtration units, etc.) consists of at least two functional units – the groundwater pump house equipment (8413) and the filtration equipment (8421).

Although the equipment groups may be used sequentially, the pump house equipment does not directly contribute to the action of filtration or visa-versa. The two groups of equipment perform different clearly defined functions, each covered by a heading in Chapter 84.

A function is a discrete activity

Section XVI Note 4 applies where all of the components, as a unit, perform a single function that is covered by a heading. Where there are multiple functions, whether or not pre-requisite or sequential functions, there is more than a functional unit.

Example

A factory is being set up that will pulp recycled paper and then mould it into egg cartons.

The machines (e.g. choppers, mixers, water sprayers etc.) for turning the recycled paper into pulp have a function – making paper pulp. This function is covered by 8439.

The machines (e.g. presses, levellers etc.) for moulding egg cartons have a function of making paper pulp up into egg cartons. This function is covered by 8441.

Although you must have paper pulp first before you can mould it into egg cartons, the two functions are two clearly defined separate functions, each covered by a heading in Chapter 84. The function of making the pulp is completed prior to the making of the egg cartons.

Auxiliary machines are not covered in a functional unit

Machines or goods that are auxiliary to the function must be classified in their own right. Goods that do not directly contribute to the function are not covered by the Note.

Information required with Applications for Tariff Advices or Tariff Concession Orders

Complete equipment list for shipments

Whether or not various machines or machine components form a functional unit depends on the inter-relationship between the components and the overall function. Adding or subtracting one component or machine can potentially change the functional unit determination that applies to an import.

Applications for Tariff Advices and Tariff Concession Orders must therefore include a full and proper description of all the goods a person intends to import in a shipment.

Information required to support using Section XVI Note 4

Applications seeking classification using Section XVI Note 4 must include all of the following:

1. a clear description of the 'machine' to be imported, including a list of the individual physical components or individual machines that it includes
2. the function that the 'machine' performs, and
3. a list of
 - the functions that each component or component machine performs
 - how each component or component machine's function contributes to the performance of the overall function, and
 - how the components or component machines work together in the performance of the overall function.

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