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STATUTORY INSTRUMENTS

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**2018 No. 1248**

**The Customs (Import Duty) (EU Exit) Regulations 2018**

**PART 12**

**Valuation of chargeable goods**

**CHAPTER 3**

**Transaction value: specified matters – included elements**

**Transaction value: included items**

**111.**—(1) The items referred to in regulation 108(7)(a) as specified matters to be included as elements of a transaction value are the following—

- (a) the container of the goods;
  - (b) the packaging of the goods;
  - (c) transport and insurance of the goods, up to the time the goods are imported into the United Kingdom;
  - (d) loading and handling of the goods, up to the time the goods are imported into the United Kingdom;
  - (e) commission, except buying commission, and brokerage fees paid by the buyer of the goods; and
  - (f) export duty charged in the place of origin.
- (2) The value of the items in paragraph (1) is—
- (a) in respect of sub-paragraphs (a) to (d), subject to paragraph (3), the cost of the item;
  - (b) in respect of sub-paragraph (e), the amount of the commission and fees paid; and
  - (c) in respect of sub-paragraph (f), the amount of the duty.

(3) Where goods are transported by air, the cost of the air transport is the percentage of that cost as set out in the document, “Air Transport Costs to be included in the customs value, version 1, dated 27 November 2018<sup>(1)</sup>”.

**Transaction value: further included items – partial value**

**112.**—(1) The items referred to in regulation 108(7)(a) as specified matters to be included as elements of a transaction value further include the following, where the buyer of the goods provides them to the seller other than for full valuable consideration—

- (a) materials, components or parts of the goods;
- (b) materials consumed in the production of the goods;

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(1) Available from: <https://www.gov.uk/government/collections/customs-vat-and-excise-regulations-leaving-the-eu-with-no-deal>. A hard copy is available for inspection free of charge at the offices of HMRC at 100 Parliament Street, London, SW1A 2BQ.

- (c) dies, moulds or tools used in the production of the goods; and
  - (d) each item listed in paragraph (2) which is provided outside of the United Kingdom in relation to the production or development of the goods.
- (2) The items referred to in paragraph (1)(d) are—
- (a) artwork;
  - (b) designs;
  - (c) development services;
  - (d) engineering work or services; and
  - (e) plans or drawings.
- (3) Paragraph (1)(d) applies to an item even if it is not intended to be used by the buyer in the processing, use or disposal of the goods.
- (4) Subject to paragraphs (5) and (6), the value of an item in paragraph (1) is—
- (a) if it can be readily determined—
    - (i) where the buyer or a related person of the buyer did not produce the item, the price paid by the buyer for the item; or
    - (ii) where the buyer or a related person of the buyer produced the item, the cost to the buyer or related person of producing the item; or
  - (b) otherwise, a value determined in accordance with the principles adopted by the WTO<sup>(2)</sup> in the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994<sup>(3)</sup>.
- (5) In respect of an item to which paragraph (1)(c) or (d) applies, where the item is used or provided in relation to other goods as well as the goods to be valued, the value is to be apportioned proportionately between the other goods and the goods to be valued.
- (6) The total value of the items to which paragraph (1) applies is to be reduced by the amount of the value of the consideration provided by the seller.

#### **Transaction value: further included items - royalties**

- 113.**—(1) The items referred to in regulation 108(7)(a) as specified matters to be included as elements of a transaction value further include a royalty or licence fee payable by the buyer to the seller where—
- (a) the royalty or licence fee is payable when the buyer sells the goods; and
  - (b) such payment forms part of the agreement between the buyer and seller for the import of the goods into the United Kingdom.
- (2) The value of the royalty or licence fee is, if it can be readily determined, the amount payable.

#### **Transaction value: adjusted amounts**

- 114.**—(1) Where an HMRC officer is satisfied—
- (a) that a transaction value used in Method 1 valuation is substantially lower than the full value of the goods; and

(2) Defined in section 37(1) of the Act as “the World Trade Organisation”.

(3) Available from: [http://www.wcoomd.org/-/media/wco/public/global/pdf/topics/valuation/instruments-and-tools/gatt/arti7\\_gen\\_agreemt.pdf?db=web](http://www.wcoomd.org/-/media/wco/public/global/pdf/topics/valuation/instruments-and-tools/gatt/arti7_gen_agreemt.pdf?db=web). A hard copy is available for inspection free of charge at the offices of HMRC at 100 Parliament Street, London, SW1A 2BQ.

- (b) as to the amount (“the adjusted amount”) which, if included in the value, would be the full value,

the officer must consider the transaction value as inaccurate and accordingly give a notification or make a correction to the Customs declaration under paragraph 14 of Schedule 1 to the Act, such that the transaction value is treated so as to include the adjusted amount.

(2) In particular, an HMRC officer must have regard to the following in order to be satisfied as to the matters in paragraph (1), namely if—

- (a) the buyer and seller of the goods have agreed any restriction on the use or disposal of the goods, other than a restriction—
  - (i) imposed further to an enactment; or
  - (ii) as to the geographic area in which the goods may be re-sold;
- (b) the seller is entitled to any of the proceeds of any disposal of the goods made by the buyer; or
- (c) the goods are to be processed by the buyer or a related person of the buyer and the seller is entitled to any of the goods as processed.