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Tax Alert – Canada

Valuation for Duty Regulations, take two: CBSA invites feedback on revisions to 2023 proposals

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On 3 December 2025, the Canada Border Services Agency (CBSA) [announced](#) it is requesting feedback on revisions to proposed amendments to the *Valuation for Duty Regulations* (the Regulations), which were published in 2023. The revisions are intended to address key concerns raised during the 2023 consultations.

Stakeholders are invited to make representations to the CBSA until 23 January 2026.

Background

On 29 May 2023, the CBSA proposed changes to the Regulations, which were published in the Canada Gazette on 27 May 2023. These changes sought to clarify which sale for export to Canada to a purchaser in Canada should be used to determine the transaction value of goods under section 48 of the *Customs Act*. According to the CBSA, the proposed amendments would:¹

- ▶ Define the term “sold for export to Canada”;
- ▶ Amend the term “purchaser in Canada”;
- ▶ Clarify which sale to use to calculate the duty on imported goods;
- ▶ Align with international obligations established at the World Customs Organization;
- ▶ Level the playing field between resident importers and nonresident importers (NRIs);

¹ [What we heard report: Proposed regulatory amendments to the Valuation for Duty Regulations.](#)



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- ▶ Reflect modernized business practices;
- ▶ Provide greater certainty and predictability for the importing community; and
- ▶ Give the CBSA the authority to enforce the collection of the correct amount of revenue from import duties owed to the Government of Canada on lower value for duty (VFD) declarations.

The CBSA had indicated that the amendments were necessary to close a regulatory “loophole” that certain NRIs were exploiting when qualifying as “purchasers in Canada” without a permanent establishment and using their purchase prices as the basis for the VFD of the goods (i.e., a price used in the earlier stages of the supply chain). The implication was that resident importers were declaring higher VFD and therefore paying more import duties than certain NRIs.

With respect to the proposed introduction of a new defined term, “sold for export to Canada,” the CBSA asserted that valuation should be based on the “last sale” price where the distributor in Canada has agreed to sell goods prior to importation, or has an understanding or an arrangement to sell the goods to a customer in Canada prior to importation. Further, the import value should be based on the agreement that caused the goods to be imported into Canada and not necessarily based on an actual sale at law occurring prior to importation.

The amendments also proposed to remove the residency and permanent establishment criteria from the definition of “purchaser in Canada” in section 2.1 of the Regulations.

Concerns were raised during the consultation process, including with respect to the impact the proposals would have on importers who import goods for resale in Canada.

For more information about the 2023 amendments, see [EY Tax Alert 2023 Issue No. 26, Proposed regulations amending the valuation for duty rules for goods imported into Canada](#).

Revisions to the 2023 proposals

The CBSA noted that the key concerns raised during the initial 2023 consultations were:

- ▶ Unintended inclusion of domestic sales as a sale for export to Canada; and
- ▶ Misalignment with the Customs Valuation Agreement.

Three key revisions are currently proposed.

First, a “sale for export to Canada” would exclude situations identified in Advisory Opinion 1.1 of the World Customs Organization’s Customs Valuation Compendium. For example, consignment agreements and agreements that provide goods free of charge would be considered “excluded situations.”

Second, goods would not be considered “sold for export to Canada” if an excluded situation exists in a series of sales and would have been the last sale for export, had it not been excluded. However, the last sale would be used if an excluded situation exists earlier in the supply chain.

Finally, sales between two persons located in Canada (i.e., individuals who ordinarily reside in Canada or businesses meeting specified conditions that show they have a substantial presence in Canada) would be excluded from consideration as the last sale for export on which the VFD is based. Specified conditions that a business would have to meet include having its primary place of business physically located in Canada, having decision-making power over its day-to-day operations in Canada and paying income tax in Canada.

Consultation period

The consultation period opened on 3 December 2025 and will close on 23 January 2026. Canadian resident importers, Canadian subsidiaries of foreign parent companies, and any other interested stakeholders should consider the impacts of the CBSA’s proposed revisions.

Comments on the proposed revisions can be sent by email to ctpd/dpsce@cbsa-asfc.gc.ca.

The CBSA advises stakeholders to focus on whether the revisions address the key concerns raised during the initial 2023 consultations.

Stakeholders are also invited to complete a survey that will provide the CBSA with a better understanding of how importers value goods and structure sales.

Learn more

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