



Ottawa, November 13, 2014

Memorandum D8-11-7

CBSA Policy on the Transfer of Entitlement Pursuant to the Textile and Apparel Remission Orders

In Brief

1. The editing revisions made in this memorandum do not affect or change any of the existing policies or procedures.
2. This memorandum has been revised to reflect changes to the Canada Border Services Agency's organizational structure.

This memorandum outlines and explains the circumstances whereby entitlement to remission of customs duties pursuant to the Textile and Apparel Remission Orders may be transferred from an eligible apparel manufacturer or eligible fabric producer to another eligible apparel manufacturer or eligible fabric producer.

This will be of interest to eligible apparel manufacturers and eligible fabric producers who are named in any Schedule to any of the Orders.

Legislation

[Customs Act](#)

[Customs Tariff](#)

Six Textile and Apparel Remission Orders, amended most recently by P.C. 2008-1599, [Order Amending Certain Textile and Apparel Remission Orders, 2008](#), are:

- P.C. 1997-830 ([Tailored Collar Shirts Remission Order, 1997](#))
- P.C. 1997-2054 ([Outerwear Greige Fabrics Remission Order, 1998](#))
- P.C. 1997-2055 ([Shirting Fabrics Remission Order, 1998](#))
- P.C. 1997-2056 ([Outerwear Apparel Remission Order, 1998](#))
- P.C. 1997-2057 ([Blouses, Shirts and Co-ordinates Remission Order, 1998](#))
- P.C. 1997-2058 ([Outerwear Fabrics Remission Order, 1998](#))

Guidelines and General Information

Conditions for Remission

1. Pursuant to each Order, as applicable, remission of customs duties is granted to an eligible apparel manufacturer or eligible fabric producer who is named in the Schedule to the Order. There are four conditions that must be met annually before remission may be granted in respect of a calendar year:

- (a) the apparel manufacturer or fabric producer must be a manufacturer or producer of qualifying goods;
- (b) the apparel manufacturer or fabric producer must be named in the Schedule;

- (c) the imported goods must be qualifying goods; and
- (d) a claim for remission must be made.

Transfer of Remission

2. The annual remission entitlement of an eligible apparel manufacturer or eligible fabric producer named in a Schedule to an Order is not a transferable right, entitlement or an asset of the eligible apparel manufacturer or eligible fabric producer. As such, the annual remission entitlement of an eligible apparel manufacturer or eligible fabric producer cannot be bought, sold or transferred as if it had a proprietary value. It may, however, be permanently re-allocated (transferred) to another company when that other company acquires, purchases, or otherwise takes control over the operations of the eligible apparel manufacturer or eligible fabric producer.

3. When there is an amalgamation of the business operations of an eligible company (i.e. a company that is named in the Schedule to an Order) with any other company, the new or controlling company, if required, must submit to the Trade Incentives Unit copies of the applicable articles of amalgamation, amended articles of incorporation, updating declarations, business registration, or other legal documentation as registered with the appropriate provincial or federal government authority.

4. Under such circumstances, the remission entitlement to which the former eligible apparel manufacturer or former eligible fabric producer was previously entitled may be permanently re-allocated to the new or acquiring company/owner:

(a) If the acquiring company is itself an eligible apparel manufacturer or eligible fabric producer (i.e., one who is named in the Schedule to the applicable Order), then its entitlement under the Order would be increased by an amount equal to the entitlement of the former eligible apparel manufacturer or former eligible fabric producer, less any remission benefits already received by the former eligible apparel manufacturer or former eligible fabric producer.

(b) If the acquiring company is not an eligible apparel manufacturer or eligible fabric producer (i.e., one who is not named in the Schedule to the applicable Order) the acquiring company may become eligible for remission of duties equal to the full entitlement of the former eligible apparel manufacturer or former eligible fabric producer, less any remission benefits already received by the former eligible apparel manufacturer or former eligible fabric producer.

Note: Under the circumstances described in (a) and (b) above, the acquiring company must notify the CBSA and submit a request in writing to receive approval to transfer the remission benefit from the former company to the new or acquiring company. The notification and request are to be directed to the address noted below. At the earliest opportunity, the acquiring company's name will be added to the Schedule to the Order and the former eligible company's name removed from the Schedule to the Order.

Partnering Agreements

5. Subject to conditions, an eligible apparel manufacturer or eligible fabric producer (one who is named in the Schedule to the Order), may enter into a partnering agreement with another company in order to realize its full remission allocation in a given year. In this way, the eligible company is the importer of record for the goods and the other company is the owner or consignee of the goods. The conditions for effecting this particular use of the remission allocation include:

(a) The agreement must be in writing, clearly specifying the details and responsibilities of each company and signed by a duly authorized officer of each company.

(b) The agreement must be finalized and dated prior to the release of the imported goods by the CBSA.

(c) The eligible company is listed on CBSA reporting and accounting documentation as the importer of record and the partnering company listed on CBSA reporting and accounting documentation as the owner/consignee of the goods.

(d) The eligible company must retain and make available to the CBSA on request copies of all purchase orders, invoices, product descriptions, any other relevant documentation, including samples of the imported apparel or fabric, to support verification by the CBSA.

Note: Failure to comply with any of (a) to (d) will result in denial of remission and the eligible company, as importer of record, being jointly and severally liable with the owner of the goods to pay any outstanding duties, including taxes.

Accounting and Adjustment Requirements

6. If goods that are subject to a partnering agreement and for which remission is or will be claimed have already been imported and accounted for in the name of the other company (i.e., the owner or purchaser), it will be necessary to amend the importer name before remission will be approved. In such cases, a name change request must be submitted in accordance with instructions set out in CBSA [Memorandum D17-2-3, Importer Name/Account Number or Business Number Changes](#). In all such cases, the name change request must be submitted on Form [B2, Canada Customs – Adjustment Request](#) and must clearly indicate the eligible apparel manufacturer's or eligible fabric producer's remission authorization number in the special authority field (box 20) of the [B2](#). It is required that the name change and claim for remission be submitted at the same time and on the same [B2](#).
7. If goods that are subject to a partnering agreement and for which remission is or will be claimed are part of a larger shipment of goods being imported into Canada by another company, such shipments must be first abstracted to ensure that only the goods for which remission is to be claimed are accounted for by the eligible apparel manufacturer or eligible fabric producer under its remission authorization. All other goods imported on the shipment must be accounted for by the owner/importer of those goods in the usual manner.
8. If goods that are subject to a partnering agreement and for which remission is or will be claimed are part of a larger shipment of goods that has already been imported into Canada and accounted for by another company, no remission may be claimed in respect to that transaction. In such cases, it would be necessary for the eligible apparel manufacturer or eligible fabric producer to submit a voluntary [B3-3, Canada Customs Coding Form](#) coded as a V Type entry to account for the qualifying goods under its remission authorization. Such voluntary transactions must be identified to the CBSA at the time of presentation.
9. When a voluntary transaction is presented under these circumstances, any applicable duty and tax payment must accompany the transaction. These transactions are not eligible for month-end K84 settlement privileges. After the voluntary transaction has been accepted and processed by the CBSA, the original importer may then file a [B2, Canada Customs – Adjustment Request](#) to recover duties paid in respect of those goods, as accounted for on the original transaction and must reference the V Type transaction barcode number in the explanation field of the [B2](#).

Additional Information

10. Each case will be reviewed and evaluated on the basis of its own merits and particular circumstances to determine eligibility under the Order. Reference should be made to the applicable Order-in-Council and to the corresponding departmental memorandum as listed in the “Other References” section below.
11. Further information may be obtained by referring to CBSA Memoranda [D3-1-1, Policy Respecting the Importation and Transportation of Goods](#), [D17-1-10, Coding of Customs Accounting Documents](#), and, [D17-2-3, Importer Name/Account Number or Business Number Changes](#).
12. Questions and/or supporting documentation should be directed to:

Trade Compliance Division
Trade Incentives Unit
222 Queen Street, 9th Floor
Ottawa, ON K1A 0L8
13. For more information, within Canada call the Border Information Service at **1-800-461-9999**. From outside Canada call 204-983-3500 or 506-636-5064. Long distance charges will apply. Agents are available Monday to Friday (08:00 – 16:00 local time / except holidays). TTY is also available within Canada: **1-866-335-3237**.

References	
Issuing Office	Trade and Anti-dumping Programs Directorate
Headquarters File	6587-0
Legislative References	<i>Order Amending Certain Textile and Apparel Remission Orders, 2008</i> <i>Tailored Collar Shirts Remission Order, 1997</i> <i>Outerwear Greige Fabrics Remission Order, 1998</i> <i>Shirting Fabrics Remission Order, 1998</i> <i>Outerwear Apparel Remission Order, 1998</i> <i>Blouses, Shirts and Co-ordinates Remission Order, 1998</i> <i>Outerwear Fabrics Remission Order, 1998</i>
Other References	D3-1-1 , D17-1-10 , D17-2-3 Forms B2 , B3-3
Superseded Memorandum D	D8-11-7 dated November 28, 2012