Non Resident Importers (NRI)

A Non-Resident Importer (NRI) is a company who in most cases does not have a physical presence in Canada, yet for purposes of customs and GST, acts as the importer of record for goods sold/consigned into Canada. As an NRI, you will relieve your Canadian customers of the responsibilities of importation, making it easier for them to buy from you.

With the increasing demand for imports into Canada as a result of free-trade, many U.S. companies are discovering the commercial advantages of selling to their Canadian customers on a landed basis in order to expand their markets north of the border.

1. NAFTA Review

NAFTA is the Trade Agreement that Canada, Mexico and the United States entered into to promote trade between the three countries. This trade agreement entitles the import of certain goods that qualify under a lower rate of duty or in the case of most goods from the USA to a zero percent rate of duty. If you use the NAFTA rate of duty goods must have a valid Certificate of Origin on file or with the goods as they cross the border.

The Harmonized System (HS) of Tariff classification dictates the rate of duty charged on each article imported into Canada. There are more than 40,000 different tariff classifications to choose from. To ensure your products are classified correctly please provide your customs broker with literature and product information on all of the products you will be shipping into Canada. NAFTA qualification is NOT assumed, you must be able to prove it with a valid NAFTA certificate when asked by customs.

2. Customs Clearance Documentation

All exports to Canada require specific information for clearance through Canada Customs. The Canada Customs Invoice is the most common form utilized. Your commercial (sales) invoice can be used instead of a Canada Customs Invoice (CCI) provided the required data elements are included.

The general information required is:

- Vendor and Purchaser Name and Address
- Importer of Record
- Full Description
- Country of Origin
- Quantity (Packages and Weight)
- Value (Unit Price and Extension)
- Currency of Settlement (U.S. or Canadian Dollars)
- Condition of Sale

3. Shipments entering Canada may require additional documents:

- The most common is a NAFTA Certificate, note the NAFTA review above, that can be prepared by the manufacturer for each shipment or a blanket certificate can be prepared and kept on file by you, and the importer, but not your broker. A blanket NAFTA should be on file with the Customs Broker.

- Also, certain commodities entering Canada are controlled / restricted for various reasons, food products, textiles, medical goods, used articles, as examples, and may require permits or approval forms from other government departments (OGD) prior to customs clearance. Health Canada and the Canadian Food Inspection Agency are two such departments.
- For shipments valued at $1600.00 (CDN) or less, a commercial invoice is usually acceptable for customs purposes.
- Shipments over $1600.00 (CDN) require a Canada Customs Invoice (CCI) to accompany the shipment OR a commercial invoice which contains the same data elements as the CCI.
- Since the selling price would be comprised of the goods itself, transportation, insurance, brokerage, duty and GST. These components should be shown separately, where possible, to avoid paying unnecessary duty on pricing elements which, if identified, are duty free.

4. Goods & Services Tax (GST)

The GST is a value-added tax in which each stage of the production/distribution system is assessed. It is not a retail tax or a one incident tax that is charged to a consumer when a sale is made. GST is a business transfer tax that flows through the businesses to the consumer.

- Most goods imported into Canada are subject to the Goods and Service Tax (GST) or the Harmonized Sales Tax (HST).
- The GST was implemented in Canada on January 1, 1991. Most Canadian businesses and Non-Resident Importers are registered with the Canadian government to collect the GST/HST.
- GST is applied at the border to all imported Commercial goods destined or supplied to all provinces within Canada.
- Registered firms collect the GST on the sale in Canada of taxable goods and services supplied to all provinces with the exception of New Brunswick, Nova Scotia or Newfoundland at a rate of 5%.
- Registered firms collect the HST on the sale in Canada of taxable goods and services supplied and destined to New Brunswick, Nova Scotia and Newfoundland at a rate of 13%.

At times a company may find itself in the desirable position to collect a refund. This happens when a company pays more GST that it collects. As the Importer of Record, you will be responsible for payment of the GST on any taxable commercial goods entering Canada. Your option is to register or not to register.

(Gst collected on Invoice) – (Gst Paid on Entry) = Gst Remitted to Canada Revenue Agency (CRA)

5. Should I be GST Registered?

You must collect 5% GST on the sale of all taxable goods and services supplied to all provinces with the exception of New Brunswick, Nova Scotia or Newfoundland or collect 13% HST on sales destined or supplied to the provinces of New Brunswick, Nova Scotia or Newfoundland.

Advantages:

- Enjoy a tax credit or rebate of tax paid on the purchase of taxable services, or the purchase or importation of taxable goods.
- Easier for Canadian customer to take Input Tax Credit (ITC).
- Able to recover GST paid on sample shipments.
- Quicker recovery of tax paid on rejected or damaged goods.
- Easier paper flow.

Disadvantages:

- Accounting system must be established to Identify tax collected on sales and Identify ITCs.
- File monthly/quarterly GST returns.
- Minimum two year filing requirement.
- Application form to CBSA may require security in the form of a bond (NAFTA sales > $100,000 require $5,000 in bond). Subject to audit by Canadian Border Services Agency (CBSA).

If you are a GST registrant the registration number must appear on your commercial invoice to enable your client to obtain an ITC (income tax credit).

Canada Revenue Agency has a program that can simplify the GST remittance. The program involves the deferral of GST payment on all imports until the last day of the month. See your broker for more details.

6. Should I not be GST Registered?

You must pay 5% GST on taxable goods at time of import. The Flow through Method of GST recovery must be used by your firm to pass on the GST paid at the border. A Registered Canadian customer can take advantage of the GST paid by you and use it as their Input Tax Credit (ITC).

- Commercial Invoice Non-Registrant includes GST in their Selling Price to Canadian customers. A Non-Registrant is not legally allowed to collect GST from their Canadian customer; therefore, GST should be included in the Selling Price as a Cost. GST must not be indicated as a separate line item on the Commercial Invoice.

Canada Customs Invoice Non-Registrant declares the same Selling price (GST included) as indicated on their commercial invoice; however, in field 9 of the Canada Customs Invoice, Conditions of Sale, it must state “Selling Price includes GST”.

- GST is paid on goods entering Canada at time of import; GST is calculated on the Duty Paid Value of the goods.
- Non-Registrant must supply Canadian customer with a copy of their B3 (Canadian Import Entry) to substantiate the GST paid status of the goods purchased.

Should you choose not to register, then a copy of the Canada Customs entry evidencing the amount of GST paid must support your invoice to your client so that they may benefit from the Import Tax Credit (ITC). It is important to ensure that your Canadian customers understand and accept the flow through Method of claiming an Input Tax Credit. It is also important to ensure that the tax you pass on will match the amount paid at the border.

7. Value for Duty

The calculation of Customs Duty and the Goods and Services Tax (GST) is reliant on the appropriate valuation of the goods imported into Canada. Since the GST and the majority of duty rates are based on the value method of assessment, reporting the correct value is extremely important.

The legislation covering Value for Duty is found in the Customs Act Sections 45 to 55. The Regulations are found in Customs Memorandum D13 that is comprised of more than 40 individual memoranda.

The primary method of valuation is the Transaction Value (TV). This is defined as the Price paid or payable for goods, as adjusted, when sold for export to Canada to a resident in Canada.

When the requirements of Transaction Value cannot be satisfied, one of the five alternative methods of valuations must be applied.

These are:

- Transaction Value of Identical Goods
- Transaction Value of Similar Goods
- Deductive Value
- Computed Value
- Residual Value

Customs audit and investigative resources are focusing considerable effort on the enforcement of valuation requirements. Great care need to be taken, particularly by non-resident importers, to ensure that the appropriate value is declared; talk to your broker!

The importer's assumption of risk for the acts of third parties is nowhere more evident, or more serious, than in NAFTA claims. An importer claiming the benefit of NAFTA tariff treatment must do so on the basis of a certificate of origin issued by the manufacturer or exporter of the goods.

The CBSA regularly audits foreign exporters and manufacturers to determine the validity of certificates of origin. If it is found that the certificate of origin is invalid and/or should not have been issued, the importer should not have been issued; the importer will be required to pay the difference between the NAFTA duty rate and the applicable rate for non-NAFTA goods and the applied AMPS penalty; also the importer may have to pay those additional duties for every customs entry going back 4 years.

There is no simple answer to this problem, the importer must rely on the manufacturer's or exporter's certification but is responsible for significantly increased duty costs if that certification is wrong. Clearly, importers need to work closely with their vendors to ensure that certificates of origin are properly issued.

Be Aware!

While the Non-resident Importer program is very attractive, NRIs must be aware of the following:

The Business Number (BN) is a nine digit registered serial number assigned to all commercial concerns in Canada. In order to import commercially into Canada a company must have a BN. The BN also serves as the GST registration number for firms whose sales exceed $30,000 CAD. Your first step in becoming an NRI is applying for the BN, secondly request an Importer Number. After the BN, an RT extension is added for GST and an RM is added for the Importer number. (i.e. 123456789RM0001)

Canadian law requires all commercial records and documentation, to be kept for 6 years. The Canada Revenue Agency may authorize certain importers to maintain records outside Canada provided they submit a letter of undertaking. The purpose of this document is to record and set out the agreement made between the company and the Canada Revenue Agency, concerning the availability of records for Customs audit purposes.

As the importer of record into Canada you must give special consideration to the various Customs regulations and import provisions that could affect your business, such as the valuation of your goods. The importer (you) assumes full responsibility for the correct declaration and calculation of the value in accordance with the Customs Act. Failure to comply with these requirements or with the other programs could result in reassessments by the Canada Border Services Agency (CBSA) for additional duties, interest and penalties. Customs Brokers like Accountants, work with the information you provide, YOU are ultimately responsible for the accuracy.

For more detailed information, please see the following link on CRA's website:

http://www.cra-arc.gc.ca/E/pub/gp/rc4027/README.html