

Commissions and Brokerage
Paragraph 8 (1)(a)(i) of the Schedule to the Customs Act

This procedure is to outline the treatment of commissions and brokerage in determining the value for duty of imported goods.

Guidelines and General Information

General Descriptions

1. Paragraph 8 (1)(a)(i) of the Schedule to Section 19 of the Customs Act states that in determining the Customs Value there shall be added to the price actually paid or payable for the imported goods costs for commissions and brokerage to the extent that they are incurred by the buyer but not already included in the price paid or payable for the goods.
2. Exceptions are fees paid or payable by the buyer to his agent for the service of representing the buyer abroad in respect of the purchase of the imported goods. These fees, usually referred to as “buying commissions”, need not be added to the price paid or payable for the imported goods in determining the value for duty, provided that the fees are either invoiced or identified separately. However, if the invoiced price for the goods includes such fees, they cannot be deducted from the price paid or payable.
3. Generally if the buyer engages the service of a buying agent to locate and purchase goods for export to Jamaica the buying agent’s fee paid for his service is not dutiable.

Definitions

4. Agent

- a) Agents are persons who buy or sell goods, possibly in their own name, but always for the account of a principal. The agent participates in the conclusion of a contract of sale representing either the buyer or the seller. The agent's fee normally takes the form of a commission, generally expressed as a percentage of the price of the goods.

5. Selling Agent

- a) Selling agents are persons who act for the account of a seller. They seek customers, collect orders and in some cases may arrange for storage and delivery of the goods. The remuneration they receive for services rendered in the conclusion of a contract is usually termed "selling commission". Goods sold through a selling agent cannot usually be purchased without payment of the selling agents commission

6. Buying Agent

Buying agents are persons who act for the account of a buyer and perform their functions out of funds provided by that buyer. The duties of a buying agent normally include finding suppliers, informing the seller of the desires of the buyer, placing orders, collecting samples, inspecting goods and in some cases arranging for insurance, transport, storage or delivery of the goods to be imported.

- 7. The buying agent remunerations, which are usually termed "buying commission", are paid by the buyer to the agent and is not dutiable.

8. Broker

Where the term “broker” is in use, it generally refers to agents who do not act on their own account; they act for both the seller and the buyer and usually have no other role other than to put both parties to the transaction in touch with each other. The broker’s remuneration is known as “brokerage” and is usually calculated as a percentage of the business concluded as a result of his activities.

9. It should be noted that the term “brokerage” does not refer to the clearance of the goods through Jamaica Customs. Rather, “brokerage” refers to payments made to intermediaries for their participation in the conclusion of a contract of sale. Brokerage is dutiable and must be included in the value for duty.

Documentation to Substantiate the Buying Agent’s Status

10. Customs may wish to examine contracts, invoices letters of credit, correspondence etc. that establishes the nature of the arrangement between the buyer and the agent. This documentation will be examined so as to determine whether the agent is in fact acting on behalf of the buyer and not account of the seller, or even on the agent’s own account. An agent agreement alone is insufficient evidence to substantiate an agency relationship.
11. Failure by the importer to supply Customs with the commercial invoice from the supplier and other satisfactory evidence relating to the sale, may prevent the Department from verifying the price paid or payable in the purported sale for export to Jamaica and could preclude the use of the Transaction Value Method.