

INVOICE POLICY

Anguilla Customs Department's Invoice Policy

Back Ground

For Customs purposes an invoice is a commercial document that itemize and records a transaction between a buyer and a seller. Indicating the products, quantities, and agreed prices for the commodities. If goods were purchased on credit, the invoice usually specifies the terms of the transaction and provides information on the available methods of payment. These may specify that the buyer has a maximum number of days in which to pay.

Some invoices are no longer paper based, but rather transmitted electronically over the internet. It is still common for electronic remittance using Electronic Data Interchange (EDI) or the United Nations standards for electronic invoices. This includes standard codes for transmitting header information (common to the entire invoice) and codes for transmitting details for each of the line items for the goods.

On the other hand, the Customs Department is aware of exceptions to the standards already defined. Sales receipts will not translate directly into the generally accepted standard. We understand that the circumstances of the transaction are not quite the same. Although goods may be purchased with the intention of exporting, this will not be known at the transaction point by the Seller. As a result of this reality, the Customs Department prefers the original invoice/receipt to be presented to avoid importers creating invoices. This may cause problems if information is transposed in the process of transferring.

Scope

This document outlines what is an invoice and the standard that the Anguilla Customs Department will accept for determining the customs value of goods imported/exported to/from and in transit within the territorial seas of Anguilla.

Policy Statement.

This policy has been established to ensure consistency with the standard of invoices accepted by the Anguilla Customs Department.

Legislation

Entry of goods on importation

24.

1. The importer of any goods, other than goods which are exempt from the requirements of this section, shall within 7 days of their importation, deliver to Customs an entry of those goods in such form and manner and containing such particulars as the Comptroller may direct.

(Act 15/2010, s. 5)

2. The Comptroller may, if he thinks fit—

- (a) exempt any goods from the requirements of this section, subject to such conditions as he sees fit to impose; or
 - (b) authorise the destruction of any perishable goods.
3. Passengers' accompanied baggage is exempt from the requirements of this section.
 4. Subject to subsection (5), goods may be entered under subsection (1)—
 - a) for warehousing, if so eligible;
 - b) for home use, if so eligible;
 - c) for transit or transshipment; or
 - d) in such cases as the Comptroller may permit, for temporary importation with a view to subsequent re-exportation.
 5. The Comptroller may refuse to accept any entry of goods if he is not satisfied that those goods were imported at the time of the delivery of the entry.
 6. Where, in the case of any goods that are not chargeable with any duty, any entry made under subsection (1) is incorrect, the importer shall, within 10 days after the delivery of the entry or such longer period as the Comptroller may in any case permit, be allowed to deliver to the Comptroller a full and accurate account of the goods and, if the Comptroller is satisfied that the error was not made knowingly or recklessly, then, notwithstanding any other provision of any customs enactment, the person making the entry is not guilty of any offence and the goods which were the subject of the error are not liable to forfeiture.
 7. The Comptroller may, notwithstanding that no entry has been made under subsection (1), permit the delivery to an importer of any bullion, currency notes or coins imported into Anguilla.

Entry of goods for exportation

34.

1. Subject to subsection (2), the exporter of any goods, other than passengers' accompanied baggage, shall deliver to Customs an entry of those goods in such form and manner and containing such particulars as the Comptroller may direct.

(Act 15/2010, s. 9)

2. The Comptroller may relax, subject to such conditions and restrictions as he may see fit, all or any of the requirements imposed under subsection (1) in relation to any goods, class or description of goods.
3. Where, in the case of any goods that are not chargeable with any duty, any entry made under subsection (1) is incorrect, the exporter shall, within 10 days after the delivery of the entry or such longer period as the Comptroller may in any case permit, be allowed to deliver to the Comptroller a full and accurate account of the goods and, if the Comptroller is satisfied that the error was not made knowingly or recklessly, then, notwithstanding any other customs

enactment, the person making the entry is not guilty of any offence and the goods which were the subject of the error are not liable to forfeiture.

4. Where any goods that have been entered for exportation or for use as stores are not duly loaded onto the vessel or aircraft for which they are entered, then, unless within 24 hours of the departure of that vessel or aircraft the person who entered them notifies Customs of that short loading, those goods are liable to forfeiture.

(Act 15/2010, s. 9)

5. If any goods for which entry is required under subsection (1) are put on board any vessel or aircraft for exportation or for use as stores or are waterborne for such purpose before entry in respect of them has been made, those goods are liable to forfeiture and, where the placing on board or making waterborne was done with fraudulent intent, any person concerned in that act with knowledge of that intent is guilty of an offence and is liable to a fine of \$20,000 or 3 times the value of the goods, whichever is the greater, or to a term of imprisonment of 2 years or to both and may be arrested.

Valuation of goods for purpose of ad valorem duties

79.

1. For the purpose of any enactment for the time being in force where under a duty of customs is chargeable on imported goods by reference to their value, the value of any such goods shall be taken to be the normal price, that is to say, the price that they would fetch at the time when they are entered for home use (or, if they are not so entered, the time of importation) on a sale in the open market between a buyer in Anguilla and a seller in the country from which the goods were dispatched to him, such buyer and seller being independent of each other and duty shall be paid on that value, but, in the case of goods imported under a contract of sale and entered for home use, duty is deemed to have been paid on that value if, before the goods are delivered for home use, duty is tendered and accepted on a declared value based on the contract price.
2. For the purpose of the exception in subsection (1)—
 - a) The declared value of any goods is their value as declared by or on behalf of the Importer in making entry of the goods for home use; and
 - b) That value shall be deemed to be based on the contract price if, but only if, it represents that price properly adjusted to take account of circumstances differentiating the contract from such a contract as is contemplated by subsection (3).
3. The normal price of any goods shall be determined on the assumptions that—

- a) The normal price of any such goods shall be taken to be the landed cost of the goods, which shall be the aggregate of—
 - i. the contract price of the goods or the normal price of the goods as defined in Subsection (1), whichever is the greater; and
 - ii. the freight, insurance and all other costs, charges and expenses incidental to the sale of the goods and to the removal or carriage from the place of dispatch to Anguilla; and
 - b) The buyer will pay the duty or tax in Anguilla.
4. For the purpose of determining the price of goods under subsection (3) which are uninsured, there shall be substituted for the cost of insurance a notional insurance cost equal to 1% of the f.o.b. cost of such goods and, where the cost of freight is not known or is unsatisfactory in the opinion of the Comptroller, the Comptroller shall determine the cost of freight on the basis of known reliable costs on similar or identical goods carried on an equivalent or identical voyage.
5. A sale in the open market between buyer and seller independent of each other presupposes that—
- a) The price is the sole consideration;
 - b) the price made is not influenced by any commercial, financial or other relationship, whether by contract or otherwise, between the seller or any person associated in business with him and the buyer and any person associated with him (other than the relationship created by the sale of the goods in question); and
 - c) no part of the proceeds of the subsequent resale, use or disposal of the goods will accrue either directly or indirectly to the seller or any person associated in business with him.
6. Where the goods to be valued—
- a) are manufactured in accordance with any patented invention or are goods to which any registered design has been applied; or
 - b) are imported under a foreign trademark or are imported for sale (whether or not after further manufacture) under a foreign trademark;
- the normal price shall be determined on the assumption that the price covers the right to use the patent, design or trademark in respect of the goods.
7. For the purpose of subsection (6), the expression “trademark” includes a trade name and a get-up, and a foreign trademark is a trademark indicating that the goods in relation to which it is used are those of a person—
- a) By whom the goods to be valued have been grown, produced, manufactured, selected, offered for sale or otherwise dealt with outside Anguilla;
 - b) associated in business with any such person as is referred to in paragraph (a); or
 - c) to whom any such person as is mentioned in paragraph (a) or (b) has assigned the goodwill of the business in connection with which the trademark is used.

8. Two persons shall be deemed to be associated in business with one another if, whether directly or indirectly, either of them has any interest in the business or property of the other, or both have a common interest in any business or property, or some third person has an interest in the business or property of both of them.
9. The Comptroller or an officer may require any importer or other person concerned with the importation of goods to furnish in such form as he may direct—
 - a) such information as is in his opinion necessary for a proper valuation of the goods; and
 - b) such declarations and evidence in support of such declarations relating to the goods as he may think fit;and to produce any books of account or other documents of whatever nature relating to the purchase, importation or sale of the goods by that person.
10. Where the information, declarations, evidence or documents furnished by the importer or other person concerned in the importation of the goods is not satisfactory in the opinion of the Comptroller, he shall make a determination of the value of the goods based on subsections (1) to (6).
11. If any person contravenes or fails to comply with any requirement or direction of the Comptroller under this section, he is guilty of an offence and is liable on conviction to a penalty of \$5,000.

Entry by bill of sight

25.

1. Without prejudice to section 24, where on the importation of any goods the importer is unable for want of any document or information to make perfect entry of those goods, he shall make a signed declaration to Customs in such form and manner and containing such particulars as the Comptroller may direct.

(Act 15/2010, s. 6(a))

2. Where a declaration under subsection (1) is made, the proper officer shall permit the importer to examine the goods imported in his presence.

(Act 15/2010, s. 6(b))

3. Where an importer has made a declaration under subsection (1), and submits to Customs an entry, not being a perfect entry, in such form and manner and containing such particulars as the Comptroller may direct, and the proper officer is satisfied that the description of the goods for tariff and statistical purposes is correct, and in the case of goods liable to duty according to number, weight, measurement or strength, such number, weight, measurement or strength is

correct, the proper officer shall, on payment to him of the specified sum, accept that entry as an entry by bill of sight and allow the goods to be delivered for home use.

(Act 15/2010, s. 6(c))

4. For the purposes of subsection (3), the specified sum shall be an amount estimated by the proper officer to be the duty payable on such goods.
5. Within 3 months from the date of making an entry by bill of sight under subsection (3), or such longer time as the Comptroller may in any case permit, the importer shall make a perfect entry, and if that perfect entry shall show the amount of duty—
 - a) to be less than the specified sum, the Comptroller shall authorise payment of the difference to the importer; or
 - b) to be more than the specified sum, the importer shall pay the difference to the Comptroller.
6. Where no perfect entry is made within the time limit laid down by subsection (5), the specified sum paid shall be deemed to be the amount of duty payable on the importation of the goods.
7. Notwithstanding any other provision of this section, where at any time after the importation of goods the Comptroller is satisfied that in respect of such goods it is impossible for the importer to make perfect entry in respect of those goods, the Comptroller may, subject to such conditions and restrictions as he may see fit to impose, permit the goods to be entered at a value which, is in his opinion the correct value of the goods, and such entry shall be deemed to be perfect entry, but where any condition or restriction imposed under this subsection is contravened or not complied with, the goods shall become liable to forfeiture.

Guidelines

The following are general guidelines in respect to the submission of invoices for customs purposes. Adherence to these general guidelines would reduce the likelihood of declarations made by importers/exporters or their agent/broker being queried:

1. All invoices submitted to the Customs Department, must be the authentic document supplied to the importer by the supplier of the goods. The importer is advised against making any markings on the invoice. Importers should not make any modification to the document. Changes can only be made by the seller of the goods.
2. Invoices submitted should be legible from which a clear scanned image can be produced.
3. Where invoices are in a foreign language, importers are asked to submit a signed translation (by a recognized person or organization) in addition to the official document that will aid in the verification process.
4. Handwritten invoices should not be accepted for commercial consignments as they cannot be independently verified. Handwritten invoices may only be allowed for Non-commercial consignments.
5. To facilitate the processing of the declaration, importers should ensure that their suppliers list clearly, the type and quantity of any discount given that would cause the price listed on the invoice to vary from that advertised.
6. Proforma invoices/Purchase Orders/Quotations will not be accepted in the place of an invoice as these documents are non-binding and can change with no consequence. This has the ability to distort the Duty Liability.
7. Invoices should not be printed on dark paper or printed in a colour of ink that is difficult to scan such as purple.
8. Invoices for samples should are not absolved from scrutiny. Invoices should still include the same elements already established. The determining factor here would be the notation made by the seller which can include any of the following:
 - “there was no charge to the customer”
 - “value for customs purposes”
 - “not intended for resale”
 - “goods are for testing/sample purposes”
9. E-invoices (read only) are always welcomed as they can be easily uploaded without scanning.
10. Commercial invoices that are normally shipped with couriers are not recognised as invoices for determining the value. The original document received from the seller will be used to make the declaration.

Details required for an invoice

- Invoice Number - An invoice number is a unique number that is assigned to each invoice. This number is one of the most important elements of every invoice. Its role is to identify transactions, so it needs to be unique. Invoice number can contain numbers or letters. It may also contain date of issue, name of project or task.

- A sequential number, based on one or more series, which uniquely identifies the invoice.
- Invoice Date - The date marked on a due bill or a purchase record which represents the date of purchase or services rendered. It is also the date from which the timeframes for shipment and payment are determined
- The full name and address of the exporter and importer
 - Buyer - Party which acquires, or agrees to acquire, ownership (in case of goods), or benefit or usage (in case of services), in exchange for money or other consideration under a contract of sale. Also called purchaser. See also customer.
 - Seller - A party that makes, offers or contracts to make a sale to an actual or potential buyer. Also called vendor.
- The quantity and description of the goods exported
- The unit price and total price of the goods
 - Invoice Totals is the total amount on an invoice, including transport, VAT and all other related charges
- Additional cost, e.g. inland freight, packing, sale tax, handling or any other charges associated with the purchase of the goods.
 - Shipping Cost - The cost incurred in moving goods. It includes packing, palletizing, documentation and loading unloading charges, carriage costs, and marine insurance costs.
- Terms and conditions of delivery and payment
 - Terms of Sale
 - The delivery and payment terms agreed between a buyer and a seller.
 - In international trade, terms of sale also set out the rights and obligations of buyers and sellers as applicable in the transportation of goods. Thirteen major terms of sale (called Incoterms) have been standardized by the International Chamber Of Commerce (ICC) for world-wide use.
- Currency of sale
 - Currency - Currency is a medium of exchange for goods and services. In short, it's money, in the form of paper or coins, usually issued by a government and generally accepted at its face value as a method of payment
- Country of origin of goods
- Port of loading
- Certification that the particulars on the invoice are true and correct (when available).
- Signature and status of authorized person (when available).

Additional Information

Where an invoice is determined not to be acceptable for determining the Customs value, and the importer is unable to furnish the Department with a proper invoice, it may be required that the goods be entered by way of Bill of Sight in accordance with section 25 of the Customs Act.

NOTE:

It is an offence to submit any invoice to the Anguilla Customs Department that is not an authentic invoice. If any importer/agent/broker constructs an invoice not being an invoice from the seller of the goods, and submits the said invoice to Customs, that persons is guilty of an offence (see section 117 of the Customs Act). It is an offence to submit to Customs any invoice that does not accurately list the true and correct price paid or payable for goods (see section 116 of the Customs Act). Importers/agents/brokers are asked to refrain from tampering with the format of, or information listed on invoices supplied by the seller.

Law relating to consequences

Untrue declarations

116.

1. If any person—
 - a) makes or signs or causes to be made or signed, or delivers or causes to be delivered to Customs any document; or

(Act 15/2010, s. 21)
 - b) makes any statement in answer to any question put to him by an officer that he is required by or under any enactment to answer;

being a document or statement produced or made for the purpose of any assigned matter that is untrue in a material particular, he is guilty of an offence and is liable to a fine of \$10,000, and any goods in relation to which the document or statement was made are liable to forfeiture.

2. If any person knowingly or recklessly—
 - a) makes or signs or causes to be made or signed, or delivers or causes to be delivered to Customs any document; or

(Act 15/2010, s. 21)
 - b) makes any statement in answer to any question put to him by an officer that he is required by or under any enactment to answer;

being a document or statement produced or made for any purpose of an assigned matter that is untrue in a material particular, he is guilty of an offence and is liable to a fine of \$20,000 or to imprisonment for a term of 2 years or to both and may be arrested, and any goods in relation to which the document or statement was made are liable to forfeiture.

3. Where by reason of any such document or statement mentioned in subsection (1) or (2), the full amount of any duty payable is not paid or any overpayment is made in respect of any drawback, allowance, rebate or repayment of duty, the amount of duty unpaid or of the overpayment shall be payable immediately to the Comptroller and may be recovered accordingly.

Counterfeiting documents

117.

If any person—

- a) counterfeits or falsifies any document that is required by any enactment relating to an assigned matter or that is used in the transaction of any business relating to an assigned matter;
- b) knowingly accepts, receives or uses any such document so counterfeited or falsified;
- c) alters any document after it has been officially issued; or
- d) counterfeits any seal, signature, initials or other mark of, or used by, any officer for the verification of such a document or for any other purpose relating to an assigned matter;

he is guilty of an offence and is liable to a fine of \$20,000 or to imprisonment for a term of 2 years or to both, and may be arrested.

Fraudulent evasion

119.

1. Without prejudice to any customs enactment, if any person—
 - a) acquires possession of any of the following goods, having good reason to believe or knowing they are—
 - i. goods that have been unlawfully removed from a warehouse or a custom warehouse,
 - ii. goods which are chargeable with any duty which has not been paid, or
 - iii. goods with respect to the importation, exportation or carriage coastwise of which any prohibition or restriction is for the time being in force under or by virtue of any enactment; or
 - b) is in any way knowingly concerned in carrying, removing, depositing, landing, harbouring, keeping or concealing or in any manner dealing with any such goods;

and does so with intent to defraud the Government of Anguilla of any duty payable or tax chargeable on the goods or to evade any such prohibition or restriction with respect to the goods, he is guilty of an offence and may be arrested and, subject to subsection (3), is liable to a fine of \$20,000 or 3 times the value of the goods, whichever is the greater, or to imprisonment for a term of 2 years or to both, and any goods in respect of which the offence was committed are liable to forfeiture.

2. Without prejudice to any customs enactment, if any person is, in relation to any goods, in any way concerned in a fraudulent evasion or attempt at evasion of any—
 - a) duty chargeable on the goods; or
 - b) prohibition or restriction for the time being in force with respect to the importation, exportation or carriage coastwise of those goods under or by virtue of any enactment;

he is guilty of an offence and may be arrested and, subject to subsection (3), is liable to a fine of \$20,000 or to 3 times the value of the goods, whichever is the greater, or to imprisonment for a term of 2 years or to both, and any goods in respect of which the offence was committed are liable to forfeiture.

3. Where the goods in respect of which any of the offences specified in subsections (1) and (2) were committed are controlled drugs, as defined in the Drugs (Prevention of Misuse) Act, a person guilty of an offence under this section is liable—
 - a) on summary conviction, to a fine of \$250,000 or to imprisonment for 5 years or to both; or
 - b) on indictment, to a fine of \$500,000 or to imprisonment for 20 years or to both.

This document is issued under the authority of the Comptroller of Customs.