

**The State Customs Committee of the Russian Federation
Letter No.01-06/22236 of 18 July 2004**

**On the Determination of Customs Value of Goods,
Imported in Accordance with Foreign Trade Contracts
of Different Types**

In connection with the incoming requests regarding the determination of customs value of goods imported under contracts of sale with deferred payment or payment by installment, contracts on credit against goods, contracts of international financial leasing and rent, the State Customs Committee of the Russian Federation explains as following.

According to paragraph 1 of article 19 of the Law of the Russian Federation "On Customs Tariff" (hereinafter "the Law") for determination of customs value the inclusion of the interest rate for the deferred payment or payment by installment into the transaction price actually paid or payable is not envisaged.

In this connection and also taking into account the provisions of paragraph 2 of article 323 of the Customs Code of the Russian Federation, that declared customs value and information concerning its determination provided by declarant, should be based on the reliable and documentary proved information, the amount of interest of deferral or payment by installments should not be included in the customs value of goods upon appropriate confirmation to the customs authority, the declared data pertaining to the transaction price and the amount of interest of deferral or payment by installment.

According to international practice in order to provide documentary proof of the declared customs value in case in question it is recommended to take into account simultaneous fulfillment of the following terms:

- availability in the foreign trade contract discrete stipulated indication of the transaction price which should be paid for the imported goods and amount of interest rate for the deferred payment or payment by installments;

- determination in foreign trade contract terms in accordance with general rules of sale contracts (quantity, assortment, quality, completeness, tare and (or) packing and other necessary information about goods, which are to be sold with deferred payment or payment by installment; terms of delivery; transaction price, which should be paid; currency of price; currency of payment, etc.), and also terms of payment of goods related to provision of deferred payment or payment by installment, interest rate charged to the account of the credited party; payment period of transaction price and interest; documents, under which the payment will be made, etc.);

- documentary proof of the transaction price which is to be paid on the imported goods, which may be assumed as a basis of the determination of the customs value of the goods in accordance with the order stipulated by the Law;

- the interest rate on the deferred payment or payment by installment does not exceed an average level of interest rate, which is charged at the same debt obligations in connection with deferred payment or payment by installment of goods, which are imported simultaneously or not earlier than 90 days before the import of the goods being valued. In the absence of the data on such circumstances and (or) if there are some reasonable grounds to presume that such data is not reliable for the purpose of the control of the customs value the limit of the interest rate may be equal to 15 per cent, as it is stipulated in Article 269 of the Tax Code of the Russian Federation in respect of the debt obligations in foreign currency while considering the issue of the appropriation of the interest rate for the debt obligations to the expenses.

The above-mentioned terms in respect of the interest rate for the deferral or payment by installment of the goods may be used while applying of all methods of the determination of customs value envisaged by IV section of the Law. When the goods are imported under the contracts of international financial leasing stipulating that the subject of the leasing passing of title to lessee on the expiration of the leasing contract, when the mentioned terms are met the amount of the interest rate for the deferred payment or payment by installment is not included in the customs value of the goods.

When goods are imported under the leasing contracts or contracts of international financial leasing without passing of title to lessee, the calculation of the customs value may be made the following way¹.

The circumstances of the transaction

1. Company I from country X, specialized in catering, signed a medium-term contract with a national airline company for the delivery of meals in individual packages for the passengers of the airline.

2. Having considered the life of the contract, done marketing research and in the assumption of the cost estimates company I decided to lease the necessary packing equipment and signed the leasing contract with company A from country Y. Under the terms of company I leasing company A buys equipment from a national producer B from the country Y on its own expense (the conditions of the delivery under the leasing contract are EXW). The price

¹ Example is based on the materials appeared in the official documents of the World Customs Organization.

paid by the company A to the producer B is the price of goods in the domestic market of country Y.

3. Company I provides the customs authority with the leasing contract for the customs clearance.

4. The terms of the leasing contract are as following:

a) the lessee (company I) is charged for all expenses on the delivery of the equipment;

b) lessee should insure the equipment for the whole period of leasing (from the moment of delivery on the conditions EXW till its return to lessor);

c) all fees, duties and taxes that should be paid in connection with leasing and importation are to be paid by lessee;

d) the period of leasing is 36 months, but it may be extended till the end of useful life of the equipment²;

e) monthly leasing payments are 5300 conventional units, in case of prolongation the payments decrease by 15 % per month;

f) information required for the customs purposes is stipulated in the leasing contract (quantity, assortment, quality, completeness, packing and terms of delivery, leasing payments to be paid, currency of price and currency of payment as well as the terms of payments of goods related to provision of deferred payment or payment by installment, i.e. the interest rate charged to the account of the credited party; payment period of the leasing payments and interest rate; documents, under which the payment will be made, etc.

5. In addition to the leasing contract the following documents should be presented to the customs authority:

- documents proving that the lessor is an affiliated branch (subsidiary) of the bank;

- a copy of the invoice, where the price of equipment paid by lessor to producer B is specified.

The determination of customs value

6. Since this is the first time when the equipment is imported in the country X than therefore the methods of transaction price of identical and similar goods, stipulated in articles 20 and 21 of the Law, are inapplicable for customs valuation of the goods in question. As well an opportunity to use the deductive method and computed value method stipulated in articles 22 and 23 of the Law does not exist, since all the necessary data for the correct application is missing. So in this case the customs value may be determined in the framework of the fallback method stipulated in Article 24 of the Law.

² Useful life of the equipment is determined in compliance with technical conditions or guidelines of the producing companies.

7. Within the framework of the fallback method in the case in question the customs value may be determined on the basis of leasing payments re-counted for all period of the useful life of the equipment. According to the technical documentation the duration of this period is 60 months.

8. A monthly leasing payments are equal to 5300 conventional units per month for 36 first months and 4505 conventional units for the last 24 months (since according to the leasing contract in case it is prolonged the payments amounts will be reduced by 15% per month). The credit charge equal to 9% per year included in these sums of mouths payments may be deducted form the customs value since the conditions concerning documental proof of the data declared are met.

9. To determine the customs value on the basis of leasing payments (with the deduction of the amount of the interest rate charged for the credit), one should make calculation according to stated below formulas, where the following notations are settled:

R₁ = monthly leasing payments for the basic period of the contract (36 months);

R₂ = monthly leasing payments for the rest period of the useful life of the equipment (24 months);

i = interest rate charged for the credit provided per month which is the following way:

$$i = \frac{\text{interest rate} / 100\%}{12 \text{ months}}.$$

Since in this case the interest rate for the credit provided is 9%, then

$$i = \frac{9\% / 100\%}{12} = 0.0075;$$

Q = coefficient (1 + i);

N = quantity of occasions (times) when the refund of the leasing payments has been done.

The deduction of the amount of the interest rate for the credit provided for all basic period is made according to the formula:

$$\frac{R \times (Q^N - 1)}{1 - Q^N}.$$

On the assumption of data available we may calculate the following computation of amount of leasing according to the above-mentioned formula:

$$\frac{5300 \times (1.0075^{36} - 1)}{1.0075 \times (1.0075 - 1)} = \frac{5300 \times (1.3086 - 1)}{1.3086 \times (1.0075 - 1)} =$$

$$= \frac{1635.58}{0.0098} = 166.896.$$

The deduction of the amount of the interest rate for the credit from the sum of leasing payments for the rest period of the useful life of the equipment is calculated according to the following formula:

$$\frac{R \times (Q^N - 1)}{2} \div \frac{Q^N \times (Q - 1)}{Q}$$

On the assumption of data available we may calculate it according to the above-mentioned formula:

$$\frac{4505 \times (1.0075^{24} - 1)}{1.0075^{24} \times (1.0075 - 1)} = \frac{4505 \times (1.1964 - 1)}{1.1964 \times (1.0075 - 1)} =$$

$$= \frac{884.782}{0.00897} = 98,638.$$

10. In the case in question the whole sum of leasing payments with the deduction of the amount of the interest rate sum for the credit provided for the all useful life (60 months) is calculated as it has been shown above, will be equal to 265,534 conventional units (166,896+98,638). On the basis of the amount the customs value of the subject of leasing in question may be determined with inclusion of the expenses stipulated in paragraph 1 of article 19 of the Law, in particular in the case in question the expenses on delivery of the goods up to the place of importation.

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of the Russian Federation

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Note. Federal law N 144-FZ dated 08.11.2005 (became operative 01.07.2006) amended law of the Russian Federation "On customs tariff" N 5003-1 dated 21.05.1993. These amendments concern basic principals of determination of customs value of goods, imported on the customs territory of the Russian Federation and characteristics of methods applied for the determination.