

# **GUIDE TO APPLYING FOR A CUSTOMS VALUATION RULING ON IMPORTED GOODS**

Date: October 2018

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## About this guide

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### Audience

This guide is for anyone applying for a New Zealand Customs Service (Customs) valuation ruling for goods to be imported into New Zealand.

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### When to use this guide

Use this guide if you want to find out about:

- the pre-lodgement meeting (the meeting you can have before you put in your application)
  - how long it take us to make a valuation ruling
  - how long a valuation ruling is valid for
  - when a valuation ruling can cease
  - costs and invoicing
  - how to apply for a valuation ruling
  - what happens when we receive an application
  - the publication of Customs rulings
  - how to appeal the outcome of your ruling, or our decision to not provide you with a valuation ruling.
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### References to legislation

This guide refers to the following Act and regulations:

- [Customs and Excise Act 2018](#) (the Act)
  - [Customs and Excise Regulations 1996](#).
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## Introduction to valuation rulings

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### Types of Customs rulings

We provide rulings on a range of matters to provide importers with certainty about how to meet our requirements, and what we will accept at the border.

We provide rulings on:

- the tariff and excise classification of goods
- the origin of goods
- whether goods are subject to a duty concession
- the valuation of imported goods.

This guide is about rulings on the valuation of imported goods. A valuation ruling is usually more complex than the other types of rulings.

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### What is a valuation ruling?

A valuation ruling is a written decision issued by us that provides you with our determination on how:

- a certain good for a specific set of circumstances should be valued
- we interpret a particular clause or word in Schedule 4 of the Act.

The value of imported goods is established according to methods outlined in Schedule 4 of the Act.

These methods follow the World Trade Organization Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (the Customs Valuation Agreement), which promotes uniformity of the valuation of trade by members of the World Trade Organization.

Valuation rulings consider how the valuation methods apply in a particular set of facts and circumstances. Other types of Customs rulings focus on the nature of goods.

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### Why apply for a valuation ruling?

A valuation ruling provides you with legal certainty about our view of the correct valuation method for valuing your imported goods, and therefore how much duty you need to pay.

A valid Customs valuation ruling will be honoured at all ports of entry within New Zealand.

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### Who can use a valuation ruling?

A valuation ruling can only be used:

- by the person or entity that applied for it, and
  - for the specific facts and circumstances mentioned in that ruling.
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## Introduction to valuation rulings, continued

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### After a ruling is made, we may ask you to confirm

At any time after a valuation ruling is made, we may ask you to confirm:

- the facts and information on which the ruling was made are still correct
  - any conditions on which the ruling was made have been complied with.
- 

### We may amend to correct an error

At any time after a valuation ruling is made, we may amend a ruling to correct any error contained in it.

If a ruling is amended, we will notify you in writing of the:

- amendment
- basis for the amendment.

Any amendment of a valuation ruling will be effective from the date on which notice of the amended ruling was given to you.

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### Considering a late application

Usually, an application for a Customs ruling is lodged **before** the goods are imported into New Zealand.

We will consider applications lodged post-importation on a case-by-case basis. The relevant legislative provision is section 334(a)(ii) of the Act.

We have the discretion to decline an application for a ruling after goods have been imported if it conflicts with other matters, such as when:

- duty is already due and payable
- an audit or investigation is underway
- a matter is before the courts.

You will be notified in writing by the chief executive of Customs' decision.

**Note:** The application fee of \$300.00 will be refunded if Customs declines to consider making a ruling on an application made post-importation.

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**What if you disagree with our ruling?**

If you disagree with the outcome of your ruling or any conditions imposed, you have the right to appeal to the Customs Appeal Authority.

In order to appeal, you must:

- notify the Customs Appeal Authority of your intention to appeal within 20 working days after the date on which notice of the ruling or decision is given
- send the Notice of Appeal form, a copy of the Customs ruling, and the fee to The Registrar, Customs Appeal Authority.

To find out about how to apply to the Customs Appeal Authority, go to the Ministry of Justice website: <https://www.justice.govt.nz/tribunals/customs-appeal-authority/apply/>

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## Pre-lodgement meeting

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**Free advisory service for potential applicants**

Before you submit your application for a valuation ruling on imported goods, we recommend that you (or your agent) talk with us, at a pre-lodgement meeting.

We are the Valuation, Origin and Classification (VOC) team at Customs and we are responsible for:

- issuing rulings
- updating the Working Tariff Document
- processing Tariff concession applications
- verifying that importers automatically qualify to use provisional values
- assessing applications from importers to use provisional values
- providing advice on valuation, origin and classification matters.

There is no charge for this pre-lodgement meeting.

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**What will this meeting cover?**

You can use this meeting to:

- discuss the scope of the ruling
  - find out if there are alternative options to a Customs ruling to address the matter(s)
  - find out what supporting information you'll need to supply with your application
  - clarify our timeframes and the cost, which is payable regardless of the outcome of your application.
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**How can this meeting help you?**

A pre-lodgement meeting can help you:

- decide whether you want to go ahead and apply for a valuation ruling
  - submit the best application possible.
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**We can meet  
in person or  
talk on the  
phone**

Your pre-lodgement meeting can be:

- in person
- by telephone call.

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## Pre-lodgement meeting, continued

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### How to make an appointment

Follow the steps below to book a pre-lodgement meeting (in person or by phone) with us.

Step	Action
1	Prepare a short letter, using the <a href="#">Notice of intent to lodge application template (see appendix 2 of this document)</a> .
2	Send your letter to VOC by either: <ul style="list-style-type: none"> <li>• emailing it to <a href="mailto:voc@customs.govt.nz">voc@customs.govt.nz</a>, or</li> <li>• posting it to: Valuation, Origin and Classification New Zealand Customs Service PO Box 29 Auckland 1140</li> </ul>

### What will happen next?

When VOC receive your letter, they will contact you to schedule a pre-lodgement meeting.

After the meeting, if you decide to apply for a valuation ruling, you can complete an application form.

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## How long a valuation ruling takes us, how long it is valid for and when it ceases

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### How long will it take us to make a ruling?

How long it takes us to make a valuation ruling will depend on the complexity of the matter and therefore how much analysis is required.

The maximum time we will take is 150 calendar days. This maximum time is set by Regulation 73(a) of the Customs and Excise Regulations 1996.

Our aim is to make a valuation ruling as quickly as we can, while still providing a thorough analysis.

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### When a ruling applies

A Customs ruling is given in writing and is valid in New Zealand for up to three years from the date of issue, provided that the facts and conditions under which the ruling was issued have not changed.

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### When a valuation ruling ceases to have effect

Section 343 of the Customs and Excise Act 2018 outlines when a valuation ruling would cease to have effect:

- the facts or information used to make the ruling change
- any conditions to which the ruling was subject have not been met
- failure to satisfy the requirements of the chief executive under section 340
- 3 years after the date on which notice of the ruling is given to the applicant.

A ruling will also not apply if the information provided by the applicant was incomplete, incorrect, false or misleading.

Should any of the reasons listed above exist the ruling is considered to be withdrawn and no longer provides validation of the valuation method used.

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## Valuation ruling costs and invoicing

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### How much will it cost?

There is no fixed fee for a valuation ruling.

How much a valuation ruling costs will depend on:

- the complexity of the matter, and therefore how many hours we spend on it
  - if we use an additional resource, such as a legal specialist.
- 

### 3 parts to the total cost

The valuation ruling costs are made up of these parts:

- the application fee
- our hourly rate
- a recovery cost for any specialist help, if required and approved by you.

The fees for a valuation ruling are set in Regulation 72(2) of the Customs and Excise Regulations 1996.

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### Application fee

The application fee is \$260.87 + GST (\$300 GST inclusive).

The application fee covers the cost of reviewing your application to establish whether it is complete under section 335(1) of the Customs and Excise Act 2018.

This application fee is non-refundable except in the situation where Customs declines to consider making a ruling on an application made post-importation.

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### Our hourly rate

This is specified in Regulation 72(2)(b)(i) of the Customs and Excise Regulations 1996.

Our hourly rate is \$101.28 + GST (\$116.48 GST inclusive). This represents 80% of our normal hourly rate due to the extra training time our staff may require for this new service. A review will be held after two years of operation to determine if this is still appropriate.

The recording of hours spent on an application starts at the time the application is first worked on until either:

- a ruling is issued, or
- the application for ruling is declined, or
- the application is withdrawn by the applicant.

We will charge in 30 minute blocks.

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## Valuation ruling costs and invoicing, continued

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### Specialist fee

If we need to use a specialist, we will contact you and:

- tell you that we need a specialist to help with our analysis
- provide an estimate of how many hours we think the specialist may need
- tell you how much per hour the specialist will charge
- ask for your permission to use these specialists.

If you give your approval in writing, we will on-charge the specialist cost to you.

This will be on a full cost recovery basis.

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### Estimate of fees

We will send you an email with a written estimate of the likely cost of your valuation ruling following the initial perusal of your application and supporting documentation.

We will not do any further work on your application until we receive written confirmation approving our estimate.

Please note that we only provide an estimate of our fees, and not a guaranteed price.

We have estimated that a complex valuation ruling could take up to approximately 457 hours, with a more standard ruling request taking approximately 120 hours.

With this being a new service as at 01 October 2018, as we build up data we will be able to give more accurate estimates of costs for individual applications.

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### Invoicing

When we send you the final valuation ruling, we will also include the invoice for our services.

You must pay this invoice within 20 working days. The due date for payment will be stated on the invoice.

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## How to apply for a valuation ruling

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### Correct and complete information

A Customs ruling is based on all the information supplied by you, so it is important that you supply complete and comprehensive information when requesting a ruling.

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### Application form

To apply for a valuation ruling, you need to complete the following form: **Application for a Customs ruling (valuation of imported goods)**, which can be found on the Customs website – [www.customs.govt.nz](http://www.customs.govt.nz).

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### What to include when you submit your application

Your application must include the:

- completed application form
- documents required to support your application.

See [Appendix 3](#) for examples of information and supporting documents that we would expect to receive from you.

If the application form and supporting documents are incomplete, then we will not progress your application until we have everything.

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### How many matters can you have on a single application?

Provided that the questions relate to the same facts and circumstances, you may seek a valuation ruling on any of the matter(s) relating to the application of Schedule 4. Please clearly describe the questions that you are asking.

Businesses that have multiple supply chains, and require certainty about the valuation of goods under each supply chain, will need to make separate applications depending on the ruling sought.

For example, an entity with the following arrangements, would have to make separate applications (if certainty for each arrangement is necessary):

- purchase from an unrelated party and payment of a royalty
  - purchase from a related party at a transfer price
  - internal transfer of stock from an overseas warehouse.
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## What happens when we receive an application?

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### We check the application is complete

When we receive your application we will

- issue an invoice to you for the application fee; this can be paid online and the details will be on the invoice, and
- check the documentation to ensure that it is complete.

If the application does not contain enough information, then we cannot make a valuation ruling. If we have questions or need more information, we will contact you.

**Please note:** regardless of the information provided, your application is not considered complete until Customs has received your application fee.

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### If we need further information

Under section 335(2) of the Act, we may, at any time, request further information from you if we consider that the information is relevant to the application.

If we request further information, this would cause the start point, for calculating the timeframe for completing the ruling, to shift to the date we receive the requested information.

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### Work on application

When we consider that an application is complete, we will:

- do the analysis required to reach a decision
- prepare a draft report with our reasons for that decision
- arrange an internal review of the draft report.

When we have completed the draft report, we will send it to you for review.

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### Factual review of draft report

We will confirm the factual accuracy of the draft report with you.

The provision of the draft report is a courtesy and not a legislative requirement. It ensures errors or omissions can be corrected but is not the appropriate means to dispute the conclusions reached.

When you receive the draft report, you:

- will have the opportunity to comment on any factual matters
  - can no longer withdraw your application for a valuation ruling.
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## What happens when we receive an application?, continued

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### Ruling document and ruling report

When you confirm the accuracy of the draft report, we will produce the:

- **ruling document** – this is a summary that contains the name of the applicant, the valuation matter(s), the decision, and any conditions
- **ruling report** – this contains the reasoning and analysis for the decision.

Conditions may be applied to a valuation ruling and would be determined on a case by case basis.

When all reviews have been completed and the decision has been finalised, you will receive the ruling document and the report.

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### When a ruling would be declined

We can decline to make a valuation ruling.

This could happen if you did not:

- provide enough information about the application
  - respond by the due date to a request for further information relating to the application.
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### Notice of decision

If we decide to not go ahead and make a valuation ruling, we will tell you in writing. We will give you a reason why your ruling has been declined.

You will be issued with an invoice for any time already spent on the application, and the application fee is non-refundable in this situation.

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### Withdrawal

You may withdraw your application for a Customs valuation ruling at any time, before we send you the draft report.

When you receive the draft report, you cannot withdraw your application.

If you want to withdraw your application, you must:

- give notice in writing to the Valuation, Origin and Classification team  
See [Contact us](#).
- pay any fees incurred up to the date we receive your written withdrawal.

**Note:** The application fee is not refunded if you withdraw your application.

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## Publication of Customs rulings

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### Overview

The direction taken by international trade law is that customs administrations should endeavour to publish rulings.

Several international and free trade agreements either encourage or require New Zealand Customs to publish rulings. The World Trade Organization Agreement on Trade Facilitation states that:

*Each Member shall endeavour to make publicly available any information on advance rulings which it considers to be of significant interest to other interested parties, taking into account the need to protect commercially confidential information.*

Our aim is to support the publication of rulings in the interests of facilitating trade, unless there are reasons to prevent publication such as information being commercially sensitive or private.

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### When we must publish rulings

The legislation only requires us to publish a ruling if it is necessary to comply with an international agreement to which New Zealand is a party.

For all other rulings it is our discretion whether these are published. Section 346 sets out criteria that we may use to assist in the decision to publish or not.

One of the criteria in making that decision is whether the information is in the public interest. If it is in the public interest to publish the ruling or part of a ruling, we must then determine whether one of the following situations apply:

- the applicant consents to the publication
  - the information is already in the public domain
  - commercial or private information has been removed.
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### What we will publish

We will publish the ruling document and the ruling report.

Any commercially sensitive or identifying information will be redacted in accordance with the principles of the Official Information Act 1982 before publication.

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### When we would publish

As mentioned earlier in this document, you have the right to appeal a ruling.

You must notify the Customs Appeal Authority of your intention to appeal within 20 working days after the date on which the ruling is given.

If a ruling document and/or ruling report is to be published, it will be done **after** the 20 working day period. This will avoid the possibility of publishing a ruling that is then appealed.

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## Appendix 1: Contact us

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### Ways to contact us

If you have any questions, please contact the Valuation, Origin and Classification team by:

Method	Contact
Post:	Valuation, Origin and Classification New Zealand Customs Service Customhouse, PO Box 29 Auckland 1140
Free phone within New Zealand:	0800 428 786 (0800 4 CUSTOMS)
Email:	<a href="mailto:voc@customs.govt.nz">voc@customs.govt.nz</a>

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## Appendix 2: Notice of intent to lodge application template

Suggested text for the letter:

To: [voc@customs.govt.nz](mailto:voc@customs.govt.nz)

**Subject: Notice of intent to lodge application**

I am considering applying for a Customs ruling on the valuation of imported goods. I would like to arrange a pre-lodgement meeting *[in person (face-to-face)] [over the phone]*.

My contact details are as follows:

*[Contact person]*

*[Phone number(s)]*

*[Email]*

The valuation matter(s) to be considered are:

*[Matter 1]*

*[Matter 2]*

The parties involved are:

*[List the interested parties, e.g. the importer, the supplier]*

Explanation of supply chain

*[Briefly describe the supply chain for the goods subject to this ruling.]*

Regards,

## Appendix 3: Supporting documents relating to application

You need to give us all information that is relevant to the application for a valuation ruling.

### Examples of supporting documents

To help you prepare your application, here are some examples of the information and documents an applicant will need to supply:

- An overview of the supply chain from the ordering of the goods by the end-purchaser in New Zealand through to delivery of the goods to the end-purchaser in New Zealand.

This includes the:

- physical movement of the goods
- passing of legal title in the goods.

Please provide details of the buyer, the seller, the supplier, the exporter and the importer involved, and the contractual arrangements between the parties.

- The nature of the relationship between the parties.
- The calculations/method of valuation used (or proposed to be used) by the applicant to arrive at the Customs value.
- All agreements, contracts, policies or guidelines relating to the supply of the imported goods, such as:
  - distribution agreements
  - cost contribution agreements
  - royalty and licencing agreements
  - sale and purchase agreements
  - binding rulings from Inland Revenue
  - transfer pricing study.
- Where relevant, an overview of the organisational structure of the multinational group.

**Example:** An organisation chart showing the head office and subsidiaries (domestic and foreign), and all significant holdings.

- Any other information that will assist the Valuation, Origin and Classification team to gain a fuller picture surrounding the importation of the goods into New Zealand.

## Appendix 4: Glossary

Below is a list of terms relating to valuation rulings, and the definitions for those terms.

Term	Definition
Applicant	Any person (or their authorised representative) who has applied for a ruling on valuation.
Application	The application is described as an application for a ruling, in respect of a particular set of facts or circumstances, of any provision of Schedule 4 of the Customs and Excise Act 2018 (which concerns the valuation of goods for the purposes of the Tariff). The application form is prescribed under section 335(1)(a) of the Act, and set out in the <a href="#">Customs (Applications for Valuation Rulings) Rules 2018</a> .
Customs Appeal Authority	<p>The Customs Appeal Authority is an independent judicial body that hears appeals against the decisions and directions of the New Zealand Customs Service.</p> <p>The Authority consists of one person appointed by the Governor-General on the recommendation of the Customs Minister and the Justice Minister. The Authority is governed by the Customs and Excise Act 2018. It holds hearings throughout New Zealand.</p>
Notice of Customs ruling	<p>The New Zealand Customs Service produces two types of documents when making rulings:</p> <ul style="list-style-type: none"> <li>• a <b>ruling document</b> is a summary that contains the name of the applicant, the valuation matter(s), the decision, and any conditions</li> <li>• a <b>ruling report</b> contains the reasoning and analysis for the decision.</li> </ul>
Schedule 4 of the Customs and Excise Act 2018	This schedule sets out the methods to use when establishing the Customs value of imported goods. These methods are based on Articles 1 to 8 of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994.
Transfer pricing arrangement	<p>An arrangement is a transfer pricing arrangement if—</p> <p>(a) the arrangement involves the supply and acquisition of goods, services, money, other intangible property, or anything else; and</p> <p>(b) the supplier and acquirer are associated persons; and</p> <p>(c) the arrangement is a cross-border arrangement.</p> <p><b>Note:</b> This is the definition of transfer pricing arrangement in section GC 6(2) of the Income Tax Act 2007.</p>