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MEMORANDUM

DEPARTMENT OF NATIONAL REVENUE, CANADA

(CUSTOMS DIVISION)

OTTAWA, January 16, 1939.

To Collectors of Customs and Excise and others concerned:

Re: SECTION 181A OF THE CUSTOMS ACT

Section 181A of The Customs Act is quoted on page 3 of this memorandum, which also contains a statement of the records with respect to goods imported for resale which importers are required to keep in Canada.

During recent years there has been an ever-increasing tendency on the part of importers to disregard the provisions of Section 181A. This is particularly so in the case of subsidiaries, branch offices and agents of companies abroad, and exporters abroad who ship to themselves in Canada but who do not maintain any office or branch in this country, merely forwarding the invoices and other shipping documents to a licensed Customs House Broker who, under their power of attorney, prepares the Customs entries, pays the duties and taxes, takes delivery of the goods from Customs, and forwards same or has delivery made to persons or firms as may be designated in instructions received from the said exporter. In some cases no records at all are kept in Canada and in other cases very meagre and insufficient records.

A great many investigations during recent months have been rendered more or less abortive on account of lack of proper records, and, in the interest of uniform application of the Customs laws and protection of the revenue, it is considered advisable to issue this memorandum on the subject. The final objective is to, in due course, have a copy of this memorandum in the hands of all importers of goods from abroad who have not, in the past, kept adequate records as required by the provisions of Section 181A of the Customs Act. To this end Collectors shall proceed as follows:—

(1) Prepare from the Port records (powers of attorney and importers and exporters indices) lists of persons or firms abroad to whom goods are invoiced and shipped to Canada, either on consignment or as goods sold prior to shipment, and who, not maintaining any branch or resident agent in Canada, merely employ a licensed Customs House Broker to transact the required business at Customs.

(2) After notices have been duly sent to persons or firms abroad as outlined in (1), Collectors will advise the Commissioner by letter that the same has been completed, furnish him with copies of the lists so prepared, and in due course

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also furnish full particulars with respect to any such persons or firms abroad who have failed to comply with the requirements of the Customs law in this regard, in order that other necessary action may be taken as the circumstances may warrant.

(3) Collectors will furnish copies of this memorandum to all licensed Customs House Brokers under the survey of their ports, taking receipts for same.

(4) As and when new licences are issued to Customs House Brokers or new powers of attorney filed with Collectors, the brokers and importers are to be made cognizant of the requirements of the law by being furnished with a copy of this memorandum and in each case a receipt shall be taken for the same.

NOTE.—In the case of persons or firms abroad transacting business with Customs as outlined in (1), the persons or firms concerned are to be requested to take steps to ensure that the records required to be kept in Canada by Section 181A of the Customs Act are installed complete not later than March 31, 1939. Subsequently, as and when importers are found to be delinquent in this regard, a reasonable time, say two months after notification, may be given in which to complete the installation in Canada of adequate records.

H. J. Tully
Commissioner of Customs.

Section 181A of The Customs Act

181A. (1) Every person importing goods for resale shall keep such adequate records and books showing the purchase, importation, cost, value of or payment for and subsequent disposal of all goods imported by him as will enable officers to ascertain the facts relating to such importations and satisfy themselves as to compliance with all the requirements of this Act or any other law relating to the Customs; and shall retain and preserve all books and records, invoices, bills, accounts, statements and correspondence relating to importation and disposal of goods for a period of six years succeeding such importation.

(2) The Minister may prescribe the form of such records or books if in his opinion adequate records are not being kept.

(3) Every person who fails or neglects to keep such adequate records and books as required by this section or to retain and preserve for the period mentioned all books and records, invoices, bills, accounts, statements and correspondence relating to importation and disposal of goods, shall be liable on summary conviction to a penalty of not less than one hundred dollars and not exceeding five hundred dollars.

Records with respect to imported goods which are required by Section 181A of The Customs Act to be kept in Canada for a period of six years succeeding date of importations

All records and books relating to the purchase, importation, cost, value, payment for and subsequent disposal of all imported goods, whether on consignment or sold to the importer prior to shipment, and shall include,—

1. Copies of all entries.
2. Copies of all invoices.
3. Copies of all statements, bills and accounts.
4. Ledgers, day-books, cash-books, letter-books, invoice-books or other books of account normally kept by the importer.
5. Copies of all correspondence relating to purchase of the goods by the importer.
6. Copies of all contracts relating to purchase of the goods by the importer.
7. Copies of all correspondence relating to sale or disposal of the goods by the importer.
8. Copies of all contracts relating to disposal of the goods by the importer.
9. Records of selling expenses incurred in connection with the disposal of the goods in Canada.
10. Bank drafts, Bills of Exchange or other records showing the actual settlement made for the goods.