Reducing your tariff spend

Eliminating nondutiable charges from the customs value

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In this article[1], Andrew, Elizabeth, and Yifan examine tariff mitigation strategies companies can take to create substantial short- and long-term savings.

I. Introduction

Over the past year, the global trade environment has been marked by a persistent and broadening wave of tariff increases. Even if tariffs imposed under International Emergency Economic Powers Act (IEEPA) have been held unlawful,[2] other measures, including Sections 122, 232, and 301 tariffs, continue to apply to certain imported merchandise. As a result, the cost of importing has risen sharply, with few industries being untouched by these escalating tariffs.

For companies that depend on global supply chains, this shifting tariff landscape has created immediate financial strain. Margins are tighter, cash flow is under pressure, and businesses must decide whether to absorb higher costs or pass them on to increasingly price-sensitive customers. At the same time, the operational burden has grown heavier: Country-of-origin determinations have become more consequential, supply chains are being reexamined, and imports are facing a level of scrutiny that would have seemed excessive only a few years ago.

In this climate of elevated tariffs, declaring the proper customs value is no longer just a matter of basic compliance. It has become a meaningful lever in managing financial costs. When tariffs are assessed at substantially higher percentages, even a small increase in the declared value of imported merchandise can lead to exponentially larger financial burdens. Every dollar incorrectly included in the dutiable value now carries a much greater financial impact.

Consequently, the strategic practice of "unbundling," which involves carefully identifying and separating nondutiable costs from the total invoice price of imported goods, has become essential for managing duty costs. If implemented properly, unbundling may provide companies with a competitive edge. This article will discuss several often-overlooked nondutiable charges that may, with proper planning, reduce a good's declared customs value.

[1] Portions of this article were previously published in TaxNotes International (No. 12, March 2021).

[2] The Supreme Court of the United States held that the IEEPA does not authorize the President to impose tariffs. See Learning Resources, Inc., et al. v. Trump, 607 U.S. ___ (2026). The Supreme Court of the United States affirmed the previous U.S. Court of Appeals for the Federal Circuit judgment in Trump v. V.O.S. Selections, Inc., which in turn had affirmed the conclusion reached by the U.S. Court of International Trade that the tariffs imposed under the President's IEEPA authority exceed the authority delegated by Congress and are therefore unlawful. See V.O.S. Selections, Inc. v. Trump, 149 F.4th 1312 (2025); see also V.O.S. Selections, Inc. v. United States, 772 F. Supp. 3d 1350 (Ct. Int'l Trade 2025). As a result, the executive order(s) imposing the "Reciprocal Tariffs" in April 2025 on imports from nearly all trading partners and imposing the "Trafficking and Immigration Tariffs" in February 2025 which initially placed a 25% duty on Canadian and Mexican imports as well as a 10% duty on Chinese imports are invalid and unlawful.

II. Determining US customs value

The United States follows the valuation hierarchy established by the World Trade Organization and lays out six valuation methods. The preferred valuation for most importers is transaction value. For US importers, this is defined as "the price actually paid or payable for the merchandise when sold for exportation to the United States,"[3] plus some enumerated statutory additions. The price actually paid or payable is the "total payment ... made, or to be made, for imported merchandise by the buyer to, or for the benefit of, the seller."[4] Transaction value requires an arm's-length sale between the seller and the buyer, which is assumed when the parties are unrelated. Transaction value may still be appropriate when the seller and buyer are related, but additional steps must be taken to validate the purchase price. The buyer must be able to demonstrate that the relationship between the parties did not influence the transaction, which may be accomplished through a circumstances of sale analysis. When the sale does not occur at arm's length or transaction value is inappropriate for other reasons, an alternate valuation method must be used. The valuation methods are applied in a hierarchical order until an appropriate method is found.

Some importers who qualify for transaction value simply declare the price listed on the commercial invoice, assuming that it is the customs value for the goods. However, several enumerated additions to the price must be added if they are not reflected in the invoice price to satisfy transaction value requirements. The added costs that form part of the customs value include:

- Packing costs
- Selling commissions the buyer pays
- Assists
- Royalty or license fees that the buyer pays either directly or indirectly as a condition of sale
- Proceeds of a subsequent resale that accrue directly or indirectly to the seller of the imported merchandise.[5]

An assist, one of the enumerated additions, is an item (such as a material, tool, or design) provided for free or at a reduced cost by the buyer to the seller that will be used in the production or the sale for export to the United States of the imported goods. In some industries, providing assists is common, requiring the importer to closely track the assist's value to ensure that the correct price is declared to US Customs and Border Protection (CBP). Assists include the following:

[3] 19 U.S.C. section 1401a(b)(1).

[4] 19 U.S.C. section 1401a(b)(4)(A).

[5] 19 U.S.C. section 1401a(b)(1).

- Materials or other components
- Tools, dies, and molds
- Merchandise that is consumed during the production of the imported goods
- Engineering, development, artwork, and design work that are undertaken outside the United States.[6]

Importers should also keep in mind that under the Generra presumption, CBP presumes that any payments made by the buyer to the seller, or a party related to the seller, are dutiable. This presumption was established when the Federal Circuit found that the importer is responsible for demonstrating that payments to a seller are unrelated to the imported goods.[7] While this presumption can be rebutted, the burden is on the importer to demonstrate why the additional payment is not associated with the imports. As a result, importers should be aware of any payments made by the buyer that occur outside the commercial invoice. While there will be circumstances in which additional payments are not dutiable, these situations should be carefully analyzed, and the rationale supporting the determination that the payments are not dutiable should be fully documented.

III. Eliminating nondutiable charges

While additions to customs value are more commonly known, permissible value exclusions or deductions are often missed. In fact, in some instances, the statute and regulation directly identify deductions or exemptions. The term "price actually paid or payable" contains a carve-out for specific charges. It states that the "price actually paid or payable" is "exclusive of any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation in the United States."[8] This means that in some circumstances, the cost of international freight and related costs may be deducted from the transaction value.

It is not simply the cost of freight and incidental services that may be deducted—a number of other deductions and exclusions may be taken in association with foreign taxes and fees or defective products discovered after import. Understanding if and how they apply to the business can round out any duty mitigation program.

[6] 19 U.S.C. section 1401a(h)(1)(A).

[7] Generra Sportswear Co. v. United States, 905 F.2d 377 (Fed. Cir. 1990).

[8] 19 U.S.C. section 1401a(b)(4)(A).

IV. Nondutiable charges

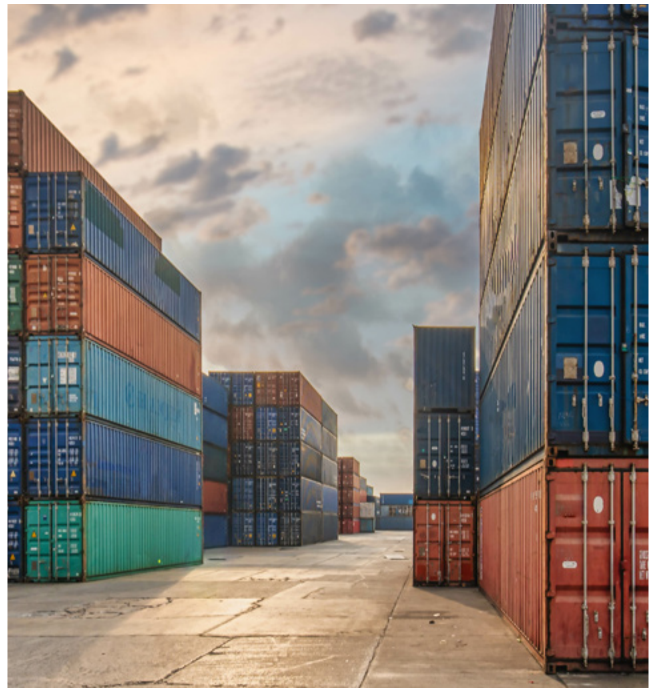
For importers using transaction value, the following opportunities should be considered to reduce tariff spend.

1. Freight and insurance

Foreign inland freight, international freight, and insurance costs may be deducted from the transaction value if particular requirements are met. More specifically, with accurate International Commercial Terms (incoterms) and supporting costs and documentation, this long-term cost-savings strategy can be easy to implement. In fact, the regulations themselves outline what is required.

19 CFR Section 152.103(a)(5) provides guidance around foreign inland freight and other charges "incident to the international shipment of ... merchandise" It states that when ex-factory terms of sale govern (in which the buyer is responsible for moving the goods once the seller makes them available, usually at the factory), the cost of foreign inland freight or other incidental charges does not have to be added to the invoice price. Further, when alternative incoterms govern the transaction, these costs can be deducted from the declared value if specific requirements are met. In a transaction not governed by ex-factory incoterms, the importer must ship the goods on a through bill of lading, and the costs must be separately identified and occur after the goods are sold for export to the United States.[9]

Importantly, importers must verify that they are deducting the actual, not estimated, costs and that the supporting documentation is adequate. CBP has found that a through waybill is essential as evidence to support this exclusion. It has denied claims in which there was not a "through shipment from the factory to the United States documented by a through bill of lading".[10] International freight may also be deducted from the entered value when the actual costs of the freight are available and separately itemized. This proves challenging for some importers because sometimes an



estimated value is used at the time of shipment and then reconciled later. In those circumstances, it is not acceptable to claim a deduction.

Further, insurance costs may be deducted from the entered value when they are separately itemized, and the actual costs (not estimated) are claimed. It is important to verify with sellers that they are providing actual costs because CBP will reject deductions based on estimates, even when the importer paid more than it claimed on the entry.[11]

When assessing whether to make a deduction, the fees should be shown in the commercial documentation, although not necessarily on the invoice. Acceptable documentation may include a freight or insurance bill or a written contract that separately lists the fees.[12] While there may be some initial up-front work to validate that these charges are appropriately deducted, eliminating these costs from the declared value will, in most cases, be a source of substantial savings.

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[9] 19 C.F.R. section 152.103 (a)(5)(ii).
[10] HQ H312640 (Oct. 27, 2020).
[11] HQ H548068 (Apr. 5, 2002).
[12] HQ H229700 (Jan. 30, 2013).

2. Supply chain (origin) costs

International transportation costs typically include other fees—often referred to as "origin costs." In many cases, CBP considers these origin costs to be "incident to the international shipment of merchandise" and, therefore, possibly excluded from the customs value. While each fee must be assessed individually, CBP has found that several groups of fees are not part of the price actually paid or payable.

Security charges:

The security charges that generally may be deducted from the transaction value include a port security charge and a supply chain security fee.

Documentation fees:

There are a number of common fees that importers incur associated with the cost of producing and issuing the documentation required for international transport. The deductible fees may include:

- Carrier agent booking fee and carrier bill of lading
- Freight cargo receipt/house bill of lading issuance
- Costs associated with the Automated Manifest System, which is the electronic information transmission system CBP operates
- Importer security filing management fee, commonly referred to as the "10+2." The ISF is a CBP-mandated requirement in which specific trade data must be provided to CBP in advance of the vessel's US arrival.

Logistics fees:

Additional fees are usually incurred from the third-party service provider that prepares the goods for international shipment. Many of these fees are not included in the transaction value and, where properly supported, may be excluded from the value declared to CBP at the time of entry. Some of these fees include:

- Container freight station receiving
- Customs clearance
- Container yard monitoring
- Equipment management fee
- Less than container load handling
- Terminal handling charge
- Wharfage and container seal fees.[13]

Per shipment, these miscellaneous fees may appear insignificant. However, they can result in a significant annual expense for the company by driving up duty payments. Implementing processes to compliantly remove these expenses from the declared value of the imports can make an ongoing material difference in duty payments. As a general rule, the importer must deduct the actual costs, validate that commercial documentation meets all requirements, and understand when services are being provided. However, once these steps have been taken, it is likely that little additional work will be required to realize ongoing savings.

[13] HQ H229700 (Jan. 30, 2013).

3. Warehousing costs

CBP has found that when warehousing costs are paid by the buyer to third parties, they are not included in the price actually paid or payable for the imported merchandise.[14] However, CBP has distinguished this scenario from cases in which the seller, or a party related to the seller, provided this same service and the warehousing costs were included in the price actually paid or payable. The payments in those cases were found to be dutiable under the *Generra* presumption.[15] Importers that are interested in using this opportunity should conduct a careful review of payments and terms of sale to validate that the transaction meets all of CBP's criteria.

4. Inspection or testing fees

Before shipment, an importer will often arrange for products to be inspected or tested to validate that they satisfy a buyer's quality standards. Under certain conditions, these inspection or testing fees may be excluded from the dutiable value when they are paid to third parties unrelated to the seller of the goods.[16] For example, some products require additional safety testing before they can be imported, and the testing fees, if structured properly, should not be part of the price actually paid or payable.

It's important to understand that testing that is "essential to the production of that merchandise" is dutiable.[17] In those cases, CBP would consider payments to unrelated third parties for these services as assists that are part of the transaction value.[18] Where inspection or testing services are performed by an entity related to the seller, the resulting fees may still be nondutiable if the payments are not made for the benefit of the seller.[19]

Importers who rely on the seller to perform inspection or testing services should conduct an analysis to assess the return on investment for engaging a third party to perform these services.

5. Latent defect allowances

In some circumstances, importers may be able to reduce dutiable value after importation based on repair costs attributable to manufacturing or design defects. For importers with high-value products, such as those in the automotive industry, repair costs can be substantial, and this allowance in value provides an opportunity to manage those costs by reclaiming duty. While customs regulations allow for deductions based on latent defects, several requirements must be satisfied, including the following:

- The importer contracted for defect-free merchandise
- The merchandise was defective at the time of importation and can be linked to specific entries
- The value of the defect can be established for each item.[20]

In many cases, CBP will request specific documentation supporting each element of the claim to validate that the post-importation value allowances comply with applicable regulations. However, with proper planning, a program can be implemented to help ensure that the importer does not overpay duty on goods that were defective at the time of import. This program is often used by automobile importers because of the ability to meet the requirements and the large volume of postimportation repair costs incurred.

[14] HQ H312640 (Oct. 27, 2020).
[15] HQ 547534 (Jan. 19, 2001).
[16] HQ H308695 (Feb. 25, 2020).
[17] HQ H301764 (June 10, 2019).
[18] HQ H023814 (June 2, 2008).
[19] HQ H308695 (February 25, 2020).
[20] See Volkswagen of America Inc. v. United States, 532 F.3d 1365, 1374 (Fed. Cir. 2008); Fabil Manufacturing Co. v. United States, 237 F.3d 1335 (Fed. Cir. 2001); and Samsung Electronics America Inc. v. United States, 106 F.3d 376 (Fed. Cir. 1997); see also HQ 548507 (Jan. 25, 2005); HQ 548390 (Jan. 12, 2004); and HQ 546761 (Sept. 23 ,1999).

6. Instruments of international traffic

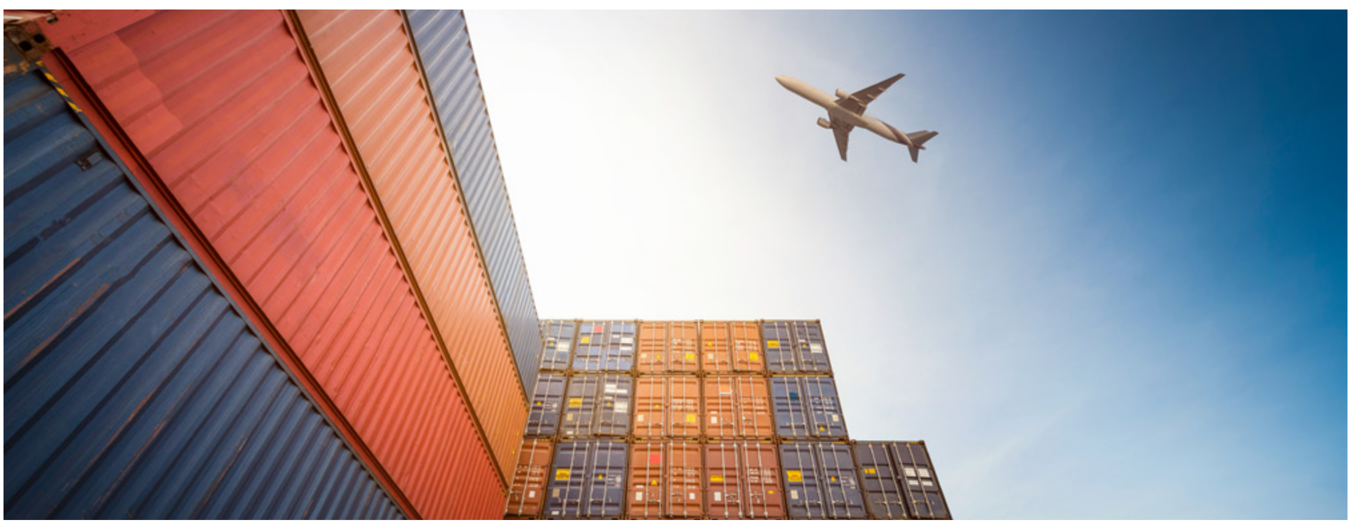
Pallets, cartons, hangers, and other packaging material may sometimes be considered instruments of international traffic (IIT), exempting them from duty. The customs statutes provide that "instruments of international traffic ... shall be excepted from the application of customs laws,"[21] and the CBP commissioner may designate additional articles as IIT.[22] In so designating, these articles may be released without the payment of duty. To qualify as an IIT, CBP has determined that the article must meet several criteria, including that it is "substantial, suitable for and capable of repeated use, and used in significant numbers in international traffic."[23] Further, the article must be used in commercial shipping or transportation more than twice to qualify as an IIT.[24]

For importers whose supply chains include the reuse of specified containers or other materials used to transport international goods, it may be valuable to assess whether these goods qualify as IIT and are therefore duty free. While additional steps may be necessary to confirm that the containers qualify, this opportunity presents the possibility of substantial, ongoing savings.

7. Postimportation price adjustments

When companies make postimportation price adjustments, they may be entitled to a duty refund on the amount adjusted. This usually occurs when transfer pricing adjustments are made between related parties, causing a change to the products' customs value.

When a downward price adjustment is made, resulting in a price reduction from the foreign seller to the related importer, the importer may be eligible for a duty refund. Obtaining this refund is predicated on meeting CBP's five-factor "formulaic pricing" test and establishing that the postadjusted price is at arm's length from a customs perspective. Validating that the company meets these requirements before claiming a refund will be central to maintaining compliance. Also, importers who anticipate price adjustments should consider joining CBP's reconciliation program to facilitate reporting price changes, as it generally provides importers up to 21 months after initial entry to true-up the final customs price. For companies that routinely make retroactive transfer pricing adjustments, having the documentation in place to support a refund can have a powerful effect on duty spend.



[21] 19 U.S.C. section 1322(a).
[22] 19 C.F.R. section 10.41a.
[23] HQ H300587 (July 5, 2019).
[24] HQ H300587 (July 5, 2019).

8. Taxes and other fees

Companies may be entitled to deduct VAT or goods and services taxes from the declared value of the imports when these payments are refunded. Not only should importers maximize their refunds when possible, but in doing so they create another opportunity for savings.

The US Court of International Trade has found that when VAT is remitted by the US importer to the foreign seller, separately identified and refunded to the importer, then the refunded amount is not included in transaction value.[25] Importers should team up with their tax departments and foreign suppliers to determine if VAT refunds have been obtained and create documentation that reflects separate itemization of the refunded VAT.

Similarly, when the seller is responsible for paying duties, such as in a transaction with delivered duty paid incoterms, antidumping and countervailing duties (ADD/CVD) may be deducted from the transaction value when they are separately itemized. This is permissible because one of the exclusions to transaction value is "the customs duties and other federal taxes currently payable on the imported merchandise by reason of its importation."[26] CBP has found that ADD/CVD are considered "customs duties and other federal taxes" within the meaning of the statute.[27] As a result, when separately itemized, they may be deducted. By deducting the ADD/CVD from the transaction value, the overall duty payment will be lower. While this savings strategy will only benefit a limited number of sellers, it is a good option to help manage costs.

[25]Caterpillar Inc. v. United States, 941 F. Supp. 1241 (1996).
[26]19 U.S.C. section 1401a(b)(3).
[27]HQ H304314 (Nov. 5, 2019).
[28]HQ H233376 (Sep. 19, 2016).
[29]19 C.F.R. section 152.103(f).
[30]General Notice, Dutiability of Royalty, Vol. 27, No. 6 Cust. B. & Dec. at 1 (Feb. 10, 1993).

9. Intellectual property

Companies often utilize intellectual property (IP) in the manufacturing or distribution of their products, compensating IP owners through royalty payments or license fees. Whether royalty payments or license fees paid for IP are dutiable may depend on the type of IP involved.

Royalties paid for patents are generally tied to the right to produce the imported merchandise using the patent or to use a patented process as an integral part of its assembly. Without a license to use the patent or patented process, the merchandise could not be completed. Because these royalties relate directly to the imported merchandise and are a condition of the sale, they are dutiable.[28]

Distinct from the royalties paid for patents, which are generally dutiable,[29] fees for trademarks and copyrights can often be excluded from the dutiable "price actually paid or payable", if they are structured appropriately.

Fees for the use of trademarks and copyrights are categorized as royalties and license fees. To determine whether these payments are dutiable, CBP applies the "Hasbro II" test,[30] which considers the following questions:

- Was the imported merchandise manufactured under patent?
- Was the royalty involved in the production or sale of the imported merchandise?
- Could the importer buy the product without paying the fee?

The General Notice indicates that affirmative answers to the first and second questions and a negative answer to the third point to dutiability. The answer to the third question goes to the heart of whether a payment is considered to be a condition of sale. When analyzing these factors, CBP has taken into account certain considerations that flow from the language set forth in the Statement of Administrative Action. These include, but are not limited to, the type of IP rights at issue, to whom the royalty was paid, whether the purchase of the imported merchandise and the payment of the royalties are inextricably intertwined, and the payment of the royalties on each and every importation. Ultimately, the determination is made on a case-by-case basis, taking into account the specific facts of each transaction.

Additionally, the determination will need to apply the Generra presumption. If the payments made by the buyer to a party related to the seller are indirect payments made to, or for the benefit of, the seller, they would be dutiable as well. However, if payments are made to an unrelated third party or if the Generra presumption is rebutted and the Hasbro II test is satisfied, these royalties or license fees may be excluded from the customs value.

For example, consider a company that acts as the importer and sells branded parts in the US. The importer has a brand license agreement with a licensor related to the foreign supplier, granting the nonexclusive right to use certain trademarks in the US in exchange for a royalty calculated as a percentage of the net purchase price. Such royalty payments are generally deemed nondutiable when the following supportive factors are present[31]:

- The imported merchandise is not manufactured under patent.
- Licensor grants the importer/licensee the right to use the trademark to market the merchandise in the United States or to operate and function as a business under the trade name after the importation and regardless of whether the merchandise is imported or not.
- Importer/Licensee could buy the product without paying the fee.
- There is no linkage between the sale for exportation of the imported merchandise and the payment of royalties by the importer/licensee.
- There is nothing in the distribution agreements that obligates the importer/licensee to purchase the merchandise from the related sellers and pay the royalties on the imported merchandise.

Even though the royalty payments are made to the party related to the sellers, the royalty payments are not related to the imported merchandise. Therefore, the royalty payments are not dutiable as part of the price actually paid or payable, nor are they additions to value as royalties.

[32]See VWP of America v. United States, 163 F. Supp. 2d 645, 652 (Ct. Int'l Trade 2001).
[33]HQ H242894 (Dec. 4, 2013).

10. Exclusive distribution rights fees

To implement business strategies and control market distribution, many US distributors pay a territorial exclusivity fee in exchange for the exclusive right to distribute a certain company's branded products in the United States. These exclusive distribution fees can also be structured as nondutiable costs, provided that specific facts and factors are satisfied.

When assessing whether the exclusive distribution rights (EDR) fees should be included in the transaction value, CBP examines the nexus between the payment and the imported merchandise. If the payments for EDR fees are totally unrelated to the imported merchandise, the payments will not be considered part or the price actually paid or payable. Supporting evidence includes, but is not limited to,[33] any of the following:

- The exclusivity fee involves a separate payment that the distributor makes to the seller and is distinct from any payments it makes to the company to purchase the imported merchandise.
- The distribution agreement was not referenced in supply or purchasing agreements that tied the EDR payments to the manufacture or sale for exportation to the United States of the imported product.
- The amount of the exclusivity fee is not associated with the volume of products purchased by the distributor or the value of the imported merchandise.
- When the distributor fails to pay the exclusivity fees, the seller's remedy is to terminate the exclusivity rather than take action against the imported products themselves.
- The distribution agreement covered distribution, branding, and market development and expressly excluded any rights related to manufacturing or production.
- The exclusivity fee was booked as a marketing or selling expense.

[31] HQ H236746 (Jul. 1, 2013).
[34] T.D. 85-111.
[35] "Statement of Clarification," 54 Fed. Reg. 29973 (Jul. 17, 1989).
[36] HQ 544580 (Mar. 1, 1991).
[37] HQ H235895 (Aug. 22, 2014).
[38] HQ H357218 (Apr. 27, 2026).

11. Interest payments

It is CBP's position that all monies paid to the seller, or a party related to the seller, are part of the price actually paid or payable for the merchandise under transaction value. However, certain interest charges may be excluded if certain requirements can be met[34]:

- The interest charges are identified separately from the price actually paid or payable for the goods.
- The financing arrangement was made in writing.
- Where required by Customs, the buyer can demonstrate that:
  - The goods undergoing appraisement are actually sold at the price declared as the price actually paid or payable
  - The claimed rate of interest does not exceed the level for such transactions prevailing in the country where, and at the time, the financing was provided.

CBP also notes that "bona fide interest charges are those payments that are carried on the importer's books as interest expenses in conformance with generally accepted accounting principles."[35]

Importers seeking to exclude interest charges from the customs value must be prepared to meet the evidentiary standards and provide the necessary documentation,[36] such as separate payment records for interest, a written financing agreement, and the importer's books that clearly reflect the payments as interest expenses. The financing agreement does not have to be in a particular form, and emails may constitute a valid form of writing, but it should constitute a binding financing agreement.[37]

[34] T.D. 85-111.
[35] "Statement of Clarification," 54 Fed. Reg. 29973 (Jul. 17, 1989).
[36] HQ 544580 (Mar. 1, 1991).
[37] HQ H235895 (Aug. 22, 2014).

12. Software fees

The principle of unbundling software fees has been reinforced in the modern context of connected products and software-as-a-service (SaaS) models. When US customers have the option to purchase the right to use software postimportation, and the software is not essential to the basic physical function of the imported merchandise, the associated license fees may be legally excluded from the customs value.[38]

These situations are fact specific. In a recent ruling involving connected vehicles, a US importer paid postimportation license fees for SaaS navigation content (e.g., real-time traffic and weather). Even though the importer paid a related-party affiliate that then remitted the funds to third-party US developers, CBP ruled that the fees were nondutiable. The critical factors were that the payment was strictly for a postimportation service rather than the physical goods, and the fees did not indirectly benefit the foreign vehicle manufacturer. Because the fees were categorized as licenses, the arrangement was evaluated under the Hasbro II test and successfully passed. The software subscriptions were entirely optional; the importer could purchase the finished vehicles without any obligation to pay the SaaS fee, confirming that the payment was not a condition of sale.[39]

The basic software package installed prior to importation is generally dutiable as it is essential for the imported product to fully function. In contrast, for the optional customized software for a particular use, and US customers may choose to either purchase it or not. This optional software is downloaded only after the merchandise has been imported. Because the royalty for the optional customer-specific software "was paid on a per-item basis and neither the importer nor the end customer was required to pay the royalty as a condition of sale,"[40] the payment is fundamentally disconnected from the sale of the imported merchandise and remains nondutiable.

13. Buying commissions

It is common in international trade for an agent to be used to provide local market knowledge, language skills, and an understanding of business culture and practices. For US importers, this often involves the use of buying agents, and the fees paid to them are referred to as buying commissions. Buying commissions are fees paid to a bona fide buying agent for the services it performs on behalf of the buyer in connection with the purchase of the imported goods. Buying commissions are not one of the specified additions to the price actually paid or payable, so no addition is made for bona fide buying commissions incurred by the buyer.

In contrast, selling commissions, fees paid to a selling agent for the services it performs on behalf of the seller in the sale of the imported goods, are one of the specified additions to the price actually paid or payable and are therefore dutiable.[41]

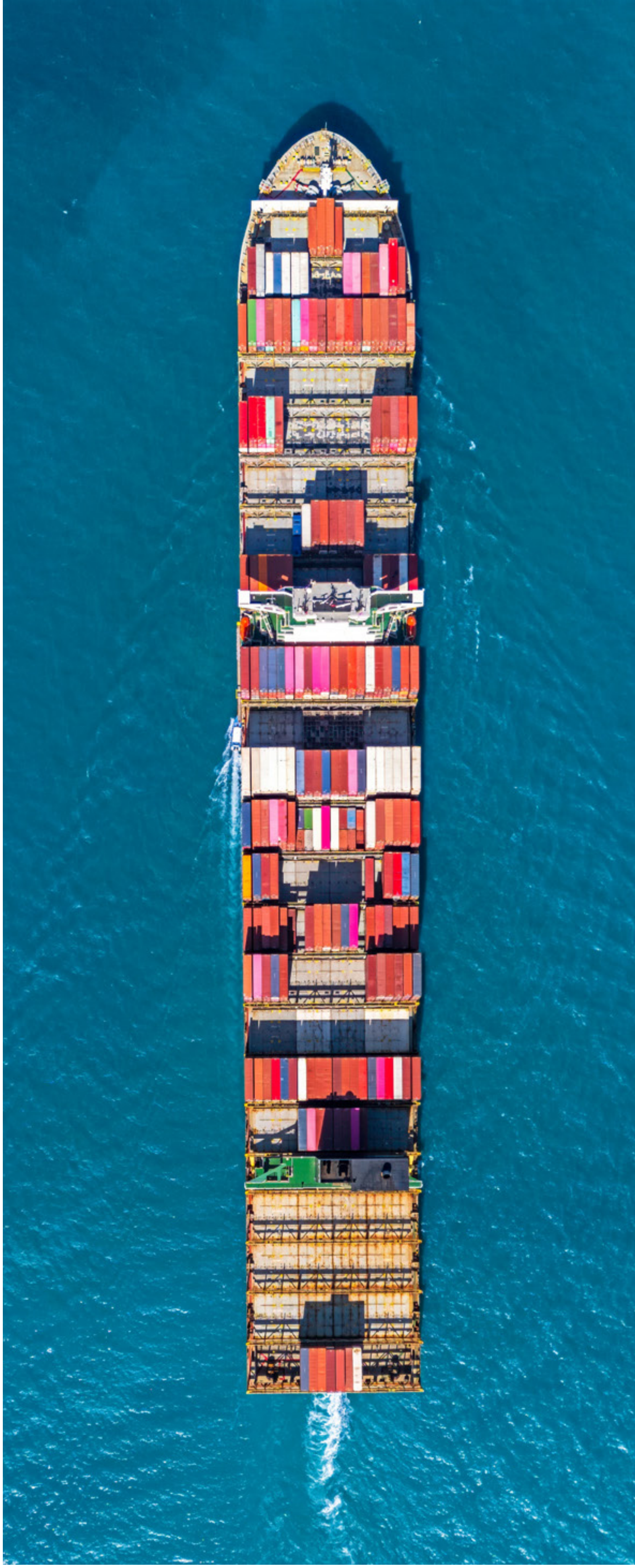
However, even if buying commissions are generally nondutiable, the importer should make these payments separately. If these commissions are rolled into the invoice price of the imported goods, they will become dutiable and cannot be deducted from the price actually paid or payable for customs valuation purposes.[42]

[38] HQ H357218 (Apr. 27, 2026).
[39] HQ H357218 (Apr. 27, 2026).
[40] HQ W563562 (Nov. 20, 2008).
[41] 19 C.F.R. section 152(b)(1).
[42] 19 U.S.C. § 1401a.

14. Discounts before importation

If the company receives discounts from sellers before importation, including cash discounts, early payment discounts, quantity discounts, or other price reductions negotiated as part of the sales agreement, these discounts may be nondutiable. When such discounts are agreed upon prior to importation and the discounted price is reflected in the final price on the commercial invoice at the time of exportation to the United States, they are generally nondutiable.

19 CFR Section 152.103 (a)(1) provides that "in determining transaction value, the price actually paid or payable will be considered without regard to its method of derivation. It may be the result of discounts, increases, or negotiations" For example, when the importer and seller have agreed, prior to exportation of the merchandise, that an early payment discount will be applied if payments are made prior to the required payment date and the price actually paid or payable reflects the discount, then the discounted price should be declared to CBP as the customs value.[43] As a result, ensuring that any discounts are negotiated preimportation can be key to reducing the declared value.



[43] HQ 544791 (Mar. 11, 1992).

V. Conclusion

Potential cost mitigation achieved by excluding nondutiable charges from the dutiable value of imported goods is often overlooked or may not have been considered material. However, in today's landscape of elevated and persistent tariffs, strategic unbundling could present a significant cost minimization opportunity. These deductions and exclusions cover multiple aspects of the operations, stemming from transportation, inspection and warehousing, IP royalties, EDR, financing arrangements, or modern software services; establishing a targeted unbundling program can yield a substantial return on investment. Also, many of these nondutiable costs do not require significant time to manage because, once established, there is typically little maintenance required. Of course, as with any duty-savings program, strong controls must be implemented to preserve compliance.

It is important to note that while these are valuable opportunities, savings can be further augmented through strategic tariff mitigation.

For importers with multitiered transactions, structuring transactions to utilize the first sale for export valuation methodology can drive duty reduction by basing customs duties on the lower price paid by an intermediary rather than the final price to the US importer. Importers can also secure significant benefits by recovering duties on exported goods through duty drawback, deferring or eliminating tariffs using foreign-trade zones, or leveraging preferential tariff-free treatment under free trade agreements. Combining a robust cost unbundling methodology with these broader trade programs allows multinational companies to compound their customs savings.

Given that steep tariffs are likely to remain in place for some time, companies should evaluate which of these programs can help reduce costs, estimate the potential return on investment, and then develop a comprehensive plan to implement them.

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