



# Softwood Lumber Products Export Charge Notice

SWLN19

December 2009

## Notice to Independent Remanufacturers – Calculation of Export Price

The purpose of this notice is to provide additional information for the calculation of the FOB value and the export price by independent remanufacturers for their softwood lumber products as required under the *Softwood Lumber Products Export Charge Act, 2006* (the Act). This notice supplements the Softwood Lumber Products Export Charge Notice SWLN3, *Calculation of Export Price*.

The information in this notice is for reference purposes only and does not replace the Act or its regulations. Should there be any discrepancy between the information in this notice and that contained in the Act or its regulations, the legislative provisions apply. As the information in this publication may not completely address your particular situation, you may wish to refer to the Act or regulations, or call the number at the end of this document for additional information.

### Definition of Export Price

Under section 13 of the Act, the term "export price" means the FOB value consisting of all costs payable by a purchaser, including those incurred in the placement aboard a conveyance for shipment, but not including the actual shipping costs and the amount of an export charge payable under section 10 of the Act.

Since the export price for an independent remanufacturer is determined based on their domestic purchases, the export charge will not form part of their purchase price when determining the FOB value.

### FOB Value and Export Price

The export price for softwood lumber products exported to the U.S. by independent remanufacturers is determined in accordance with the rules set out in subsection 13(2) of the Act:

Paragraph 13(2)(b) provides that where the softwood lumber product was last remanufactured by an independent remanufacturer prior to export, the export price is the FOB value determined at the facility where the lumber used to make the remanufactured lumber product underwent its last primary processing before sale to the remanufacturer for eventual export.

Normally, the independent remanufacturer will purchase softwood lumber products from a primary processor directly. The independent remanufacturer's export price in this case is the FOB value from the supplying primary processor. However, when softwood lumber product is purchased from a supplier other than the last primary processor, such as another independent remanufacturer or a wholesaler, that supplier must know and disclose on their sales documents the primary processor FOB value in order for that value to be used by the independent remanufacturer in determining its export price.

If the FOB value cannot be determined, then a Canadian **market price** must be used. Market price is discussed below.

### Shipping Costs

FOB value does not include actual shipping costs invoiced by the primary processor to transport the softwood lumber products to the independent remanufacturer's production facility. Therefore, shipping costs and

La version française de la présente publication est intitulée *Avis aux entreprises indépendantes de seconde transformation – calcul du prix à l'exportation*.



Canada Revenue  
Agency

Agence du revenu  
du Canada

Canada

---

in-transit reload costs incurred as part of a continuous movement of the lumber to the independent remanufacturer's facility are deductible in determining the export price. The primary processor should disclose on the sales documents the shipping costs included in the independent remanufacturer's purchase price in order for them to be deductible.

Shipping costs that occur prior to and including placement on board the conveyance are not deductible when determining FOB value. An example of a non-deductible cost is one for a forklift to place the softwood lumber product on a truck or a railcar.

Note: Independent remanufacturers are **not** permitted to deduct export shipping costs to their U.S. customers since they do not form part of the FOB value on which the export price is determined.

The CRA may examine primary processor FOB values and shipping costs that are disclosed by both primary and other suppliers. Any CRA adjustments to these amounts could result in adjustments to the export price for an independent remanufacturer.

### **Purchase price adjustments**

Permitted adjustments are:

- **Cash Discounts** – where the primary processor and independent remanufacturer have agreed, prior to purchase of the product, that a cash discount will be applied if the independent remanufacturer pays cash for the goods.
- **Early Payment Discounts** – where the primary processor and independent remanufacturer have agreed, prior to purchase of the product, that an early payment discount will be applied if payment is made prior to the date that payment is required.
- **Volume Discounts** – are deductions from the price of the product allowed by the primary processor based on the quantities purchased over a given period.

The independent remanufacturer must actually take the discount in order to deduct it in determining the export price.

Note: Discounts offered by the independent remanufacturer to its U.S. customers are not permissible deductions for determining the export price since these discounts do not form part of the FOB value on which the export price is determined.

### **Export administration fees not deductible**

Export administration fees, such as brokerage and export permit fees and port charges, are not permitted deductions for determining the export price. These fees do not form part of the FOB value of the lumber.

### **Determining market price**

When the FOB value cannot be determined, paragraph 13(2) (d) of the Act provides that the export price is the Canadian market price for an identical product sold in Canada at approximately the same time, and in one of the following arm's length transactions, listed in order of precedence:

1. a transaction at substantially the same trade level but in different quantities,
2. a transaction at a different trade level but in similar quantities, or
3. a transaction at a different trade level and in different quantities.

---

**Approximately the same time** generally means within 30 days prior to the date of export. In periods of stable pricing, a longer term may be acceptable; however, when price fluctuations are occurring frequently, a period shorter than 30 days may be warranted.

**Related persons**, for the purposes of the Act, are deemed not to deal with each other at arm's length; and it is a question of fact whether persons not related to each other were, at any particular time, dealing with each other at arm's length.

***Applying the order of precedence***

1. At substantially the same trade level but in different quantity means the Canadian purchaser is offered the same volume or price discounts or purchase incentive as the U.S. purchaser, but the quantities are different.
2. At a different trade level but in similar quantities means the Canadian purchaser is offered a larger or smaller quantity or price discount or purchase incentive as the U.S. purchaser and the quantities approximate the quantities being exported. Approximate similar quantities should be comparable to within 10%, more or less, with the quantities being exported to the U.S. purchaser.
3. Transactions at different trade levels and in different quantities means that the Canadian purchaser is offered either a larger or smaller quantity or price discount or purchase incentive as the U.S. purchaser and the quantities may be more or less than the quantities being exported.

The market price should be FOB the independent remanufacturer and not include shipping costs.

In a situation where there are two or more transactions at the same precedence level and, other than for the exclusion of shipping costs, no further adjustments are made to the particular transaction, then the transaction that results in the lowest market price may be used.

***Price Lists***

It is permissible to use bona fide Canadian Price Lists for determining market price. Adjustments to the price list are permitted to arrive at a market value reflective of a trade level. The independent remanufacturer should be prepared to support that Canadian sales have occurred at the trade level of precedence selected and within an acceptable period of time.

To determine market price, deductions of discounts/deductions normally offered and taken at the trade level selected are permitted. The independent remanufacturer must retain all calculations and supporting documents.

***Price Publications***

In situations where the independent remanufacturer does not have Canadian sales of the identical product, it is permissible to use price publications to determine a Canadian market price. The independent remanufacturer must select the identical product and use the first precedence level when using a price publication to determine market price.

Deductions of any discounts/deductions are not permitted from publication prices; however, adjustments may be made to the publication price if it clearly includes shipping costs.

**Lesser of cost or selling price is not permitted**

Independent remanufacturers produce a number of different remanufactured products. One piece of lumber is used to produce two or more remanufactured products, where one would be the main product and sell for a higher value than the input, and the secondary product, the "falldown", might sell for a lower price.

---

In determining the export price of a softwood lumber product, the independent remanufacturer must apply the rules as set out in section 13 of the Act in a consistent manner, regardless of grade or actual selling price of the final product. Neither the Act nor the *Softwood Lumber Agreement, 2006* permits the selection of a lesser of the cost or selling price for determining the export price.

### **Export price for high value softwood lumber products**

Paragraph 13(2)(e) provides that if the export price is greater than US\$500 per thousand board feet, the export price is deemed to be US\$500 per thousand board feet.

### **Other allowable adjustments**

- **Quality Discounts** – are deductions from the purchase price of the product where the product received by the independent remanufacturer was of a lesser quality than the goods invoiced. Care should be taken to ensure that this adjustment is to the purchase price of the lumber by the independent remanufacturer as opposed to an adjustment given by the independent remanufacturer to its U.S. customer.
- **Sales Returns** – where a credit refund is issued for product that is returned to Canada to the independent remanufacturer that exported it.

In the above situations, the CRA will accept adjustments to previously declared export prices and the applicable export charge (including any surge charge) for the month that the credit or adjustment is issued. If the credit or adjustment is made prior to the filing of the return on which the outgoing shipment is reported, an adjustment to the export price reported on that return may be made. In any other case, complete a Form B278, *Softwood Lumber Products Export Charge – Application for Refund*.

When product is returned to Canada, customs and other supporting documentation will be required showing that the softwood lumber product, previously exported and subject to the export charge, has been returned. As above, claim the credit or adjustment in the month it is issued. If the credit or adjustment is made prior to the filing of the return on which the outgoing shipment is reported, an adjustment to the export price for that shipment on that return may be made, otherwise, complete and file the B278 Application for Refund form.

Instructions on completing and filing refund applications are on the CRA Web site at [www.cra-arc.gc.ca/softwood](http://www.cra-arc.gc.ca/softwood). When completing the form B278, ensure that the “period covered” is the month of original export and the “refund amount” reflects the charge rate applicable in that month.

### **Enquiries**

**For questions about filing a surge charge return or making a payment**, please call 1-800-935-0313.

**For technical enquiries about the *Softwood Lumber Products Export Charge Act, 2006***, please call 1-866-330-3304.

**Information on export volumes and export permits** may be found on the Web site of the Department of Foreign Affairs and International Trade at [www.softwoodlumber.gc.ca](http://www.softwoodlumber.gc.ca).

All technical publications on the softwood lumber products export charge are available on the CRA Web site at [www.cra.gc.ca/softwood](http://www.cra.gc.ca/softwood).