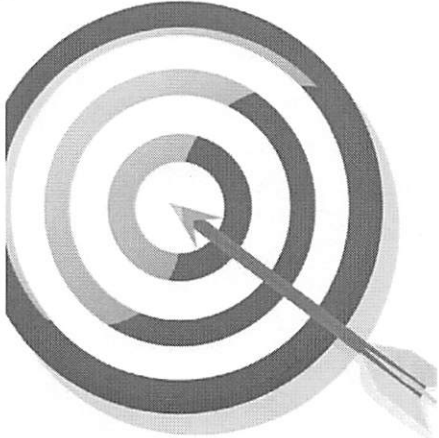




**Breakfast at the Thomson Reuters
Tax Round Table**


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BREAKFAST AT THE THOMSON REUTERS TAX ROUND TABLE



**The CBSA and
CRA: Customs and
GST/HST: Top 10
Mistakes**

Cyndee Todgham Cherniak
LexSage Professional Corporation

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1. Person agrees to be the importer without thinking about the ramifications

- The importer of record is liable to pay customs duties and border GST/HST (excise taxes and SIMA duties)
- The importer of record may be audited
- The importer of record may be assessed additional duties and GST/HST
 - Origin errors
 - Valuation errors
 - Tariff classification errors
- The importer of record is liable to pay administrative monetary penalties for any errors

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2. Person does not ask follow up questions when customs broker recommends GST/HST registration

Common Discussion:

- US Company: I notice this GST on my bill. What is it?
- Customs Broker: Goods and services tax. Canada has a federal value added tax
- US Company: Can I get that back?
- Customs Broker: Yes, if you get a GST number.
- US Company: Sign us up for a GST number!!
- Later:
 - US Company: The CRA called and they are doing an audit. Do I have a GST/HST number??? Was I required to remit GST/HST???

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3. Importers do not check CBSA verification priorities

- Did you know that the CBSA publishes verification priorities twice a year?
- The CBSA tells the public what products they are looking at:
 - Tariff classification
 - Origin
 - Valuation
- Current targets include supply managed products, bags, cell phone cases, curling irons, office furniture, seaweed, disposable and protective gloves, batteries, footwear, special purpose motor vehicles, apparel and clothing accessories, bicycle parts, plastic lamps, etc.
- Don't ignore the opportunity to voluntarily correct or make voluntary disclosure
- New CRA voluntary disclosure policy does not apply

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4. If the importer and exporter are related or same person, they should not use cost of goods as the VFD

- Generally not permitted to use acquisition cost of exporter as value for duty
- There are 6 cascading valuation methods:
 - Transaction value of goods
 - Transaction value of identical goods
 - Transaction value of similar goods
 - Deductive value
 - Computed value
 - Residual value
- Invoice price is not used when the relationship influences the price

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5. Related Party Transactions: Subsequent Proceeds

- You may have to increase the VFD, file B2 Adjustments, and pay more customs duties/GST/HST if:
 - Additional payments from importer to exporter
 - Management fees from importer subsidiary to exporter
 - Service fees from importer subsidiary to exporter
 - Year end adjustment from importer subsidiary to exporter

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6. Incoterm used without thinking about ramifications

- Incoterms are commercial terms published by the International Chamber of Commerce
 - EXW, FCA, CPT, CIP, DAT, DAP, DDP, FAS, FOB, CFR, CIF
- Incoterm may affect liability
- Incoterm may affect timing of delivery and place of supply
- Incoterm may affect GST/HST consequences (whether transaction in Canada)
- Incoterm may affect when income may be booked

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7. Little thought is undertaken as to structure of transaction for GST/HST

- This is wrong:



- The CRA will deny ITCs because there is no supply from New Can Co. to Customer

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8. The importer does not keep its own records

- Who controls the paperwork
- The importer of record does not ask for all B3s
- The CBSA may ask for documents and the importer does not have them
- AMP can be up to \$25,000.00 (or higher)
- Cannot prove point to CBSA/CRA/Court without documentary evidence
- What if the importer changes customs broker or the customs broker disappears?
- What if the importer changes suppliers and the previous supplier will not answer calls?

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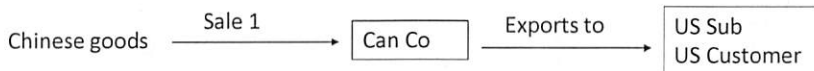
9. CETA: Incorrect Expectations

- Importers think the NAFTA Certificate of Origin can be used: **WRONG**
- Importers think EU origin goods purchased from U.S. distributor are duty free: **WRONG**
- Must have certification of origin on each transaction

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10. Person did not claim duty drawback



- Duties are payable upon importation to Canada
- If export in same condition, may claim a refund, called “duty drawback”
- Duty deferral even better

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