



## TRILLIUM CUSTOMS BROKERS INC.

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# THE NRI PROGRAM A GUIDE FOR IMPORTERS

**Everything you need to know about  
Canada's Non-Resident Importer  
program, and how it benefits companies  
conducting business in Canada.**

### What is a Non-Resident Importer?

A Non-Resident Importer (NRI) is a business located outside of Canada that ships goods to customers in Canada and assumes responsibility for customs clearance and other import-related requirements.

An NRI can effectively compete in the Canadian market without the need for capital investment in Canada, such as manufacturing facilities, distribution facilities, and sales offices. Costs incurred by an NRI include transportation charges to ship the goods from the foreign point of lading to the customer in Canada, Canadian import duties/taxes, and service provider fees related to customs brokerage and logistics.

By assuming complete responsibility to deliver the product to the buyer's door, the NRI provides a seamless and cost effective experience to its Canadian customers.

### Why would you want to be an NRI?

NRIs recognize the potential of the Canadian market and understand that, to effectively compete for Canadian market share, they need to make the buying experience as gainful and easy as buying domestically. The NRI provides a value added service by handling all the costs involved in getting the goods to the customer's location. In addition, many U.S. companies view NRI status as an option to reduce supply chain operating expenses.

#### NRIs obtain a competitive advantage by:

- Offering customers landed cost basis
- Creating a level playing field in the Canadian marketplace
- Reducing supply chain operating expenses
- Meeting the needs of Canadian customers without a physical presence in Canada

#### NRIs gain control by:

- Limiting the carriers/brokers involved
- Having access to export paperwork in a consistent fashion (manual/EDI/web-enabled)
- Managing all costs (brokerage, freight and duty)

### What are the responsibilities of an NRI?

An NRI is subject to Canada's Customs Act and related regulations, which are administered by the Canada Border Services Agency (CBSA). Furthermore, depending on the nature of the goods, certain Other Government Department (OGD) requirements may apply; for example, many food products are subject to Canadian Food Inspection Agency (CFIA) import requirements.

#### The following industries are subject to OGDs:

- Food and food-related products
- Apparel goods, textile articles, steel products
- Animals, plants and certain wood products
- Energy consuming products
- Pre-packaged consumer products
- Motor vehicles and tires
- Drugs, medical devices, hazardous products

#### NRIs must give consideration to the following key areas:

- Business Number
- Valuation
- HS Tariff Classification
- Tariff Treatment
- Goods and Services Tax (GST) on imported goods
- Canadian Customs Clearance
- Maintenance of Records
- Compliance



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Industries that are subject to Other Government Departments (OGDs) also need special permits, certificates or other paperwork.

### Business Numbers (BN)

The Canada Border Service Agency (CBSA) and Canada Revenue Agency (CRA) interact with all businesses through business numbers. A Business Number (BN) is required before you can begin importing into Canada. Trillium can Apply for a BN on your behalf.

The BN provides businesses with one number that applies to the four main Revenue Canada business accounts:

- Corporate income tax
- Payroll deductions
- GST/HST
- Import/export

With a BN, businesses can conduct all of their CRA business with a single contact. They can register their businesses, open additional accounts, make changes to their accounts (e.g. address changes), and inquire about account balances and recent payments.

- Import/Export Account – BN # ends in “RM”
- GST/HST Account – BN # ends in “RT”

### Valuation

The value of the goods that duty will be based on is determined in accordance with the Customs Act. The most common transaction is an arm’s length sale between two unrelated parties. This type of transaction is addressed in Section 48 of the Customs Act, which states; “the value for duty of goods is the transaction value of the goods if the goods are sold for export to Canada to a purchaser in Canada and the price paid or payable for the goods can be determined...”

When imported goods are not “sold for export to Canada” or there is no “purchaser in Canada”, such as goods shipped on consignment, the transaction value method cannot be used and it will be necessary to apply an alternate method of valuation.

If the selling price includes amounts for customs duties, Goods and Services Tax (GST), customs brokerage and freight from the place of direct shipment to Canada, then this needs to be stated on the commercial invoice and/or Canada Customs Invoice. Such amounts are deducted from the selling price when the value for duty is calculated.

Customs valuation can be complex. If there are any doubts

about the correct valuation methodology, it is advisable to obtain a valuation ruling from the CBSA prior to exporting the goods.

Alternate valuation methods are used when an arm’s length sale does not exist. Using these alternate methods usually requires prior approval in the form of a written ruling from the CBSA. Without elaborating, these methods are:

- Identical Goods
- Similar Goods
- Deductive Method
- Computed Method
- Residual Method

### Establishing a selling price based on Transaction Value

When an NRI establishes the final sale price to its Canadian customer, it is imperative to begin with a base price, the price the NRI wishes to receive for its goods, usually similar to that of the selling price in the domestic market (domestic costs plus profit).

After completing this, assess the costs involved in the transportation and customs clearance of the goods, such as duty, tax (if a non-registrant), brokerage, and freight.

These costs are then added to the base price. It’s important for the NRI to ensure that the above named costs, which are built into the price, are accurately accessed and auditable.

### Transaction Value

This is the primary method of Customs valuation. Value for Duty is based on four basic requirements:

1. The imported goods were sold
2. The sale was for export to Canada
3. The purchaser in the sale for export is the “purchaser in Canada”
4. The price paid or payable for the goods can be Determined

### Adjustments can be made for certain prescribed items:

- Additions
- Packing costs, assist, royalties
- Subsequent proceeds
- Deductions
- International transportation and insurance, domestic freight, import duty, and taxes

In the event that there is no sale for export to Canada, or the importer does not qualify as a purchaser in Canada, the transaction value method of valuation cannot be used. When the transaction value method cannot be used, importers must move sequentially through the valuation provisions.



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With respect to no-charge goods, the importer must conduct a test value to establish an amount and demonstrate that the value of the goods being appraised closely approximates one of the above methods.

### Residual Basis

The residual method (section 53) may be applied to determine the value for duty, if:

- Transaction values of identical or similar goods cannot be found (sections 49 and 50)
- The goods are not resold in Canada (deductive value method, section 51)
- The exporter did not incur any cost of production (computed value method, section 52)

Valuation issues can be complex, and in the case of NRIs, this is an area where the CBSA is very active. Accordingly, non-resident importers must exercise reasonable care and if there are any doubts relating to the methodology to be employed, obtain a valuation ruling prior to importing goods into Canada.

### Goods and Services Tax (GST) on imported goods.

#### What is the GST/HST?

The Goods and Services Tax (GST) is a federal tax that applies to most goods and services in Canada at a rate of 5%. GST is applied at the border to all imported commercial goods destined to all provinces and territories within Canada. It is calculated on the value of the goods, including the value of any customs duties, and is collected by the CBSA on behalf of the CRA. NRIs should therefore expect to be invoiced for GST, unless their goods are zero-rated.

The following Canadian provinces have “harmonized” their provincial sales tax with the GST to create the Harmonized Sales Tax (HST):

- New Brunswick, Newfoundland and Labrador, Nova Scotia, and Prince Edward Island have HST at a rate of 15%
- Ontario has HST at a rate of 13%
- Quebec applies the Quebec Sales Tax (QST) at a rate of 9.975%, calculated on the sale price of the goods in addition to the 5% GST
- HST is applied at the border to all imported non commercial goods destined or supplied to the provinces of Ontario, , Newfoundland and Labrador, Nova Scotia, and Prince Edward Island
- In certain instances, a registered NRI may pay 5% GST at the border on commercial goods destined for a province with the HST, such as New Brunswick, but will

collect 13% HST from the customer. This requires a remittance of tax by the NRI to the government.

- Registrants are entitled to claim tax credits or rebates on the tax paid on all purchases or imports.
- Registered NRIs must show their registration number in order for GST-/HST-registered customers to claim their own GST/HST credits.

### Do I have to “register” for the GST/HST?

Generally, you have to register for the GST/HST if your worldwide revenues are more than CAD\$30,000 and you are conducting business in Canada.

#### What does “conducting business in Canada” mean?

Even though you may not have a permanent establishment in Canada, you can still be conducting business there. Factors that are considered in determining whether an NRI is conducting business in Canada for GST/HST purposes are:

- The place where agents or employees of the NRI are located
- The place of delivery
- The place of payment
- The place where purchases are made or assets are acquired
- The place from which transactions are solicited
- The location of assets or an inventory of goods
- The place where business contracts are made
- The location of a bank account
- The place where the NRI’s name and business are listed in a directory
- The location of a branch or office
- The place of manufacture or production

#### Voluntary GST/HST registration

Even if you are not required to register for the GST/HST, as an NRI, you can choose to register voluntarily if in the ordinary course of carrying on business outside Canada you regularly solicit orders for goods (except prescribed goods) to be exported or delivered to Canada.

If you choose to register voluntarily, you must stay registered for at least one year.

#### Non-resident security deposit

If you do not have a permanent establishment in Canada when you apply to be registered for the GST/HST, then you have to provide the CRA with a security deposit. The initial amount of the security deposit is 50% of your estimated net tax, whether positive or negative, during the 12-month period after you register. For subsequent years, the amount of security is equal to 50% of your actual net tax for the previous 12-month period, whether this amount is positive or negative.



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The maximum security deposit required is CAD\$1million, and the minimum is CAD\$5,000.

The security bond requirement is waived if annual sales in Canada are less than CAD\$100,000 and annual net tax is less than CAD\$3,000.

### Collecting GST/HST from your customers

If you register for the GST/HST, this means you have to collect GST/HST from your customers on behalf of the Government of Canada. You are required to indicate the GST/HST as a separate amount on the commercial invoice.

### Reporting your GST/HST; Due dates for filing and remitting GST/HST

When you register for the GST/HST, you are assigned a reporting period. Reporting periods are the amounts of time for which you file your GST/HST returns. For each reporting period, you have to prepare a GST/HST return showing the amount of the GST/HST you charged or collected from your customers and the amount of the GST/HST paid or payable to your suppliers (Input Tax Credits). The GST/HST return is sent to the CRA.

If your assigned reporting period is monthly or quarterly, you are required to file your GST/HST return and remit any amount owing no later than one month after the end of your reporting period.

If your assigned reporting period is annual, you are required to file your return and remit any amount owing no later than three months after the end of your fiscal year.

### How GST/HST is recovered

#### Registrant

By deciding to register for GST/HST, the NRI will need to collect GST/HST from customers and submit GST/HST returns at regular intervals, identifying the GST/HST collected/collectable and GST/HST paid/payable. The amount will result in either a remittance to the CRA or refund to the NRI registrant. Recovery of the GST/HST paid/payable is achieved by claiming an input tax credit on your GST/HST return.

#### Advantages:

- Tax credit or rebate of tax paid on the purchase of taxable services, or the purchase or importation of taxable goods
- The Canadian customer has the ability to recover GST/HST paid/payable on purchases from the NRI
- The ability to recover tax paid on samples, rejected, or damaged goods

#### Disadvantages:

- Accounting system must be established to:
  - Identify tax collected on sales
  - Identify Input Tax Credits (ITCs)
  - File monthly/quarterly reports
- Surety bond may need to be obtained, premium paid
- Minimum one-year filing requirement
- Subject to audit by the CRA

### Maintaining books and records

Similar to the CBSA requirement to maintain customs-related records, GST/HST registrants are required by the CRA to maintain GST-/HST-related books and records for a period of six years from the end of the latest year to which they relate.

A Non-Resident GST/HST registrant can maintain books and records at their premises outside Canada by establishing a letter of undertaking with the CRA promising to pay for travel and accommodation expenses incurred by a CRA officer in the event of an onsite audit.

#### Non-registrant

If you decide not to register for GST/HST, GST must still be paid to Customs upon import of goods. A non-registrant is not legally allowed to collect GST. However, they should include the GST/HST in the selling price as a cost; GST/HST must not be shown as a separate line item on the commercial or Canada Customs Invoice.

Section 180 of the Excise Tax Act allows the Canadian customer to claim back the GST/HST on the non-resident's behalf. In order for the NRI to recover the GST paid at time of importation, the Canadian customer can recover the GST on the NRI's behalf by utilizing the "flow through" method. Under this method, the Canadian customer uses the Customs import entries and payments made by the NRI to the CBSA to submit tax returns and recover the GST/HST. The Canadian customer then forwards the recovered amount to the NRI. This method is dependent on the relationship with the Canadian customer and their willingness to provide this assistance.

Canadian Government publications with more detailed information on this and other matters can be obtained from the Canada Border Services Agency website:

<http://www.cbsa-asfc.gc.ca/publications/menu-eng.html>.

### Canadian Customs Clearance Documentation required for customs release

In addition to a copy of the commercial invoice, a completed Canada Customs Invoice is required if the shipment is valued at CAD\$1,600 or more. NRIs should complete the commercial invoices and the Canada Customs Invoice in a manner that clearly describes the imported goods and



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allows the CBSA to determine the selling price and what is included; such as, customs duties, GST/HST, customs brokerage, and freight from and to the place of direct shipment in Canada.

### Additional documentation

Permits, certificates, licenses, bills of lading, and so on, may be required depending on the type of goods and their associated import requirements.

### Customs release options

The following are the primary methods of customs release:

- Release on Minimum Documentation (RMD):  
RMD allows importers who have posted the required security to obtain release of their goods by presenting data for interim accounting. Full accounting data and payment are not required at the time of release, but they are required within certain time frames.
- Pre-arrival Review System (PARS):  
PARS allows importers and brokers to submit RMD information to the CBSA for review before the goods arrive in Canada. This speeds up the release or referral process when the goods arrive in Canada.

### Maintenance of records

Records are documents related to origin, marking, purchase, importations, costs, value of the goods, payment, disposal, and use of the goods in Canada. This includes documents such as NAFTA Certificates of Origin, import permits, bills of lading, B3 accounting documents, discount agreements, royalty agreements, etc.

In addition, all correspondence, requests, and applications for, or receipt of, any rulings on HS classification, origin, marking, and valuation of the commercial goods should also be maintained.

Records relating to Canadian import transactions must be maintained for a period of six years, plus the current year. An NRI can maintain records in Canada using a service provider such as Livingston, or at their premises outside Canada by establishing a letter of undertaking with the CBSA. A letter of undertaking commits the NRI to pay for travel and accommodation expenses incurred by a CBSA officer in the event of an audit at the NRI's place of business.

Records should be kept in such a manner as to allow an officer to perform detailed audits, and obtain or verify the information based on which the amount of the duties paid, payable, or deferred was determined. The records may be copied by means of any photographic, micro-photographic or image processing method. If electronic, they must relate back to supporting source documents in accordance with

National Standard of Canada Microfilm and Electronic Imaging evidence.

### Compliance

Under today's strict Customs environment, security, compliance, and accurate information remain the key elements of a successful importing profile. Within this framework, CBSA officials require all importers to adhere to reporting guidelines, which necessitate complete compliance throughout your customs processes. Due diligence, reasonable care, and accountability are mandatory requirements of a successful customs process.

### What is trade compliance?

Trade compliance refers to importers and exporters meeting all of the requirements governing the movement of commercial goods into and out of Canada.

Being trade compliant means ensuring that the tariff classification, origin and valuation of goods are all accurately declared in accordance with legislative requirements and that the appropriate duties and taxes are paid and that any required permits, certificates or licenses are presented.

There is a clear obligation under the Customs Act to provide true, accurate and complete trade information, including a proper description of the goods, and to correct wrong information regardless of dutiable status.

Non-compliance violates the control measures that are in place to protect the economy, the environment, and the health of Canadians.

### What are the benefits of trade compliance?

Trade compliance is important for businesses because, like governments, they require accurate information to develop sound business plans and to support key business decisions. Therefore, all businesses have a vested interest in ensuring the accuracy and integrity of the information they are obligated to provide.

Moreover, businesses that invest resources to support trade compliance will likely submit fewer corrections to their original accounting documents, which results in lower overhead costs. Businesses that establish good compliance records with the CBSA are less likely to have their shipments examined at the border, selected for post-release verification, or receive penalties under the Administrative Monetary Penalty System (AMPS).



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A good trade compliance record is related to risk: the lower the risk, the less the need for intervention by the CBSA. Fewer interventions by the CBSA equates to lower business costs and faster movement of goods.

### How does the CBSA promote trade compliance?

The CBSA operates on the principal of voluntary compliance, in that importers will obey the law if the law is reasonable and if there are meaningful consequences for failure to comply. Compliance is a shared responsibility. However, the CBSA can, has, and will continue to audit importers' records as a means of ensuring compliance. Onsite audits are a regular function of the CBSA, and when undertaken, involve a complete review of the system, receipts, accounts payable, sales records, etc. A thorough evaluation of the importer's customs system is performed to ensure all appropriate controls and linkages are in place.

Non-compliance can be costly. AMPS imposes monetary penalties in proportion to the type, frequency and severity of the infraction.

- Documentation requirements for customs clearance
- Valuation methodology
- Tariff classification
- Certificates of Origin
- Recordkeeping requirements
- GST/HST registration

### The CBSA ensures trade compliance by undertaking the following:

- Examining shipments at the border
- Conducting post-release verifications to confirm trade compliance and to correct errors this includes issuing reassessments to collect additional duties
- Issuing AMPS penalties when errors are found

Businesses have a vested interest in getting trade compliance right because being compliant affects more than their bottom line. Trade compliance is a key element in maintaining a competitive business climate. While the CBSA is charged with ensuring that businesses comply with trade requirements, compliance can only be achieved if there is a shared commitment between the CBSA and the business community.

**Everyone has an important role to play.**

### NRI Checklist

- Business Number (BN) application
- Agency Agreement (required to appoint a customs broker)

### Trillium Customs Brokers Inc.,

Trillium is a Customs Broker focused on Compliance, who also offers Consulting and Expert knowledge on the Canadian Importing Process.

If you have questions about Non Resident Importer Program, our trade expert will be happy to help.

### Our Consultants can also assist with:

- Determining the most appropriate valuation method and/ Or working with CBSA to establish a valuation ruling on Behalf of NRI's.
- Providing tariff classification services.
- Arrange Customs Bonds for both Duty and GST
- Assisting with the GST/HST registration application Process.



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### **Contact Trillium**

**Have questions about Canada's NRI Program or  
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