



St Kitts ~ Nevis Customs & Excise Department

"To Protect and Collect"

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BUYING AND SELLING COMMISSIONS

This policy document outlines and explains what is a buying and selling commission, when they are to be used as part of the Transaction Value.

Legislation

The Customs Act, No. 19 of 2014 Second Schedule Paragraph 8 (1):

In determining the customs value under paragraph 3, there shall be added to the price actually paid or payable for the imported goods;

- (a) *The following to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the imported goods*
 - (i) *Commission and brokerage, except buying commissions.*

Guidelines and General Information

1. Paragraph 8(1) (a) (i) of the *Second Schedule the Customs Act* indicates that the price paid or payable will be adjusted by adding amounts for commissions and brokerage for the goods incurred by the buyer in St Kitts and Nevis, except when the amounts are paid or payable to an agent to represent the buyer abroad in the purchase of the imported goods. These excepted amounts are usually referred to as buying commissions, and if they are invoiced or identified separately from the goods, they do not need to be added to the price paid or payable for the goods.
2. Commissions are normally described as selling or buying commissions, depending on whether the agent acts on behalf of the buyer or the seller in concluding a contract of sale for goods. An agent's payment generally takes the form of a commission, usually

expressed as a percentage of the selling price of the goods. To determine whether a payment to an agent is to be added to the price paid or payable, it is necessary to determine whether the agent is a selling agent acting on behalf of a seller or a buying agent acting on behalf of a buyer.

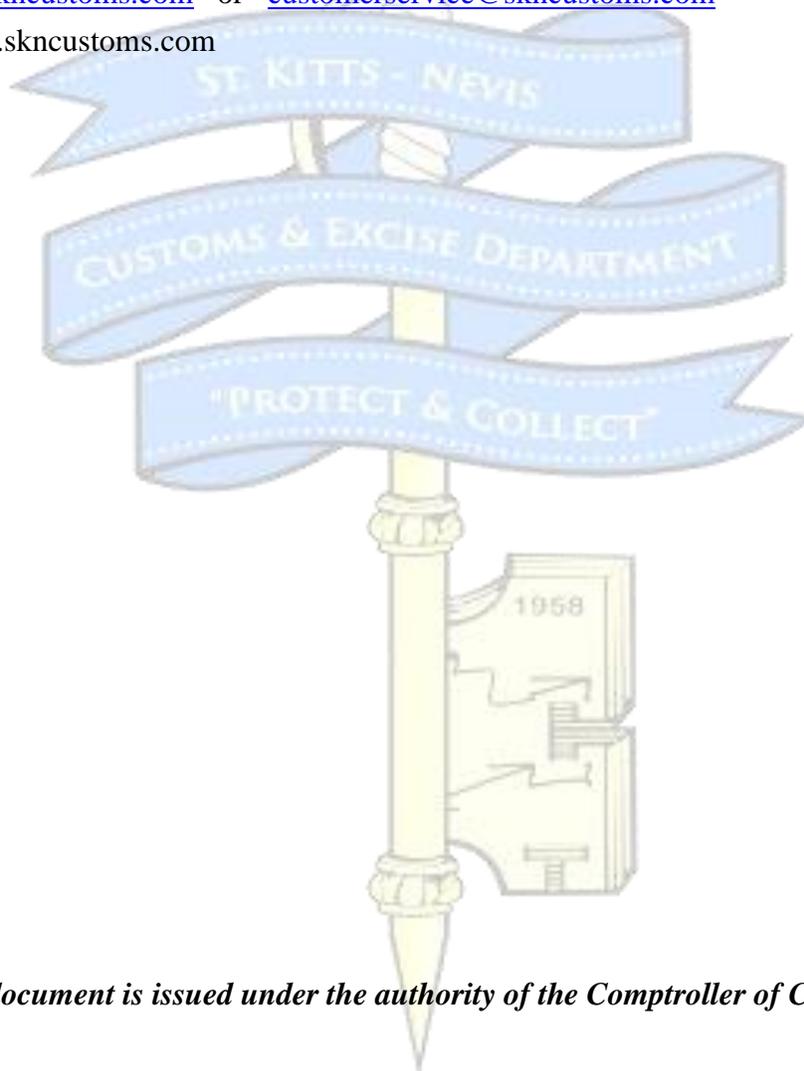
3. A selling agent is a person who acts for the account of a seller. The agent looks for customers and collects orders on behalf of the seller and, in some cases, may arrange for storage and delivery of goods. A payment made to a selling agent for services rendered in the conclusion of a contract is generally called a **selling commission**. Usually, goods sold through a selling agent cannot be bought without payment of the selling agent's commission. This payment can be made in one of the following two ways:
 - (a) Foreign suppliers who deliver their goods for orders placed through a selling agent pay for the agent's services themselves and quote prices to their customers that include the agent's commission. In such cases, the invoice price is not to be adjusted to exclude the amount for the agent's services; or
 - (b) The terms of the sale may require the buyer to pay an amount other than the price paid or payable for the goods, either through the seller or separately, for the agent's services. This amount must be added to the price paid or payable when determining the value for duty.
4. A buying agent is a person who acts for the account of a buyer. The buying agent performs his or her activities using funds provided by the buyer. A buying agent's activities include finding suppliers, informing the seller of the desires of the buyer, placing orders, collecting samples, inspecting goods and, in some cases, arranging for the insurance, transport, storage or delivery of the goods. A payment made by a buyer to an agent to represent the buyer abroad in buying imported goods is usually referred to as a **buying commission** and is not added to the price paid or payable for the imported goods if it is invoiced or identified separately from the goods. However, if the invoiced price for the goods includes such an amount, it cannot be deducted from the price paid or payable.
5. A broker is generally a third party that does not act on its own account, but rather acts for both the seller and the buyer together and usually has no role other than to put both parties in touch with each other. The broker's remuneration is called **brokerage** and is usually calculated as a percentage of the selling price of the goods.
6. "Brokerage" does not mean amounts charged by a customs broker for services rendered to clear goods through customs. Brokerage is a payment made to an intermediary for its participation in concluding a contract of sale.
7. If the brokerage is paid by the seller of the goods, it will usually be included in the invoice price charged to the buyer. In such cases, it will be represented in the calculation of customs value as part of the price paid or payable. In cases where the brokerage is paid by the seller and charged separately to the buyer, it must be included in the price

paid or payable. Alternatively, the buyer and seller may each pay part of the brokerage charge, or the buyer alone may pay the charge. In these cases, the brokerage amount must be added to the price paid or payable to the extent that it is paid by the buyer and is not already included in the price.

8. Customs Department may request that an importer provide documentation (for example, contracts, invoices, letters of credit, invoices from suppliers and correspondence) which establishes the true nature of the arrangement between the buyer and the seller. The importer may be requested to obtain information from the agent identifying all activities in which the agent has an interest in respect of the imported goods.

Additional Information

For more information please contact us in St. Kitts 1(869) 466-7227 ext. 3243/3239/3225 or 1(869) 467-1077; Nevis 1(869) 469-0704/469-5521 ext. 2066. Email us at enquiry@skncustoms.com or customerservice@skncustoms.com
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