



DEPARTMENT OF IMMIGRATION AND BORDER PROTECTION NOTICE

No. 2016/35

Voluntary disclosures under Section 243T and Section 243U *Customs Act 1901*

What is a Voluntary Disclosure?

A voluntary disclosure is the communication to the Department of Immigration and Border Protection (the Department) through a written notice of an error (*error notice*), omission or adjustment in a statement (excluding outturn or cargo reports).

Examples of an identified error or omission include:

- an error or omission in the customs value, including:
 - failure to include a price related cost when calculating the customs value of goods
 - incorrect adjustments to the customs value relating to transfer pricing
- an incorrect tariff classification
- an incorrectly applied Tariff Concession Order.

Eligibility for protection from penalties and prosecution

A voluntary disclosure must disclose fully, truthfully and of your own accord, the details of the relevant import or export declaration(s) and the nature of the error(s). If the disclosure results in additional duty and taxes, the outstanding amount must be paid. If you make a voluntary disclosure, you are protected from offences in sections 243T and 243U of the *Customs Act 1901* (the Act) that relate to false or misleading statements.

An error notice is **not** taken to be given voluntarily if:

- given after an officer exercises a power under a customs-related law to verify the information in the statement (such as a 214AD notice); or
- an infringement notice for an offence against sections 243T or 243U is issued in relation to the statement; or
- proceedings have commenced against an offence within sections 243T or 243U in relation to the statement.

Submitting a Voluntary Disclosure

An error notice can be made by amending a declaration in the Integrated Cargo System (ICS) or through a written declaration to an Australian Border Force (ABF) Officer outlining the nature of the errors and the relevant declarations.

After providing an error notice to the Department and depending upon the nature of the error, omission or adjustment, you might also be asked to provide additional information to assist in the processing of a voluntary disclosure.

For more information, visit www.border.gov.au/voluntarydisclosures.

Customs brokers' reporting obligations

If a holder of the broker's licence becomes aware that information that has been provided to Department by or on behalf of a client of the broker is false, misleading or incomplete, the broker must, as soon as practicable after becoming aware of the error or omission provide written particulars of the incident to the Department.

Compliance Approach

The Department through its operational arm, the ABF, will continue to undertake compliance activities to ensure import and export declarations are correct, in line with the intent of this notice.

If errors or omissions are identified by the Department or if a customs broker fails to adhere to their licence conditions, appropriate treatments will be applied. Treatments can range from education and awareness for those genuinely trying to comply, a demand for payment of outstanding duty and taxes, to the issuing of infringement notices, an investigation of a customs broker for misconduct, suspension or revocation of a customs broker's licence and prosecution for more serious and systemic breaches.

The Department and the ABF are committed to working with industry to encourage higher levels of voluntary compliance by increasing understanding and awareness of the ability to correct any errors, omissions or adjustments and be protected from liability for an offence.

[signed]

Alison Whatson
Acting Commander
Customs Compliance
Canberra ACT
17 October 2016

[signed]

Jane McClintock
Acting Assistant Secretary
Trade and Customs Branch
Canberra ACT
17 October 2016