Non-Resident Importing into Canada

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Background

- Canada was the United States single largest export market in 2015 equaling approximately 280 billion worth of goods
- Since then the numbers have been increasing significantly due to the rise of E-Commerce, consolidation of several big box stores and U.S retailers penetrating the Canadian marketplace (Nordstrom’s, Saks 5th Avenue)…

WHAT DOES THIS MEAN FOR YOU?

- Canada's importers have much more buying power and are realizing something that U.S companies have been implementing for many years
- They are now requesting/requiring that their goods be delivered to their door duties, taxes and transportation included.
- They want a more seamless and hassle free transaction

Advantages for You

- Increased market share by making it simpler and easier for Canadian clients to buy from you
- Enhancing their customer experience with you, thereby increasing the chance of customer loyalty and retention
- You have increased control over your sales, profits and expenses

What is a Non-Resident Importer?

- A U.S Company who in most cases does not have a physical presence in Canada
- Acts as both the Exporter and the Importer of Record for goods sold/consigned to Canada
- Being a Canadian Non-Resident Importer to the USA is far easier than becoming a U.S. Non-Resident Importer who exports goods into Canada

The GST and HST Taxes!

WHAT IS GST/HST?

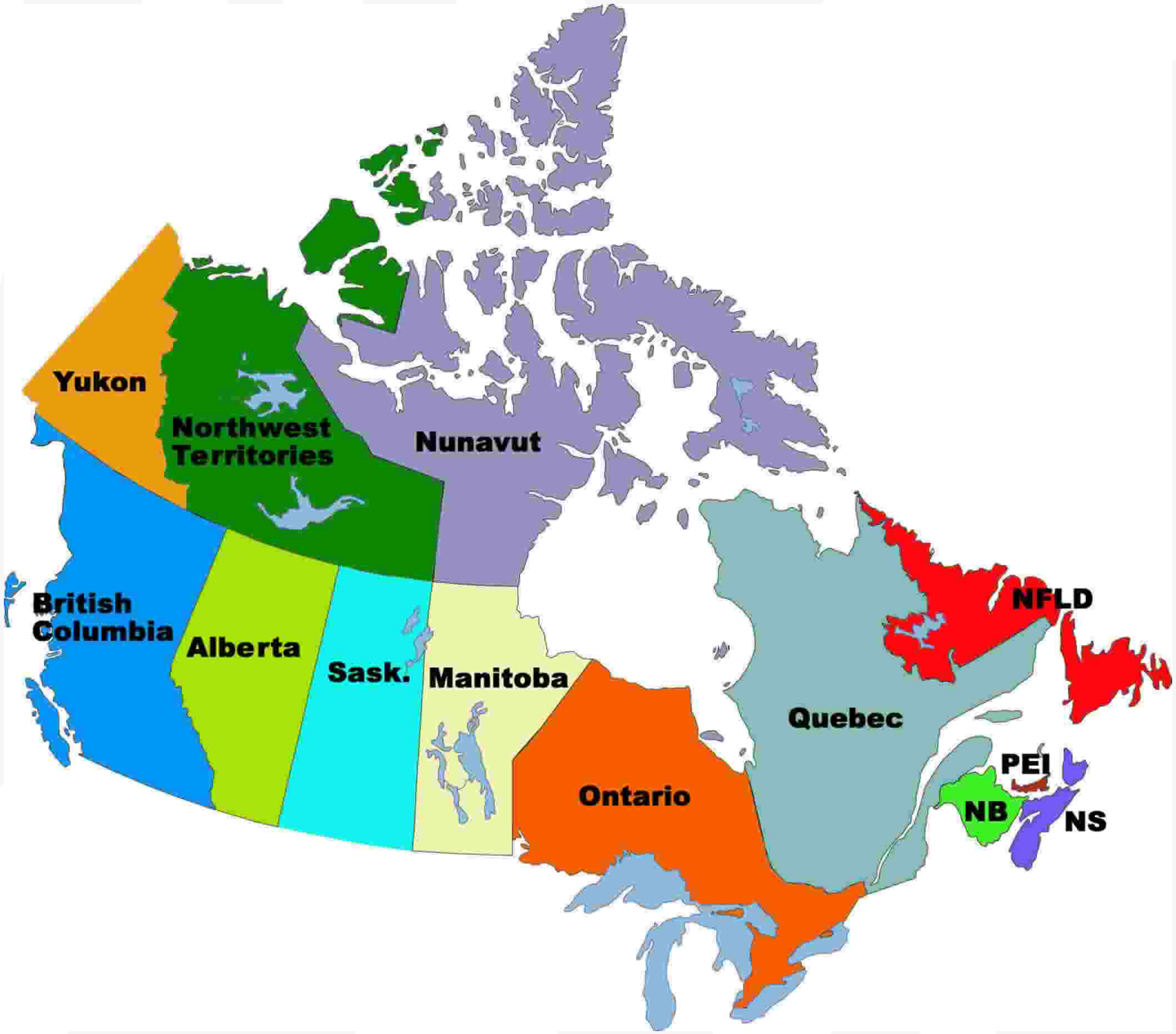
- GST (Goods and Services Tax) is a 5% tax assessed on most goods and services in Canada including all imports
- It is payable at time of importation
- Non taxable goods are referred to as zero-rated supplies

ex: basic groceries, prescription drugs, International Freight & Transportation Services and Canadian Goods Returned

What is HST?

- HST stands for Harmonized Sales Tax
- It is part of the GST Tax System and is administered through the CRA (Canada Revenue Agency).
- It only applies to sales in certain provinces across Canada
  - Ontario – 13%
  - Atlantic Provinces (New Brunswick, Prince Edward Island, Newfoundland, & Labrador) – 15%

CANADA


Yukon
Northwest Territories
Nunavut
British Columbia
Alberta
Sask.
Manitoba
Ontario
Quebec
NFLD
PEI
NB
NS

Do I Have to Register?

- You have to register for GST/HST if your worldwide revenues are more than $30,000.00 CAD and you are conducting business in Canada
- Just because you may not have a permanent establishment in Canada does not necessarily mean you are not conducting business in Canada

The Most Important Questions to ask

Who will be the Importer of Record?

What is your anticipated volume (# of shipments into Canada) ?

What are your terms of sale (incoterms)?

SHOULD I REGISTER?

- Most U.S companies who chose to be NRI will choose to voluntarily register for GST/HST and fall into the category of carrying on business outside Canada since they regularly solicit orders for goods to be exported or delivered to Canada on a delivered duty paid basis

Should I Register?

- If you anticipate having more than 2 shipments into Canada where you as the U.S. Company are acting as the Importer of Record, *you should register*

- If you do NOT register, you cannot charge the GST, you cannot collect the GST, but you still have to pay the GST upon importation

How does the GST work?

- Like the European VAT
- Can be claimed back by the Canadian Importer or Non Resident Importer providing they are registered for GST with Revenue Canada.
- Non Resident importers must charge their Canadian customer the GST/HST depending on what province they are selling to
- The GST/HST must be shown as a separate line on the commercial invoice
- ONLY the GST is paid to customs when the goods are imported
- You will receive a form from the CRA where you will indicate all the GST you paid (input tax credit) to Customs on import versus all the GST/HST you collected from your clients (plus/minus)
- This amount will result in either a remittance to the Government or a refund
- You can choose to file your GST/HST monthly, quarterly or yearly depending on the disbursements involved. Most companies chose quarterly reports.

BENEFITS

- You get the 5% GST that you paid on import refunded to you
- You can also get back any GST paid for goods that were exported back into the U.S

(for example replacement, damaged, rejected)

OBLIGATIONS

- You must establish an accounting system to:
  - Identify all the taxes you collected on sales
  - Identify all taxes you paid (called an Input Tax Credit).

- You will need to provide Customs with a security deposit or a surety bond (Cost is approximately $500.00 per year).

- Must remain registered for the GST for at least 1 year

INCOME TAX

- For a non-resident that has a permanent establishment in Canada, it is required to file income tax returns
- For a non-resident that is carrying on business in Canada without a permanent establishment, it may still be required to file a treaty-based return

Withholding Tax

- If a non-resident provides services in Canada, the Canadian customer may withhold 15% gross payment as withholding tax
- The non-resident business must file the treaty-based return to receive a refund of the withholding tax

Obligations

- Must maintain books and records in Canada for 6 years
- Non-Residents can request permission to maintain books and records outside Canada by filling out a request form
- Canadian Customs Brokers can also remit GST returns on behalf of their clients as well as maintain their books & records
- Subject to audit by CRA (Canada Revenue Agency)

DIFFERENCE BETWEEN CBSA & CRA AUDIT

- CBSA (Canada Border Services Agency) monitors imports, exports, valuation, tariff classification, country of origin declaration, payment of duties & taxes, maintenance of books and records & compliance

- When your goods clear Canadian Customs all duties and taxes are paid to the CBSA (Canada Customs)

Difference between CBSA & CRA Audit

- CRA (Canada Revenue Agency) regulates anything having to do with taxes whether personal or business
- It is Canada's version of the IRS
- Registering for GST and becoming a Non-Resident Importer can make you subject to audit by either of these agencies

That is why it's important to consult a reliable Canadian Customs Broker that is knowledgeable and familiar with Non-Resident importing who will guide and advise you throughout the whole process including customs clearance

How to Register

- Fill out an application (RC1) to request a GST/Business number.
- Usually takes about 3 to 4 weeks to get your GST Number back, however you are eligible to start claiming back any GST you paid the minute Revenue Canada receives your application
- Any GST you have paid before sending that application to Revenue Canada cannot be claimed back retroactively, so it is important to make sure to apply before your 1st importation into Canada

GST/Business Number

- Once you receive this number, it will serve as an identification number for your company with Revenue Canada (like your U.S. IRS#)
- It will also serve as your Importer Number (application must be made)
- You will also need a Customs Bond for duties and taxes which costs $500.00.
- If the GST that you collect/remit exceeds $30000.00, Revenue Canada can request a bond of indemnity.

How do I Simplify the Process?

- The entire registration process from A to Z can be taken care of by a Canadian Customs Broker providing they are familiar with the rules and regulations pertaining to Non-Resident Importers
- Example of client who lost $30,000.00 because the broker did not register them
- In any case where you decide to be the Importer of Record, you will need a Canadian Customs Broker and you will need a Canadian Power of Attorney signed by an officer of the Company

SCENARIO 1

- U.S. Vendor sells to a company in Canada and that Canadian company acts as the Importer of Record where the goods are shipped from the USA
  - Canadian Importer is responsible for customs clearance, duties and taxes
  - Commercial invoice or Canada Customs Invoice is required *(shippers have to be better educated in terms of the information that is needed on the commercial invoice when shipping to Canada).*
  - NAFTA, if applicable
  - Goods may be subject to OGD'S, permits or other restrictions

SCENARIO 2

- U.S. vendor sells to a company in Canada where that Canadian company acts as the Importer of Record however the goods are drop-shipped from another country to Canada

  - Canadian importer is responsible for customs clearance, duties and taxes
  - Commercial Invoice or Canada Customs Invoice is required

  (the 1st sale rule does not apply in Canada, has to be the invoice of sale between the US Company and the Canadian Company).

  - NAFTA is not applicable unless the goods are coming from Mexico however other tariff treatments may be applicable according to agreements with other countries

  (ex: GPT – China, LDDC – Bangladesh…).

SCENARIO 3

- U.S. Company planning to act as the Importer of Record once or twice
  - No need for U.S. Company to register for GST
  - Use the follow through method where they are allowed to charge their Canadian client the GST of 5% and the Canadian client can use the B3 (7501) as proof to claim back their GST from the Canadian Government
  - In addition, a Canadian POA is required (signed by officer)
  - All the requirements mentioned in Scenario 1 & 2 will be applicable
  - Full legal company name, address, telephone number and name of the President of the Company will be required
  - Once that is done, we can apply for an Importer Number on behalf of the client

Note: an Importer Number and GST Number are* ***not* *the same thing*

Ways of Dealing with GST in this Case

- Send the shipment DDP excluding GST which will be for the account of the consignee

- Have the Customs Broker bill everything back to the agent except for the GST which the Canadian Broker will bill to the Consignee in Canada

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THINGS TO REMEMBER

1. **LVS Shipments**

   - Low Value Shipments are defined as any shipment that is under $2500.00 CAD and come in by Fed Ex, UPS or DHL and are approved by customs to pass under the LVS system
   - Shipments subject to OGD's or paperwork that reads "Value for Customs $1.00" will usually get refused on the LVS system
   - Shipments are delivered to client prior to the broker doing any paperwork for Customs
   - Rules different than the USA

Things to Remember

2. Importer Numbers:

- Customers using their Importer Number for the 1st time will automatically get referred for exam at least for the 1st shipment if not the 1st few shipments which can lead to expensive examination charges in some cases.

3. Compliance:

- When you become the Importer of Record it automatically transfers any and all responsibility for the import to your company in the eyes of Canada Customs; for example tariff classification, origin, tariff treatment....

Things to Remember

4. End Use:

- We have annex codes or certain classification codes based on end use that reduce or remove the customs duty on certain items so where applicable, it's important to ask the client. ex: all fabric for use in the manufacture of clothing is now duty free from all Countries

5. Valuation:

- The commercial invoice must reflect the true selling price between the US Vendor and the client in Canada
- If there is no sale price prior to the shipment leaving for Canada, you can use the 1st sale rule but only if the goods are shipped directly from their point of loading and have not cleared U.S Customs.

THINGS TO REMEMBER

6. Payment of Duties & Taxes:

- U.S. Non Resident Importers obtain an annual bond approved by Canadian Customs which allows them to pay all duties and taxes owing once a month
- It is very practical because the importer has no credit limit as far as duties and taxes are concerned, and they make only 2 checks per month. (one to the Receiver General and one to the Customs Broker)

Things to Remember

7. Permits:

- Some goods will require Import Permits ex: steel

8. Prohibited Items:

- Ostrich or Peacock feathers (tariff code 9897.00.00.00)

9. Anti Dumping or Countervailing Duties:

- Bicycles and their parts from China

THINGS TO REMEMBER

10. OGD’s

- C.F.I.A.
- NrCan
- Health Canada
- Transport Canada
- Consumer Products Safety

If your goods are subject to any of these departments, certain additional information or documentation may be required by Customs

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THINGS TO REMEMBER

11. Consumer Packaging & Labelling Requirements:

- Similar to USA but should always check to be sure
- Bilingual Labelling
- Clothing and certain types of upholstered furniture require a CA Number (Equivalent to your RN Number) which is regulated by Industry Canada

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Things to Remember

12. Alcohol & Tobacco:

- Hefty taxes
- Alcohol needs an import permit from the Provincial Liquor Board of the Province you are importing it into.
- Rule of thumb, take the VFD and multiply by 2

Conclusion

Do not sell or ship to Canada
prior to consulting with a specialist beforehand
or you may end up with an
expensive and unwanted surprise

USEFUL RESOURCES

GST/HST Information for Non-Residents:

http://www.cra-arc.gc.ca/tx/bsnss/tpcs/gst-tps/rgstrng/menu-eng.html

Register for a GST/HST account:

http://www.cra-arc.gc.ca/tx/bsnss/tpcs/gst-tps/rgstrng/menu-eng.html

Canadian Government Links

Canada Border Services Agency
www.cbsa-asfc.gc.ca

Canada Customs Tariff Online
www.cbsa.gc.ca/trade-commerce/tariff-tarif/

Canadian Food Inspection Agency
www.inspection.gc.ca

Dept of Foreign Affairs
www.dfait-maeci.gc.ca

Industry Canada
www.strategis.is.gc.ca/intro.html

Health Canada
www.hc-sc.gc.ca

Natural Resources Canada
www.nrcan.gc.ca

Transport Canada
www.tc.gc.ca

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