



Softwood Lumber Products Export Charge Notice

SWLN11

December 2008

Third Country Adjustment Refund

The purpose of this notice is to provide exporters of softwood lumber products with information on the third country adjustment refund under section 40 of the *Softwood Lumber Products Export Charge Act, 2006* (the Act).

The information in this notice is for reference purposes only and does not replace the Act or its regulations. Should there be any discrepancy between the information in this notice and that contained in the Act or its regulations, the legislative provisions apply. As the information in this publication may not completely address your particular situation, you may wish to refer to the relevant Act or regulations, or call one of the numbers at the end of this document for additional information.

Pursuant to subsection 40(1) of the *Softwood Lumber Products Export Charge Act, 2006* (the Act), softwood lumber exporters are eligible to claim a refund of the export charges paid in two consecutive calendar quarters if all of the following conditions occur in each of these two calendar quarters when compared respectively with each of the same two consecutive calendar quarters from the preceding year:

- the share of American consumption of softwood lumber products from imports not originating in Canada is at least 20% greater;
- the Canadian market share of American consumption of softwood lumber products has decreased; and
- the American market share of American consumption of softwood lumber products has increased.

The amount of the export charges to be refunded is calculated in accordance with subsection 40(2) or 40(3) of the Act.

American consumption of softwood lumber products

The *American Consumption of Softwood Lumber Products Regulations* (P.C. 2008-1002) prescribe the formulae for calculating the American consumption of softwood lumber products and all market shares used in determining the third country adjustment refund. The regulations also stipulate the sources of the data to be used for the calculations. For more information on the Regulations, refer to Softwood Lumber Products Export Charge Notice SWLN8, *American Consumption of Softwood Lumber Products Regulations*.

Calculating the amount of the third country adjustment refund

Refund where an export allocation is required

Under subsection 40(2) of the Act, exports of softwood lumber products for which an export allocation was required qualify for a refund equal to the amount of the charge paid. Exporters of softwood lumber products originating from a region which is subject to export allocation measures (“Option B” region) may apply for a refund equal to the amount of the export charge paid on those exports for each month covered by the refund period.

La version française de la présente publication est intitulée *Remboursement par suite du mécanisme d'ajustement pour les pays tiers*.



Canada Revenue
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Canada

Refund where an export allocation is not required

Under subsection 40(3) of the Act, exports of softwood lumber products for which an export allocation was not required qualify for a refund equal to the lesser of:

- the amount of the charge paid, and
- 5% of the export price of the softwood lumber product exported as determined in accordance with section 13 of the Act.

Exporters of softwood lumber products originating from a region that is not subject to export allocation measures (“Option A” region) may apply for a refund, as determined above, for each month covered by the refund period.

Under subsection 40(4) of the Act, if exports from a region for a month exceed the monthly trigger volume during any month of the two consecutive calendar quarters, the amount of the refund is nil. Accordingly, if the surge mechanism under section 14 of the Act was implemented in respect of any month which falls within the two consecutive calendar quarters for which a refund is being claimed, no refund will be payable. For further information on the surge charge, please refer to Softwood Lumber Products Export Charge Notice SWLN6, *Calculating and Reporting the Surge Charge*.

Claiming the third country adjustment refund

To apply for the third country adjustment refund, an exporter must complete and file forms B278, *Softwood Lumber Products Export Charge Act, 2006 – Application for Refund* and B278-1, *Softwood Lumber Products Export Charge – Supplementary Information – Third Country Adjustment*. The application must be filed within two years after the day on which the exporter originally paid the export charge.

Under subsections 40(6) and 40(7), exporters may only file one application for the refund in any calendar quarter. Where exporters are engaged in one or more activities in separate branches or divisions and are authorized under subsection 30(2) of the Act to file separate returns in relation to a branch or division, they must file refund applications in respect of each branch or division; however only one refund application may be filed in any calendar quarter in respect of each. They may claim up to six months on the same refund application.

When the market conditions described in subsection 40(1) have been satisfied and a refund for the third country adjustment is available, notification will be provided on the CRA Web site at www.cra.gc.ca/softwood.

In determining whether the market conditions exist to make the third country adjustment refund under subsection 40(1) of the Act, the use of various sources of trade data is required. These sources are identified in the *American Consumption of Softwood Lumber Products Regulations* as Statistics Canada, the United States Census Bureau and the American based Western Wood Products Association's monthly publication “Lumber Track”. This data is used in the formulae set out in the Regulations to determine the market shares. The available trade data indicates whether a refund is required to be paid under subsection 40(1) of the Act. It should be noted that, at the Minister's discretion, refunds paid under subsection 40(1) of the Act may be subject to reassessment under subsection 51(2) of the Act, including in the event that a material revision of the data affects the eligibility for a refund.

Enquiries

For questions about filing a third country adjustment refund application, please call 1-800-935-0313.

For technical enquiries about the *Softwood Lumber Products Export Charge Act, 2006*, please call 1-866-330-3304.

All technical publications on the softwood lumber products export charge are available on the CRA Web site at www.cra.gc.ca/softwood.