

J. Y. Interpretation No.126 (February 21, 1969) *

ISSUE: For the commodity with no applicable wholesale market value and the freight cost, shall such freight cost be deducted from the duty-paying value of such commodity to be levied?

RELEVANT LAWS:

Articles 3 and 8 of the Commodity Tax Act (貨物稅條例第三條、第八條) .

KEYWORDS:

commodity tax (貨物稅), duty-paying value (完稅價格), market wholesale value (市場批發價格), ex works value (出廠價格) .**

HOLDING: According to the Commodity Tax Act, for the commodity having market wholesale value to which new tax is to be applied, the duty-paying value of such commodity shall be the ex works value, not including tax and freight. In the case where there is no applicable wholesale market value and the freight cost thereof paid by the producer has been included in the ex works value, the duty-

解釋文：依照貨物稅條例，新稅貨物有市場批發價格者，其完稅價格，為未經含有稅款及運費之出廠價格。其無市場批發價格，而由產製廠商所支出之運費已包含於出廠價格之內者，其完稅價格，自不得扣除是項運費計算課征。

* Translated by Assistant Professor Y.K.Huang.

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paying value of such commodity to be levied shall not be deducted from such freight cost.

REASONING: Article 8 of the Commodity Tax Act provides that for the commodity having market wholesale value not including tax, the ex works value may be considered as its duty-paying value; Article 3, Subparagraph 1, Item 4, of the same Act also applies to the situation where the commodity's ex works value does not include tax and freight. But for the commodity having wholesale market value to which new tax is applied and the freight cost thereof paid by the producer which has been included in the ex-works value, which is obviously different from the wholesale market value which includes the freight cost thereof paid by the wholesaler, its duty-paying value shall therefore not be deducted from that freight.

Justice Shueh-Teng Lee filed dissenting opinion.

解釋理由書：按新稅貨物市場批發價格內尚未含有稅款者，得暫以出廠價格為完稅價格，貨物稅條例第八條定有明文，而出廠價格原未含有稅款及運費，亦為同條例第三條第一款之疏所明定。但新稅貨物無市場批發價格，而由產製廠商自行支出之運費，已包含於出廠價格之內者，與市場批發價格內由批發商支出之運費，顯有不同，其完稅價格，自不得將此項運費予以扣除。

本號解釋李大法官學燈提出不同意見書。