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Department of the Treasury
Washington, DC 20224

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Person To Contact:
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CC:INTL:B06
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Date:
September 30, 2025

In Re:

Legend

Taxpayer =
Parent =
Country =
Year 1 =
Year 2 =
Year 3 =
Year 4 =

Dear :

This responds to a letter dated June 18, 2025, submitted by your representatives, requesting that the Internal Revenue Service ("Service") rule that section 1059A of the Internal Revenue Code (the "Code") does not limit Taxpayer's basis or inventory cost of certain imported merchandise to the customs value that results from Taxpayer's use of the deductive value method as required under U.S. customs law.

The ruling contained in this letter is based on information and representations submitted on behalf of Taxpayer by its representatives, accompanied by a penalty of perjury statement executed by an appropriate party. This office has not verified any of the materials submitted in support of the request for a ruling, which are subject to verification on examination.

FACTS

Taxpayer is a U.S. corporation with its principal place of business in the United States, and a wholly owned subsidiary of Parent, a foreign corporation with its principal place of business in Country. Taxpayer's business includes manufacturing finished goods and components, importing finished goods and components from Parent that Parent manufactures in Country, and importing finished goods and components from other affiliates in other countries. This letter addresses only those finished goods that Parent manufactures in Country and that Taxpayer imports for distribution and resale to unrelated U.S. parties (the "Imported Products").

For Taxpayer's inventory valuation for Federal income tax purposes, the transfer prices of the Imported Products have been determined from Year 1 to Year 2 pursuant to a series of Advance Pricing Agreements ("APAs") with the Service and Country's revenue agency. Taxpayer is currently in discussions with the Service to renew its APA to cover Year 3 to Year 4.[1] The APAs provide that the price of the Imported Products is determined using a residual profit split method (RPSM). Pursuant to Taxpayer's RPSM, the returns for Parent's and Taxpayer's routine manufacturing and distribution operations are based on those of unrelated benchmark companies. The remaining (that is, residual) profit is divided between Parent and Taxpayer in proportion to the value of their non-routine contributions associated with the business in North America. Because the profitability of Parent's business in North America varies over time, the price of the Imported Products is subject to periodic review and revision to achieve results consistent with the APAs.

The Imported Products are subject to U.S. customs duties based on their customs value as determined under 19 U.S.C. § 1401a and the regulations thereunder. Pursuant to a ruling by U.S. Customs, Taxpayer determines the customs value of the Imported Products using the deductive value method specified under 19 U.S.C. §1401a(d). As described below, the deductive value method determines the customs value of the Imported Products by starting with the resale price at the first commercial level after importation (with that price determined based on the unit price at which the Imported Products are sold in the greatest aggregate quantity) and making various adjustments. These adjustments include subtracting post-importation expenses such as advertising and other selling, general, and administrative expenses.

[1] A ruling by the Service on this issue will facilitate the timely liquidation and payment of the appropriate customs duties on the Imported Products going forward. The Service is satisfied that these constitute sufficiently "unique and compelling reasons" to issue such a ruling. *See* Rev. Proc. 2025-7, sec. 2.01, 2025-1 I.R.B. 302.

RELEVANT LAW

I.R.C. § 1059A

Section 1059A generally limits the basis or inventory cost that a taxpayer can claim for Federal income tax purposes for property imported from related persons. Specifically, where the same cost is used in computing both the customs value and taxable income, the amount of that cost for purposes of computing the basis or inventory cost cannot exceed the amount of the cost for purposes of computing the customs value.

Section 1059A(a) provides:

> If any property is imported into the United States in a transaction (directly or indirectly) between related persons (within the meaning of section 482), the amount of any costs—
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> > (1) which are taken into account in computing the basis or inventory cost of such property by the purchaser, and
> >
> > (2) which are also taken into account in computing the customs value of such property,
>
> shall not, for purposes of computing such basis or inventory cost for purposes of this chapter, be greater than the amount of such costs taken into account in computing such customs value.

Section 1059A(b) defines customs value as "the value taken into account for purposes of determining the amount of any customs duties or any other duties which may be imposed on the importation of any property."

Congress enacted section 1059A in 1986 to address its concern that taxpayers were taking inconsistent factual positions with respect to their Federal income taxes and customs duties.[2] The Senate Report accompanying the bill expressed concern that "some importers may claim a transfer price for income tax purposes that is too high to be consistent with the transfer price claimed for customs purposes."[3] The Senate Report cited *Brittingham v. Commissioner*,[4] in which the Tax Court found that the taxpayer could report a higher invoice price for imported products than customs value. The Senate Report stated that "[t]he committee is particularly concerned that such practices between commonly controlled entities may improperly avoid U.S. tax." It also noted that "[c]hanges in U.S. customs laws after the 1979 Tokyo Round now generally make transactions-based pricing the rule for customs purposes."[5]

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[2] Pub. L. 99-514, § 1248(a) (1986).
[3] S. Rep. No. 99-313, at 418 (1986).
[4] 66 T.C. 373 (1976).
[5] S. Rep. No. 99-313, at 419.

While the Senate Report stated that the purpose of section 1059A is to ensure that importers "may not claim a transfer price for U.S. income tax purposes that is higher than would be consistent with the value they claim for customs purposes," it added that "[a]ppropriate adjustments may be made in applying the rule where customs pricing rules differ from appropriate tax rules."[6] Accordingly, Treas. Reg. § 1.1059A-1(c)(2) provides for adjustments whereby the following costs that are not otherwise included in computing customs value are added to the section 1059A limitation:

> **(i)** Freight charges,
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> **(ii)** Insurance charges,
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> **(iii)** The construction, erection, assembly, or technical assistance provided with respect to, the property after its importation into the United States, and
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> **(iv)** Any other amounts which are not taken into account in determining the customs value, which are not properly includible in customs value, and which are appropriately included in the cost basis or inventory cost for income tax purposes.

While section 1059A essentially places a ceiling on the amount of costs a taxpayer may claim for tax purposes based on the amount of those same costs as claimed for customs purposes, the statute does not apply to any particular costs that are not considered for customs purposes. Treas. Reg. § 1.1059A-1(c)(7) further clarifies that section 1059A limits only the amount of costs that a *taxpayer* may claim, but it in no way constrains the inherent authority of the Service to determine the proper basis or inventory costs under section 482.[7]

Section 482 provides, in relevant part:

> In any case of two or more organizations, trades, or businesses (whether or not incorporated, whether or not organized in the United States, and whether or not affiliated) owned or controlled directly or indirectly by the same interests, the Secretary may distribute, apportion, or allocate gross income, deductions, credits, or allowances between or among such organizations, trades, or businesses, if he determines that such distribution, apportionment, or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any of such organizations, trades, or businesses.

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[6] *Id.*

[7] *See also* Joint Comm. on Taxation, General Explanation of the Tax Reform Act of 1986, JCS-10-87, at 1062 ("[I]n no event does a customs declaration or customs valuation constrain the ability of the Commissioner to adjust transfer prices under section 482.").

Customs Value

For purposes of determining U.S. customs duties and fees, 19 U.S.C. § 1401a(a) establishes a strict hierarchy of methods for determining the customs value of imported merchandise. The preferred method under the statute is the "transaction value of imported merchandise." The transaction value is defined in 19 U.S.C. § 1401a(b) as the price actually paid or payable for the merchandise when sold for exportation to the United States, plus certain additional amounts incurred by the buyer or that otherwise accrue to the seller as a result of the transaction.

If the transaction value of the imported merchandise cannot be determined, or if a transaction value between related parties is not demonstrated to be "acceptable" under 19 U.S.C. § 1401a(b)(2), customs value must be determined using the value of identical merchandise or, if identical merchandise cannot be determined, similar merchandise under 19 U.S.C. § 1401a(c). If these values cannot be determined, the importer may request to apply the computed value method under 19 U.S.C. § 1401a(e). If the importer does not request to apply the computed value method, then customs value generally must be determined using the deductive value method under 19 U.S.C. § 1401a(d).

The process for applying the deductive value method is described in 19 U.S.C. § 1401a(d). Unlike the methods based on transactional value, which begin with the costs incurred by the importer, the deductive value method begins with the importer's sales price at the first commercial level after importation. The sales price for this purpose is a derived amount based on the unit price at which the merchandise concerned is sold in the greatest aggregate quantity to unrelated persons at the first commercial level after importation. The term "merchandise concerned," as defined in 19 U.S.C. § 1401a(h), means the merchandise being appraised, identical merchandise, or similar merchandise.

To arrive at the customs value, the derived sales price is reduced by the following:

> **(i)** any commission usually paid or agreed to be paid, or the addition usually made for profit and general expenses, in connection with sales in the United States of imported merchandise that is of the same class or kind, regardless of the country of exportation, as the merchandise concerned;
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> **(ii)** the actual costs and associated costs of transportation and insurance incurred with respect to international shipments of the merchandise concerned from the country of exportation to the United States;
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> **(iii)** the usual costs and associated costs of transportation and insurance incurred with respect to shipments of such merchandise from the place of importation to the place of delivery in the United States, if such costs are not included as a general expense under clause (i);

> **(iv)** the customs duties and other Federal taxes currently payable on the merchandise concerned by reason of its importation, and any Federal excise tax on, or measured by the value of, such merchandise for which vendors in the United States are ordinarily liable; and
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> **(v)** [when there is further processing] the value added by the processing of the merchandise after importation to the extent that the value is based on sufficient information relating to cost of such processing.

ANALYSIS

Section 1059A(a) imposes a limit on any costs that are both "taken into account in computing the basis or inventory cost" and "also taken into account in computing the customs value" of property that a taxpayer imports from a related party. Under section 1059A(a)(2), the limit applies only to certain costs, like those included in the transaction value determined pursuant to 19 U.S.C. § 1401a(b), common to the computation of both customs value and taxable income. The statute requires that the amounts of such costs used to determine inventory cost or basis do not exceed the amounts of those same costs as reported for customs valuation.

Section 1059A, like section 482, prevents abuses that arise due to related-party transactions, and in enacting it Congress sought to ensure greater consistency between the customs valuation and transfer pricing of imported merchandise.[8] Nevertheless, Congress also acknowledged that there may be differences in customs valuation rules and Federal income tax rules.[9] Treas. Reg. § 1.1059A-1(c)(2) thus permits certain adjustments to the customs value, "for purposes of determining the limitation on claimed basis or inventory cost of property," to allow taxpayers to account for costs that are properly included in inventory or cost basis but not customs valuation, like freight charges or insurance charges, or "[a]ny other amounts which are not taken into account in determining the customs value, which are not properly includible in customs value, and which are appropriately included in the cost basis or inventory cost for income tax purposes."

For example, when a taxpayer determines customs value using the transaction value method, generally that transaction value is the cost that the importer pays for the imported merchandise with additional costs added to that amount. For imported merchandise purchased from a related party, the costs the importer pays—either for the imported merchandise or other related-party costs added to reach customs value—could be manipulated for tax purposes, just as with other related party transactions subject to adjustment under section 482. Section 1059A ensures that taxpayers cannot

[8] S. Rep. No. 99-313, at 418.
[9] *Id.* at 419.

price the same related party transaction—that is, the purchase of the imported merchandise—inconsistently for transfer pricing and customs valuation purposes.[10]

Accordingly, section 1059A establishes a ceiling such that costs taken into account in determining the imported property's basis or inventory cost may never exceed the respective costs "taken into account in computing the customs value" of such property for any reason other than specifically permitted adjustments. However, section 1059A does not impose a ceiling by reference to the customs value itself.[11] Unlike when using the transaction value method, when a taxpayer applies the deductive value method under 19 U.S.C. § 1401a(d) the final customs value does not reflect a cost "taken into account" for determining the customs value. Specifically, the starting point of the deductive value method in 19 U.S.C. § 1401a(d)(2) is not a cost paid by the importer—it is a constructed resale price paid by third parties based on the most common unit price.

From this constructed resale price, various adjustments are subtracted, under 19 U.S.C. § 1401a(d)(3)(A), to arrive at the customs value. To the extent these adjustments reflect related-party costs that are included in basis or inventory cost, they are indeed "taken into account in computing" basis or inventory cost and thus section 1059A could potentially limit their amount for income tax purposes.[12] Nevertheless, the final product of the deductive value method—the "customs value"—is not a cost taken into account in determining the customs value, but rather it is the customs value itself, a derived amount based on a formula prescribed by U.S. customs law. Therefore, section 1059A does not apply to treat the bottom-line customs value reached using the deductive value method as a ceiling on inventory or cost basis.

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[10] *See id.*

[11] *Compare* section 1059A(a)(2) ("costs") *with* section 1059A(b)(2) ("customs value").

[12] This ruling does not address whether section 1059A applies to any such adjustments that factor into the Taxpayer's deductive value method, as applied, although we note that these costs are apparently a mix of notional amounts (for instance, any commission "usually paid") and actual costs (for instance, the actual costs of transportation and insurance incurred with respect to international shipments). Taxpayer has represented that the amount of any such costs is the same between customs and tax valuation, and in most instances are costs of transactions with third parties and therefore are not subject to manipulation.

CONCLUSION

Section 1059A does not limit the basis or inventory cost of the Imported Products to the customs value that results from Taxpayer's use of the deductive value method as required under U.S. customs law.

Sincerely,

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Brad L. McCormack
Senior Technical Reviewer, Branch 6
Office of Associate Chief Counsel (International)

Enclosures
Copy of this letter
Copies for § 6110 purposes

cc: