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Slash Import Duties with the **First Sale Rule**

A Comprehensive Guide
to Requirements, Pitfalls,
and Resources



**MAKE THE
TRADE™**

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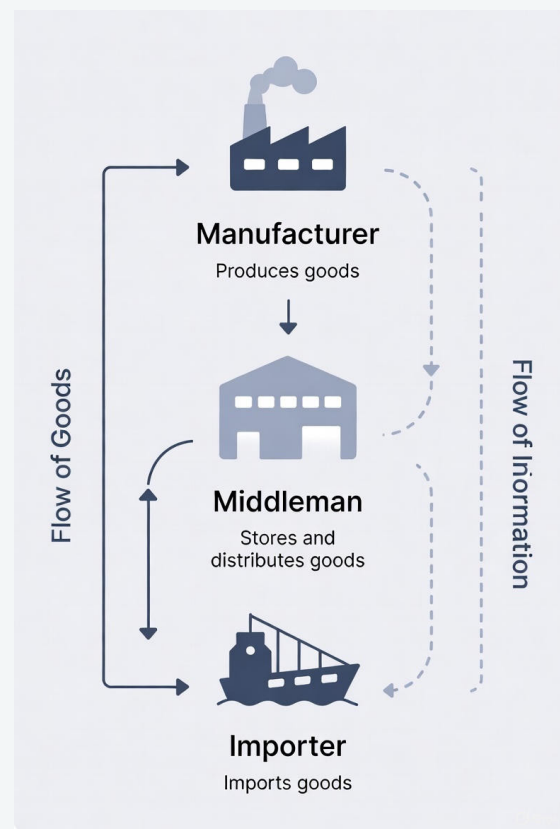
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In the wake of recent tariff adjustments under the Trump administration, U.S. importers are seeking innovative ways to minimize duty exposure while ensuring compliance with **U.S. Customs and Border Protection** (CBP) regulations.

The **First Sale Rule** offers a powerful customs valuation strategy that can significantly reduce duty costs in multi-tiered transactions—if executed correctly.

This guide explores the mechanics of the First Sale Rule, its critical requirements, common pitfalls, and practical resources to help importers unlock its benefits.





Understanding the First Sale Rule

The **First Sale Rule** allows importers to declare the manufacturer's "first sale" price—the price paid by a middleman to the manufacturer—as the dutiable value, rather than the middleman's higher invoice price to the U.S. importer.

By using the lower first sale price, importers can reduce their duty liability, especially for goods subject to high duty rates or imported in large volumes.

The First Sale Rule allows importers to declare the manufacturer's "first sale" price as the dutiable value, reducing duty liability if all criteria are met.

How It Works:

A Real-World Example

Imagine a manufacturer in Bangladesh sells a pair of jeans to a Singapore trading company for \$8 per unit. The trading company resells the jeans to a U.S. importer for \$15 per unit. With a duty rate of 30%:

Without First Sale Rule:

Duties are based on the \$15 invoice price, resulting in \$4.50 per unit in duties.

With First Sale Rule:

Duties are based on the \$8 first sale price, resulting in \$2.40 per unit in duties.



Example:

For a shipment of 50,000 pairs of jeans, the **First Sale Rule** saves \$105,000.

(\$225,000 vs. \$120,000 in duties)

These savings can transform an importer's cost structure, enhancing competitiveness in price-sensitive markets.



Key Requirements for the First Sale Rule

To qualify, importers must prove goods were destined for the U.S., transactions were at arm's length, and sales were bona fide with transfer of risk.

To apply the First Sale Rule, importers must satisfy three CBP criteria, each requiring meticulous documentation and a fact-based analysis. CBP evaluates the totality of the circumstances to determine eligibility.⁴

Goods Destined for the U.S.

The goods must be clearly intended for export to the U.S. from the time of manufacture through final delivery. This intent must be documented in contracts, purchase orders, and shipping records. Goods produced for multiple markets or redirected to the U.S. mid-transit may not qualify.

Arm's Length Transactions.

Each sale in the transaction chain must be at arm's length, meaning the price is unaffected by relationships between parties. For unrelated parties, arm's length is presumed. For related parties (e.g., a manufacturer and its subsidiary), importers must prove the price reflects market value, often through a transfer pricing study or comparable unrelated-party transactions.⁵

Bona Fide Sales.

Each transaction must involve a genuine sale, with a transfer of title and risk of loss for a meaningful period. CBP scrutinizes whether the middleman assumes ownership and risk, even briefly. Transactions involving "flash title"—where title passes momentarily without risk transfer—are unlikely to qualify.⁶

Common Pitfalls and Mitigation Strategies

The First Sale Rule's benefits come with compliance challenges. CBP's increased scrutiny means importers must anticipate and address potential issues proactively. Below are the most common pitfalls and how to avoid them:

1	Goods Not Destined for the U.S.	If goods are manufactured for a global market or rerouted to the U.S. after production, CBP may reject the first sale valuation.
	Solution:	Ensure all documentation—purchase orders, contracts, and shipping records—explicitly designates the U.S. as the destination from the outset. Work with suppliers to align production and logistics with U.S. export intent.
2	Insufficient Documentation	CBP requires a comprehensive paper trail, including contracts, invoices, payment records, proof of title transfer, and shipping documents. Gaps or inconsistencies can lead to audits or duty reassessments. ⁷
	Solution:	Develop a standardized documentation checklist and retain records for at least five years, as required by CBP. Use digital trade platforms to centralize and organize documents.
3	Flash Title Issues	Transactions where the middleman holds title fleetingly (e.g., during transit) may not meet the bona fide sale requirement.
	Solution:	Structure agreements to ensure the middleman assumes meaningful risk, such as through insurance, liability clauses, or inventory holding periods. Document these arrangements clearly.
4	Related-Party Pricing Issues	For related parties, CBP closely examines whether the first sale price aligns with market rates. Failure to substantiate arm's length pricing can disqualify the first sale.
	Solution:	Conduct a transfer pricing analysis or benchmark prices against unrelated-party transactions. Engage customs or tax professionals to validate pricing methodologies.

Industries Poised for Savings

The First Sale Rule is particularly impactful for industries with high duty rates or complex supply chains.

Key beneficiaries include:

Apparel and Textiles: Duty rates of 15%–40% make first sale savings substantial.

Electronics: High-value goods with moderate duties benefit from lower dutiable values.

Footwear: High duties (up to 37.5%) amplify savings potential.

Consumer Goods: Products like toys or housewares with multi-tiered supply chains are prime candidates.

Industries such as apparel, electronics, and consumer goods benefit significantly due to high duty rates and complex supply chains.



For instance, an electronics importer sourcing components through a Taiwan distributor could declare the manufacturer's price in China, reducing duties significantly.

Similarly, a footwear retailer importing sneakers via a trading company could save millions annually by leveraging the first sale.

Advanced Considerations

Importers can combine the **First Sale Rule** with other programs like **FTZs** or **Duty Drawback** for greater savings and compliance assurance.

Beyond the basics, importers should consider the following to maximize the First Sale Rule's benefits:

Supply Chain Optimization: Restructure supply chains to ensure clear U.S. export intent and robust middleman roles. This may involve renegotiating contracts or selecting middlemen with established risk-bearing capacity.

CBP Advance Rulings: For high-value or complex transactions, request a binding ruling from CBP to confirm first sale eligibility. This reduces audit risk and provides certainty.⁹

Integration with Other Duty-Saving Programs: Combine the First Sale Rule with programs like Foreign Trade Zones (FTZs) or Duty Drawback to amplify savings. Consult a trade expert to explore synergies.¹⁰

Audit Preparedness: CBP's focus on valuation means audits are likely. Conduct internal compliance reviews to identify vulnerabilities and strengthen documentation.



Step-by-Step Guide to Implementation

To adopt the First Sale Rule effectively, follow these steps:

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| 1 | Assess Eligibility | Analyze your supply chain to confirm the goods are destined for the U.S., transactions are at arm's length, and sales are bona fide. Identify all tiers and parties involved. |
| 2 | Build a Documentation Framework | Collaborate with suppliers and middlemen to collect and organize required documents, including contracts, invoices, payment records, and proof of title transfer. Use a checklist to ensure completeness. |
| 3 | Validate Pricing | For related-party transactions, conduct a transfer pricing study or market benchmarking to substantiate arm's length pricing. Retain supporting data for CBP review. |
| 4 | Seek Expert Guidance | Engage customs attorneys, trade compliance specialists, or transfer pricing consultants to review your first sale strategy and address complex issues like related-party pricing or flash title risks. |
| 5 | Monitor and Audit | Regularly review your first sale program to ensure compliance as supply chains, tariffs, or CBP policies evolve. Conduct periodic internal audits to identify and resolve gaps. |

Essential Resources for Importers

1. **CBP Informed Compliance Publications:** Review CBP's "First Sale" publication for detailed guidance and case studies.¹¹
2. **CBP Rulings Online Search System (CROSS):** Search CROSS for precedent rulings on first sale valuations specific to your industry or product.¹²
3. **U.S. International Trade Commission (USITC):** Use the Harmonized Tariff Schedule to determine duty rates and estimate savings potential.¹³
4. **Trade Associations:** Organizations like the American Association of Exporters and Importers (AAEI) and the National Customs Brokers & Forwarders Association of America (NCBFAA) offer training, webinars, and compliance tools.^{14 15}
5. **World Customs Organization (WCO):** Explore the WCO's Customs Valuation Compendium for global valuation standards that inform CBP's approach.¹⁶
6. **Schulz Trade Law PLLC:** Our team specializes in customs valuation and compliance. For tailored advice or to request a first-sale feasibility assessment, email service@schulztradelaw.com.

1. U.S. Customs and Border Protection, "Customs Valuation Encyclopedia," <https://www.cbp.gov/trade/rulings/informed-compliance-publications>.

2. U.S. Customs and Border Protection, "What Every Member of the Trade Community Should Know About: First Sale," Informed Compliance Publication, <https://www.cbp.gov/trade/rulings/informed-compliance-publications>.

3. U.S. International Trade Commission, "Harmonized Tariff Schedule of the United States," <https://hts.usitc.gov/>.

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5. World Customs Organization, "Customs Valuation Compendium," <http://www.wcoomd.org/en/topics/valuation.aspx>.

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11. U.S. Customs and Border Protection, "What Every Member of the Trade Community Should Know About: First Sale," Informed Compliance Publication, <https://www.cbp.gov/trade/rulings/informed-compliance-publications>.

12. U.S. Customs and Border Protection, "CBP Rulings Online Search System (CROSS)," <https://rulings.cbp.gov/>.

13. U.S. International Trade Commission, "Harmonized Tariff Schedule of the United States," <https://hts.usitc.gov/>.

14. American Association of Exporters and Importers, "Resources," <https://www.aaei.org/resources>.

15. National Customs Brokers & Forwarders Association of America, "Education," <https://www.ncbfaa.org/education>.

16. World Customs Organization, "Customs Valuation Compendium," <http://www.wcoomd.org/en/topics/valuation.aspx>.

17. U.S. Customs and Border Protection, "Trade Enforcement," <https://www.cbp.gov/trade/trade-enforcement>.

Why Act Now?

With CBP intensifying its focus on customs valuation and tariff policies shifting, relying on outdated or assumption-based strategies is a recipe for audits, penalties, or missed savings.¹⁷ The First Sale Rule is more than a compliance tool—it's a strategic lever to reduce costs, enhance profitability, and gain a competitive edge. However, its success depends on rigorous planning, documentation, and compliance.

The First Sale Rule can unlock significant savings if you're importing apparel, electronics, footwear, or consumer goods. Don't let complexity deter you—our team at Schulz Trade Law PLLC is ready to guide you through every step, from feasibility analysis to CBP ruling requests.

Ready to slash your duty costs?

Contact us today to explore how the First Sale Rule can transform your import strategy.

Schulz Trade Law

Schulz Trade Law PLLC is a boutique law firm dedicated to customs, trade compliance, and international trade law.



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