



The Bottom Line

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DOCUMENTATION FOR THE DECLARATION OF US GOODS RETURNED

Summary

Customs and Border Protection (CBP) on Aug. 20 released updated guidance regarding importer and customs broker responsibilities when filing duty free claims, and documents that the agency may request to support claims of U.S. Goods returned.

Background

Customs Duty is a tariff or tax imposed on goods when transported across international borders. The purpose of Customs Duty is to protect each country's economy, residents, jobs, environment, etc., by controlling the flow of goods, especially restrictive and prohibited goods, into and out of the country.

The Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA) was signed into law P.L. 114-125 on February 24, 2016. It represented the first comprehensive authorization of U.S. Customs and Border Protection since the Department of Homeland Security was created in 2003, with the overall objective to ensure a fair and competitive trade environment. On April 25, 2016, a change to HTSUS Chapter 98 for U.S. goods returned went into effect. Specifically, section 904(b) of the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA), "Modification of Provisions Relating to Returned Property," amended HTSUS Subheading 9801.00.10 to read: Products of the United States when returned after having been exported, or any other products when returned within 3 years after having been exported, without having been advanced in value or improved in condition by any process of manufacture or other means while abroad.

The expansion of Subheading 9801.00.10 includes all products exported from and returned to the United States, regardless of country of origin. For U.S. origin products, there is no time limit on filing a claim. For foreign origin products, there is a 3-year time limit.

Current Status

A proposed regulatory change will align Customs regulations with TFTEA as referenced above. In the interim, for shipments valued over \$2,500, the following documents may be requested from the importer to determine if the duty-free exemption under Subheading 9801.00.10 applies for either U.S. manufactured goods exported from and returned to the United States at any time, or foreign origin goods exported from the United States and returned within the 3-year time limit.

1. For either U.S. manufactured goods or foreign origin goods:

a. [Declaration](#) by Foreign Shipper indicating that the products were not

advanced in value or improved in condition while outside the United States. Alternatively, a certificate from the master of a vessel stating that the products are returned without having been un-laden from the exporting vessel is acceptable.

b. [Declaration](#) by the owner, importer, consignee, or agent having knowledge of the facts regarding the duty-free claim. If the owner or ultimate consignee is a corporation, such declaration may be signed by the president, vice president, secretary, or treasurer of the corporation, or may be signed by an employee or agent of the corporation who holds a power of attorney and a certification by the corporation that such employee or other agent has or will have knowledge of the pertinent facts.

2. For U.S. manufactured goods valued over \$2,500 entered three years after the date of exportation that are not clearly marked with the name and address of the U.S. manufacturer, CBP may require, in addition to the declarations above, additional documents to substantiate the claim for duty-free treatment including a [statement](#) from the U.S. manufacturer verifying that the articles were made in the United States.

Impact

The importer of record has the burden to prove their claim for duty-free treatment. Failure to provide documentation when requested by CBP may result in CBP assessing duty on the imported articles at the standard non-preferential rate.

RESOURCES

[Requirements for Subheading 9801.00.10 - U.S. and Foreign Goods Returned](#) (Customs and Border Protection)

[Updated Requirements for Importers and Brokers Regarding HTS Subheading 9801.00.10 - U.S. and Foreign Goods Returned](#) (Customs and Border Protection)