

§ 159.4

quantity with any fractional part expressed in the form of a decimal extended to two places.

§ 159.4 Alcoholic beverages.

(a) *Quantities subject to duties.* Customs duties and internal revenue taxes on alcoholic beverages provided for in headings 2207 and 2208, Harmonized Tariff Schedule of the United States (HTSUS), (19 U.S.C. 1202), and subject to internal revenue taxes shall be collected only on the number of proof gallons and fractional parts thereof, entered or withdrawn for consumption. No internal revenue tax shall be collected on distilled spirits in bulk which have been transferred to Internal Revenue bonded premises in accordance with §141.102(b) of this chapter. Customs duties and internal revenue taxes on alcoholic beverages other than sub-headings 2206.00.30 and 2206.00.90, HTSUS, and distilled spirits provided for in headings 2207 and 2208, shall be collected only on the number of wine gallons and fractional parts thereof, entered or withdrawn for consumption.

(b) *Computation of duties.* In the computation of Customs duties on alcoholic beverages provided for in headings 2207 and 2208 (19 U.S.C. 1202), which are also subject to internal revenue taxes, the methods prescribed for the computation of internal revenue taxes on such beverages shall be followed. The following methods apply to the specific beverages shown:

(1) *Distilled spirits.* The quantity of distilled spirits imported in barrels, kegs, or similar containers shall be ascertained in accordance with the regulations of the Bureau of Alcohol, Tobacco and Firearms. Where distilled spirits are imported in bottles, jugs, or similar containers, Customs duties and taxes shall be collected on the exact quantity contained in each case or other outer container, fractional parts of a gallon being carried out to three decimal places utilizing the proof gallon method of computation.

(2) *Wine.* Customs duties and taxes on wines shall be on the basis of a wine gallon of liquid measure equivalent to 231 cubic inches and shall be paid proportionally on all fractional parts of a wine gallon. Fractions of less than one-tenth gallon shall be converted to the

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nearest one-tenth gallon, and five-hundredths gallon shall be converted to the next full one-tenth gallon.

(3) *Beer and similar fermented beverages.* Customs duties and taxes on beer, ale, porter, stout, and other similar fermented beverages, including sake, of any name or description containing one-half of 1 percent or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor, shall be collected in accordance with section 5051(a), Internal Revenue Code of 1954 (26 U.S.C. 5051(a)).

[T.D. 73-175, 38 FR 17482, July 2, 1973, as amended by T.D. 78-329, 43 FR 43455, Sept. 26, 1978; T.D. 80-271, 45 FR 75641, Nov. 17, 1980; T.D. 89-1, 53 FR 51270, Dec. 21, 1988]

§ 159.5 Cigars, cigarettes, and cigarette papers and tubes.

The internal revenue taxes imposed on cigars, cigarettes, and cigarette papers and tubes under section 5701 or 7652, Internal Revenue Code of 1954 (26 U.S.C. 5701 or 7652), are determined in accordance with section 5703 of that Code (26 U.S.C. 5703) at the time of removal; that is, on the quantity removed from Customs custody under the entry or withdrawal for consumption. The Customs duties, unlike those on alcoholic beverages, do not necessarily apply only to such quantities.

§ 159.6 Difference between liquidated duties and estimated duties.

(a) *Difference under \$20 in original liquidation.* When there is a net difference of less than \$20 between the total amount of duties, fees, taxes, and interest assessed in the liquidation of any entry (other than an informal, mail, or baggage entry) and the total amount of estimated duties, fees, and taxes deposited, including any supplemental deposit, the difference shall be disregarded and the entry endorsed "as entered." In the case of an informal, mail, or baggage entry, the amount of duties, fees, and taxes computed by a Customs officer when the entry is prepared by, or filed with, him shall be considered the liquidated assessment.

(b) *Difference under \$20 in reliquidation.* When there is a net difference of less than \$20 between the total amount of duties, fees, taxes, and interest

found due in the reliquidation of any entry and the total amount of duties, fees, taxes, and interest assessed in the prior liquidation of the entry, the difference shall be disregarded except in the following cases:

(1) *Reliquidation at importer's request.* When reliquidation of any entry is made at the importer's request, such as reliquidation following the allowance of a protest under section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), or a request for correction under section 520(c), Tariff Act of 1930, as amended (19 U.S.C. 1520(c)), any refund determined to be due shall be refunded even if less than \$20.

(2) *Court decision.* Any refund or increase determined to be due as the result of the reliquidation of an entry in accordance with a court decision and judgment order shall be refunded or collected as the case may be.

(c) *Difference of \$20 or more collected or refunded.* If there is a difference of \$20 or more between the duties, fees, taxes, and interest assessed in the liquidation of an entry and the total estimated duties, fees, and taxes deposited, or between the total duties, fees, taxes, and interest assessed in the reliquidation of an entry and those assessed in the prior liquidation, the entry shall be endorsed to show the difference and bills or refund checks shall be issued.

(d) *Customs duties and fees and internal revenue taxes and interest netted for \$20 limit.* The assessments of Customs duties and fees and internal revenue taxes and interest shall be separately stated on the entry at the time of liquidation, but the amounts of any differences shall be netted when applying the \$20 minimum for issuance of a bill or refund check.

[T.D. 73-175, 38 FR 17482, July 2, 1973, as amended by T.D. 78-394, 43 FR 49791, Oct. 25, 1978; T.D. 94-51, 59 FR 30296, June 13, 1994; 64 FR 56440, Oct. 20, 1999]

§ 159.7 Rewarehouse entries.

The liquidation of the original warehouse entry shall be followed in determining the liability for duties on a rewarehouse entry, except in the following cases:

(a) *Merchandise excluded from liquidation of original warehouse entry.* When any of the following types of merchan-

dise are withdrawn from warehouse for transportation to another port, they shall be excluded from the liquidation of the original warehouse entry, and the liability for duties shall be determined by a liquidation of the rewarehouse entry made at the port where the merchandise is withdrawn for consumption or for exportation:

(1) Alcoholic beverages provided for in headings 2203 through 2208, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202), and subject to internal revenue taxes;

(2) Cigars, cigarettes, and cigarette papers and tubes subject to internal revenue taxes;

(3) Tariff-rate quota merchandise; and

(4) Wool or hair subject to duty at a rate per clean kilogram under Chapter 51, HTSUS.

(b) *Reliquidation required by change in rate.* When a rate of Customs duty or tax is changed by an act of Congress or a proclamation of the President, any necessary reliquidation of Customs duty or tax on merchandise covered by a rewarehouse entry which may be required by reason of the change in rate shall be made at the port where the merchandise is held in Customs custody on the effective date of the change.

(c) *Shortage, irregular delivery, non-delivery, and other cases.* In cases involving shortage, irregular delivery, or nondelivery under the original warehouse withdrawal for transportation, or in other cases when the port director of the port where the merchandise is entered for rewarehouse is of the opinion that circumstances make it inadvisable to follow the liquidation of the original warehouse entry, he shall make an appropriate adjustment in the amount of duties to be assessed under the rewarehouse entry.

[T.D. 73-175, 38 FR 17482, July 2, 1973, as amended by T.D. 89-1, 53 FR 51270, Dec. 21, 1988; T.D. 90-78, 55 FR 40168, Oct. 2, 1990]

§ 159.8 Allowance for loss, injury, etc.

Allowance in duties for any merchandise which is lost, stolen, destroyed, injured, abandoned, or short-shipped shall be made in accordance with the provisions of part 158 of this chapter.