

## § 148.37

## 19 CFR Ch. I (4-1-02 Edition)

abroad shall not be granted to a returning resident who has taken advantage of such exemption within the 30-day period immediately preceding his return to the United States. The date of the returning resident's latest prior arrival on which he declared articles acquired abroad for allowance of the \$400, \$600, or \$1,200 exemption shall be deemed the date he took advantage of the applicable exemption.

(b) *Computation of time.* The 30-day period immediately preceding the resident's return shall be computed by excluding the day of arrival and counting backward 30 days. For example, in the case of an arrival on May 28, the resident would not be entitled to the \$400, \$600, or \$1,200 exemption if he had taken advantage of such exemption on or after the preceding April 28.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 86-118, 51 FR 22516, June 20, 1986; T.D. 97-75, 62 FR 46442, Sept. 3, 1997]

### § 148.37 Replacement of unsatisfactory articles acquired abroad.

(a) *Free entry of replacement articles.* An article furnished by a foreign supplier to replace a like article of comparable value previously exempted from duty under the \$400, \$600, or \$1,200 exemptions for articles acquired abroad shall be allowed free entry if the original article is found by the importer to be unsatisfactory and the procedures provided by paragraph (b) of this section are followed. In any case in which the importer has failed to follow these procedures, the port director may allow free entry of the replacement article if he is satisfied that the unsatisfactory article was timely exported and that the failure to comply with the procedures of paragraph (b) of this section was due to inadvertence or lack of experience in Customs matters and was without willful intent to avoid Customs supervision.

(b) *Procedure for replacement.* Any article previously exempted from duty under the \$400, \$600, or \$1,200 exemptions found by the importer to be unsatisfactory shall be returned to Customs custody and exported under Customs supervision at the expense of the importer within 60 days after its importation. A certificate of registration on Customs Form 4455 shall be issued

to the importer with instructions as to its use when the unsatisfactory article is exported for replacement under the provisions of subheading 9804.00.75, Harmonized Tariff Schedule of the United States.

(c) *Articles found damaged upon declaration.* The requirement that the original article be exported under Customs supervision does not apply when a duplicate article is furnished by a foreign supplier as a replacement for an article declared for entry under the \$400, \$600, or \$1,200 exemption and found by the Customs inspector or other examining officer to be so damaged as to constitute a nonimportation (§158.11 of this chapter). In such a case, Customs Form 4455 shall be issued to the importer at the time the determination of nonimportation is made and the duplicate replacement shall be considered to have been acquired abroad for the purposes of the \$400, \$600, or \$1,200 exemption provision, provided no charge is made to the importer for the duplicate replacement.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 86-118, 51 FR 22516, June 20, 1986; T.D. 89-1, 53 FR 51264, Dec. 21, 1988; T.D. 97-75, 62 FR 46442, Sept. 3, 1997]

### § 148.38 Sale of articles acquired abroad.

An article brought in under the \$400, \$600, or \$1,200 exemption for articles acquired abroad for personal or household use and subsequently sold is not dutiable or subject to forfeiture by reason of the sale if the returning resident actually acquired and imported the article for his bona fide personal or household use and not for sale.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 86-118, 51 FR 22516, June 20, 1986; T.D. 97-75, 62 FR 46442, Sept. 3, 1997]

### § 148.39 Rented automobiles.

(a) *Importation for temporary period.* An automobile rented by a resident of the United States while abroad may be brought into the United States by or on behalf of such resident for a temporary period not to exceed 30 days under subheading 9804.00.60, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202), without payment of duty. The automobile shall be used for the transportation of

the resident and that of his family and guests, and for such incidental carriage of articles as may be appropriate to his personal use of the automobile. No entry or security for exportation shall be required.

(b) *Unauthorized use or failure to export.* If any automobile exempted from duty under subheading 9804.00.60, HTSUS (19 U.S.C. 1202), is used otherwise than for the purpose expressed or is not returned abroad within 30 days, without prior payment to a port director of the duty which would have been payable at the time of entry if entered without benefit of the exemption, the automobile or its value (to be recovered from the importer) shall be subject to forfeiture.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 89-1, 53 FR 51264, Dec. 21, 1988]

### Subpart E—Exemptions for Nonresidents

#### § 148.41 Articles carried through the United States.

An arriving nonresident who is in transit to a place outside U.S. Customs territory may take with him through U.S. Customs territory for carriage to such place articles not exceeding \$200 in aggregate value (including not more than 4 liters of alcoholic beverages) without the payment of duty or internal revenue taxes as provided in subheading 9804.00.40, Chapter 98, U.S. Note 3, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202).

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 78-394, 43 FR 49788, Oct. 25, 1978; T.D. 89-1, 53 FR 51264, Dec. 21, 1988; T.D. 97-82, 62 FR 51771, Oct. 3, 1997]

#### § 148.42 Personal effects.

(a) *Exemption.* A nonresident arriving in the United States, regardless of age, is entitled under subheading 9804.00.20, and Chapter 98, U.S. Note 3, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), to entry free of duty and internal revenue tax for his wearing apparel, articles of personal adornment, toilet articles, and similar personal effects. "Similar personal effects" include all articles intended and appropriate for the personal use of the

nonresident while traveling, such as hunting and fishing equipment, wheelchairs for invalids or crippled persons, pet and hunting dogs, and the like.

(b) *Application of exemption.* The exemption applies only to articles which were actually owned by the nonresident and in his possession abroad at the time of, or prior to, his departure for the United States. The articles must be appropriate for the personal use of the nonresident, and intended only for such use and not as a gift for another person nor for sale.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 89-1, 53 FR 51264, Dec. 21, 1988]

#### § 148.43 Tobacco products and alcoholic beverages.

(a) *For personal use.* Fifty cigars, or 200 cigarettes, or 2 kilograms of smoking tobacco, and not exceeding 1 liter of alcoholic beverages may be passed free of duty and internal revenue tax under subheading 9804.00.25 and Chapter 98, U.S. Note 3, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202), when brought in by an adult nonresident for his personal use, and not for commercial use or to be given to another person. This exemption for tobacco products may be applied proportionately. The exemption may be applied to more than one kind of alcoholic beverages but not to an aggregate volume of more than 1 liter for one adult nonresident.

(b) *For gifts.* A nonresident who is allowed the \$100 gift exemption (see § 148.44) may include not more than 100 cigars under such exemption from duty and internal revenue tax, provided the cigars accompany him and are to be disposed of only as bona fide gifts.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 78-394, 43 FR 49789, Oct. 25, 1978; T.D. 80-19, 45 FR 45580, July 7, 1980; T.D. 89-1, 53 FR 51264, Dec. 21, 1988]

#### § 148.44 Gifts.

(a) *Exemption.* An arriving nonresident who intends to remain in the United States for not less than 72 hours is entitled to claim as free of duty and internal revenue tax under subheading 9804.00.30 and Chapter 98, U.S. Note 3, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), articles