

- (2) Lived together in one household at their last permanent residence; and
- (3) Intend to live in one household after their arrival in the United States.

[T.D. 78-394, 43 FR 49789, Oct. 25, 1978]

§ 148.104 Frequency of use.

(a) *30-day period.* The flat rate of duty shall not apply to a person who has used the provision within the 30-day period immediately prior to his arrival in the United States. The date of the person's last arrival on which he declared articles for which the flat rate of duty was applicable shall be considered the date that rate was last used.

(b) *Computation of time.* The 30-day period immediately prior to the person's arrival in the United States shall be computed by excluding the day of arrival and counting backward 30 days.

(c) *Remainder not applicable to subsequent journey.* A person who has received a flat rate of duty allowance of less than \$1,000 in connection with his return from one journey is not entitled to apply the remainder to articles acquired abroad on a subsequent journey.

[T.D. 78-394, 43 FR 49789, Oct. 25, 1978, as amended by T.D. 86-118, 51 FR 22516, June 20, 1986; T.D. 97-75, 62 FR 46443, Sept. 3, 1997]

§ 148.105 Procedure for excluding articles from flat rate of duty.

(a) *Generally.* Any person who has information that merchandise is being imported into the United States under the provisions of subheading 9816.00.20 or 9816.00.40, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), and this subpart which adversely affects the economic interest of the United States may communicate the information in writing to the Commissioner of Customs, Attention: Office of Field Operations, Washington, DC 20229.

(b) *Content of communication.* The communication to the Commissioner need not be in any particular form but shall contain the following:

- (1) The name of the individual and the person, firm, or association the individual represents, if any;
- (2) The nature of the individual's interest in the matter, if any;
- (3) A description of the merchandise, which it is alleged affects the economic

interest of the United States adversely, including subheadings of the HTSUS, if known;

(4) The country of acquisition and the ports and dates of entry of the merchandise, if known; and

(5) A statement and supporting evidence as to the manner in which the individual believes the economic interest of the United States is being adversely affected.

(c) *Inquiry to be conducted.* Upon receipt of a communication containing the information required by paragraph (b) of this section, an inquiry will be conducted.

(d) *Negative determination.* If the inquiry results in a finding that no reasonable cause exists to believe that the application of the flat rate of duty provisions to a particular article of merchandise is adversely affecting the economic interest of the United States, the inquirer shall be advised in writing of the finding and the matter shall be closed.

(e) *Publication of tentative finding.* If the inquiry results in a finding by the Secretary of the Treasury that reasonable cause exists to believe that the application of the flat rate of duty provisions to a particular article of merchandise is affecting the economic interest of the United States adversely, a notice of the finding will be published in the FEDERAL REGISTER and Customs Bulletin, along with a statement of intent to exclude the articles from application of the flat rate of duty provisions. Interested persons will be given an opportunity to submit written comments on the notice.

(f) *Final determination.* Based upon the comments received and the results of any additional inquiry as may be necessary, if it is determined by the Secretary of the Treasury that application of the flat rate of duty provisions adversely affects the economic interest of the United States, a Treasury Decision will be published in the FEDERAL REGISTER and Customs Bulletin announcing that the merchandise will be excluded from application of the flat rate of duty provisions. Excluded articles of merchandise shall be listed in § 148.106. If it is determined by the Secretary of the Treasury that a valid basis for excluding the merchandise

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from the flat rate of duty provisions does not exist, the notice proposing to exclude the article will be withdrawn by publishing a notice in the FEDERAL REGISTER and the Customs Bulletin.

[T.D. 78-394, 43 FR 49789, Oct. 25, 1978, as amended by T.D. 89-1, 53 FR 51267, Dec. 21, 1988; T.D. 91-77, 56 FR 46115, Sept. 10, 1991; T.D. 93-66, 58 FR 44130, Aug. 19, 1993]

§ 148.106 Excluded articles of merchandise.

The following articles of merchandise have been found to affect the economic interest of the United States adversely, and they are excluded from the application of the flat rate of duty provisions.

[Reserved for listing.]

[T.D. 78-394, 43 FR 49789, Oct. 25, 1978]

Subpart K—Unaccompanied Shipments From American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States

§ 148.110 Applicability.

The provisions of this subpart are applicable to articles not accompanying a person, including a crewmember, which are purchased in *and* shipped from American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States. However, this subpart is not applicable to the importation of unaccompanied articles in a manner prohibited by law or regulation (e.g., mail shipments of alcoholic beverages or alcoholic beverages shipped other than by mail in excess of quantities authorized by State laws or regulations).

The following is a summary of the procedure to be followed to obtain the benefits of this subpart: A person purchasing articles in American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States would receive a sales slip, invoice, or other evidence of purchase which he would present to the Customs officer along with his baggage declaration, Customs Form 6059-B, and a Declaration of Unaccompanied Articles, Customs Form 255. The latter form is prepared

in triplicate for each shipment to follow. The Customs officer would verify the information, indicate on the form whether the article or articles were free of duty, dutiable at the flat rate, or a combination of the foregoing, and validate the form. Two copies would be returned to the traveler, who would send one form to the vendor. Upon receipt of the form the vendor would place it in an envelope, affix it to the outside of the package, clearly mark the package "Unaccompanied Tourist Shipment," and send the package to the traveler, generally via mail, although it could be sent by other means. If sent through the mail, the package would be examined by Customs and forwarded to the Postal Service for delivery. Any duties due would be collected by the mailman. If the shipment arrives other than through the mail, the traveler would be notified by the carrier when the article arrives. Entry would be made by the carrier or the traveler at the customhouse. Any duties due would be collected at that time.

[T.D. 78-394, 43 FR 49790, Oct. 25, 1978; 43 FR 55758, Nov. 29, 1978; T.D. 97-75, 62 FR 46443, Sept. 3, 1997]

§ 148.111 Written declaration for unaccompanied articles.

The baggage declaration, Customs Form 6059-B, of a person (the crewmembers declaration, Customs Form 5129, in the case of a returning crewmember) arriving directly or indirectly from American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States shall be in writing if it covers articles which do not accompany him and:

(a) The articles are entitled to free entry under the \$1,200 exemption provided by subheading 9804.00.70, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202), or

(b) The articles are noncommercial importations of limited value subject to a flat rate of duty under subheading 9816.00.40, HTSUS.

[T.D. 78-394, 43 FR 49790, Oct. 25, 1978, as amended by T.D. 86-118, 51 FR 22516, June 20, 1986; T.D. 89-1, 53 FR 51267, Dec. 21, 1988; T.D. 97-75, 62 FR 46443, Sept. 3, 1997]