

§ 158.44

Government harmless from any expense or cost resulting from such abandonment. The sum so advanced shall be placed in a special deposit account and expended to cover the cost of destruction or to meet any deficit should the merchandise be sold and the proceeds of sale be less than the expenses of such sale. After meeting such expenses or deficit, any balance remaining shall be refunded to the importer. However, the applicant may elect to destroy such merchandise under Customs supervision pursuant to the provisions of section 557(c), Tariff Act of 1930, as amended (19 U.S.C. 1557(c)).

(2) *Time period.* The importer may abandon his warehoused merchandise voluntarily to the Government within 3 years from the date of importation.

(d) *Destruction—(1) Costs.* Destruction of merchandise under section 557(c), Tariff Act of 1930, as amended (19 U.S.C. 1557(c)), shall be at the expense of the importer.

(2) *Time period.* The importer may request destruction of his warehoused merchandise within 5 years from the date of importation.

(e) *Action by port director.* When the conditions set forth in paragraphs (a) through (d) of this section are met, the port director may grant applications and make an allowance in duties for the merchandise abandoned or destroyed. In any case where doubt exists, the matter shall be referred to the Commissioner of Customs.

(Secs. 557, 563, 46 Stat. 744, as amended, 746, as amended; 19 U.S.C. 1557, 1563)

[T.D. 72-258, 37 FR 20171, Sept. 27, 1972, as amended by T.D. 79-221, 44 FR 46829, Aug. 9, 1979]

§ 158.44 Disposition of abandoned merchandise.

(a) *General conditions.* The disposition of merchandise abandoned to the Government pursuant to § 158.42 or § 158.43, and not retained for official use, shall be governed by the regulations of the General Services Administration applicable to the United States Customs Service.

(b) *Sale of merchandise.* If the merchandise is cleared for sale, it shall be sold in accordance with the applicable provisions of part 127 of this chapter, unless it is worthless or it appears

19 CFR Ch. I (4-1-03 Edition)

probable that the expenses of sale will exceed the proceeds. If the merchandise is sold, no part of the proceeds shall be returned to the importer.

(c) *Disposition of worthless merchandise.* If the merchandise or any part thereof is worthless or it appears probable that the expenses of its sale will exceed the proceeds, it shall be destroyed or otherwise disposed of as the port director shall specify. The port director shall insure that such merchandise is destroyed or removed from the control of the importer to avoid the possibility of any part of the same merchandise being made the subject of another application.

(Secs. 506(1), 563(b), 46 Stat. 732, as amended, 746, as amended; 19 U.S.C. 1506(1), 1563(b) R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

[T.D. 72-258, 37 FR 20171, Sept. 27, 1972, as amended by T.D. 77-12, 41 FR 56629, Dec. 29, 1976]

§ 158.45 Exportation of merchandise.

(a) *From continuous Customs custody.* Merchandise in Customs custody for which entry has not been completed and merchandise which has remained in continuous Customs custody that is covered by a liquidated or unliquidated consumption entry may be exported under Customs supervision in accordance with §§ 18.25 through 18.27 of this chapter, with refund of any duties that have been paid.

(b) *After release from Customs custody.* Except as provided for in paragraphs (c) and (d) of this section, no refund or other allowance in duties shall be made because of the exportation of merchandise after its release from Customs custody unless a drawback of duties is expressly provided for by law (see part 191 of this chapter).

(c) *Prohibited merchandise.* If merchandise has been regularly entered or withdrawn for consumption in good faith and is thereafter found to be prohibited entry under any law of the United States, it may be exported under Customs supervision in accordance with §§ 18.25 through 18.27 of this chapter, with refund of any duties that have been paid. In lieu of exportation, the merchandise may be destroyed in accordance with § 158.41.

(d) *Not legally marked merchandise.* When merchandise found to be not legally marked is exported or destroyed under Customs supervision after once having been released from Customs custody, as provided for in section 304(f), Tariff Act of 1930, as amended (19 U.S.C. 1304(f)), such exportation or destruction shall not exempt such merchandise from the payment of duties other than the marking duties.

(Sec. 558, 46 Stat. 744, as amended; 19 U.S.C. 1558; R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624))

[T.D. 72-258, 37 FR 20171, Sept. 27, 1972, as amended by T.D. 83-212, 48 FR 46771, Oct. 14, 1983; T.D. 90-51, 55 FR 28191, July 10, 1990]

PART 159—LIQUIDATION OF DUTIES

Sec.

159.0 Scope.

Subpart A—General Provisions

- 159.1 Definition of liquidation.
- 159.2 Liquidation required.
- 159.3 Rounding of fractions.
- 159.4 Alcoholic beverages.
- 159.5 Cigars, cigarettes, and cigarette papers and tubes.
- 159.6 Difference between liquidated duties and estimated duties.
- 159.7 Rewarehouse entries.
- 159.8 Allowance for loss, injury, etc.
- 159.9 Notice of liquidation and date of liquidation for formal entries.
- 159.10 Notice of liquidation and date of liquidation for informal, mail and baggage entries.
- 159.11 Entries liquidated by operation of law.
- 159.12 Extension of time for liquidation.

Subpart B—Weight, Gage, and Measure

- 159.21 Quantity upon which duties based.
- 159.22 Net weights and tares.

Subpart C—Conversion of Foreign Currency

- 159.31 Rates to be used.
- 159.32 Date of exportation.
- 159.33 Proclaimed rate.
- 159.34 Certified quarterly rate.
- 159.35 Certified daily rate.
- 159.36 Multiple certified rates.
- 159.37 Suspension of certification of rates.
- 159.38 Rates for estimated duties.

Subpart D—Special Duties

- 159.41 Antidumping duties.

- 159.42 Discriminating duties.
- 159.43 Duties contingent upon foreign export duties, charges, or restrictions.
- 159.44 Special duties on merchandise imported under agreements in restraint of trade.
- 159.45 Additional duty for unauthentic claims of antiquity.
- 159.46 Marking duties.
- 159.47 Countervailing duties.

Subpart E—Suspension of Liquidation

- 159.51 General.
- 159.52 Warehouse entry not liquidated until final withdrawal.
- 159.53 Proof of duty-free or reduced-duty status.
- 159.54 Open bonds for production of documents.
- 159.55 Possible prohibited food, drugs, or other articles.
- 159.57 Merchandise affected by an American manufacturer's cause of action sustained by the court.
- 159.58 Dumping and countervailing; action by port director.

Subpart F—Continued Dumping and Subsidy Offset

- 159.61 General.
- 159.62 Notice of distribution.
- 159.63 Certifications.
- 159.64 Distribution of offset.

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Subpart F also issued under 19 U.S.C. 1675c.
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Section 159.44 also issued under 15 U.S.C. 73, 74;
Section 159.46 also issued under 19 U.S.C. 1304;
Section 159.55 also issued under 19 U.S.C. 1558;
Section 159.57 also issued under 19 U.S.C. 1516.

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§ 159.0 Scope.

This part sets forth general rules for the liquidation of entries. Certain specific procedures affecting liquidation appear in other parts of this chapter; e.g., part 158 of this chapter covers allowance for lost or damaged merchandise.