

### § 191.3

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must be commercially interchangeable or described in the same 8-digit HTSUS tariff classification.

(y) *Verification.* *Verification* means the examination of any and all records, maintained by the claimant, or any party involved in the drawback process, which are required by the appropriate Customs officer to render a meaningful recommendation concerning the drawback claimant's conformity to the law and regulations and the determination of supportability, correctness, and validity of the specific claim or groups of claims being verified.

[T.D. 98-16, 63 FR 11006, Mar. 5, 1998; 63 FR 15288, Mar. 31, 1998, as amended by T.D. 01-18, 66 FR 9649, Feb. 9, 2001]

#### **§ 191.3 Duties and fees subject or not subject to drawback.**

(a) Duties and fees subject to drawback include:

(1) All ordinary Customs duties, including:

(i) Duties paid on an entry, or withdrawal from warehouse, for consumption for which liquidation has become final;

(ii) Estimated duties paid on an entry, or withdrawal from warehouse, for consumption, for which liquidation has not become final, subject to the conditions and requirements of § 191.81(b) of this subpart; and

(iii) Tenders of duties after liquidation of the entry, or withdrawal from warehouse, for consumption for which the duties are paid, subject to the conditions and requirements of § 191.81(c) of this part, including:

(A) Voluntary tenders (for purposes of this section, a "voluntary tender" is a payment of duties on imported merchandise in excess of duties included in the liquidation of the entry, or withdrawal from warehouse, for consumption, provided that the liquidation has become final and that the other conditions of this section and § 191.81 of this part are met);

(B) Tenders of duties in connection with notices of prior disclosure under 19 U.S.C. 1592(c)(4); and

(C) Duties restored under 19 U.S.C. 1592(d).

(2) Marking duties assessed under § 304(c), Tariff Act of 1930, as amended (19 U.S.C. 1304(c));

(3) Internal revenue taxes which attach upon importation (see § 101.1 of this chapter); and

(4) Merchandise processing fees (see § 24.23 of this chapter) for unused merchandise drawback pursuant to 19 U.S.C. 1313(j).

(b) Duties and fees not subject to drawback include:

(1) Harbor maintenance fee (see § 24.24 of this chapter);

(2) Merchandise processing fees (see § 24.23 of this chapter), except where unused merchandise drawback is claimed; and

(3) Antidumping and countervailing duties on merchandise entered, or withdrawn from warehouse, for consumption on or after August 23, 1988.

(c) No drawback shall be allowed when the identified merchandise, the designated imported merchandise, or the substituted other merchandise (when applicable), consists of an agricultural product which is duty-paid at the over-quota rate of duty established under a tariff-rate quota, except that:

(1) Agricultural products as described in this paragraph are eligible for drawback under 19 U.S.C. 1313(j)(1); and

(2) Tobacco otherwise meeting the description of agricultural products in this paragraph is eligible for drawback under 19 U.S.C. 1313(j)(1) or 19 U.S.C. 1313(a).

[T.D. 98-16, 63 FR 11006, Mar. 5, 1998; 63 FR 27489, May 19, 1998, as amended by T.D. 01-18, 66 FR 9649, Feb. 9, 2001]

#### **§ 191.4 Merchandise in which a U.S. Government interest exists.**

(a) *Restricted meaning of Government.* A U.S. Government instrumentality operating with nonappropriated funds is considered a Government entity within the meaning of this section.

(b) *Allowance of drawback.* If the merchandise is sold to the U.S. Government, drawback shall be available only to the:

(1) Department, branch, agency, or instrumentality of the U.S. Government which purchased it; or

(2) Supplier, or any of the parties specified in §191.82 of this part, provided the claim is supported by documentation signed by a proper officer of the department, branch, agency, or instrumentality concerned certifying that the right to drawback was reserved by the supplier or other parties with the knowledge and consent of the department, branch, agency, or instrumentality.

(c) *Bond.* No bond shall be required when a United States Government entity claims drawback.

**§191.5 Guantanamo Bay, insular possessions, trust territories.**

Guantanamo Bay Naval Station shall be considered foreign territory for drawback purposes and, accordingly, drawback may be permitted on articles shipped there. Under 19 U.S.C. 1313, drawback of Customs duty is not allowed on articles shipped to Puerto Rico, the U.S. Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Guam, Canton Island, Enderbury Island, Johnston Island, or Palmyra Island.

**§191.6 Authority to sign drawback documents.**

(a) Documents listed in paragraph (b) of this section shall be signed only by one of the following:

- (1) The president, a vice-president, secretary, treasurer, or any other employee legally authorized to bind the corporation;
- (2) A full partner of a partnership;
- (3) The owner of a sole proprietorship;
- (4) Any employee of the business entity with a power of attorney;
- (5) An individual acting on his or her own behalf; or
- (6) A licensed Customs broker with a power of attorney.

(b) The following documents require execution in accordance with paragraph (a) of this section:

- (1) Drawback entries;
- (2) Certificates of delivery;
- (3) Certificates of manufacture and delivery;
- (4) Notices of Intent to Export, Destroy, or Return Merchandise for Purposes of Drawback;

(5) Certifications of exporters on bills of lading or evidence of exportation (see §§191.28 and 191.82 of this part); and

(6) Abstracts, schedules and extracts from monthly abstracts if not included as part of a drawback claim.

(c) The following documents (see also part 177 of this chapter) may be executed by one of the persons described in paragraph (a) of this section or by any other individual legally authorized to bind the person (or entity) for whom the document is executed:

(1) A letter of notification of intent to operate under a general manufacturing drawback ruling under §191.7 of this part;

(2) An application for a specific manufacturing drawback ruling under §191.8 of this part;

(3) A request for a nonbinding predetermination of commercial interchangeability under §191.32(c) of this part;

(4) An application for waiver of prior notice under §191.91 of this part;

(5) An application for approval of accelerated payment of drawback under §191.92 of this part; and

(6) An application for certification in the Drawback Compliance Program under §191.193 of this part.

[T.D. 98-16, 63 FR 11006, Mar. 5, 1998; 63 FR 15288, Mar. 31, 1998; 63 FR 27489, May 19, 1998]

**§191.7 General manufacturing drawback ruling.**

(a) *Purpose; eligibility.* General manufacturing drawback rulings are designed to simplify drawback for certain common manufacturing operations but do not preclude or limit the use of applications for specific manufacturing drawback rulings (see §191.8). A manufacturer or producer engaged in an operation that falls within a published general manufacturing drawback ruling may submit a letter of notification of intent to operate under that general ruling. Where a separately-incorporated subsidiary of a parent corporation is engaged in manufacture or production for drawback, the subsidiary is the proper party to submit the letter of notification, and cannot operate under a letter of notification submitted by the parent corporation.

(b) *Procedures.* (1) *Publication.* General manufacturing drawback rulings are