

§ 171.62

another time to file such a supplemental petition is prescribed in the decision. The filing of a supplemental petition may be subject to the conditions prescribed in § 171.64 of this part. A supplemental petition may be filed whether or not the mitigated penalty or forfeiture remission amount designated in the decision on the original petition is paid.

§ 171.62 Supplemental petition decision authority.

(a) *Decisions of Fines, Penalties, and Forfeitures Officers.* Supplemental petitions filed on cases where the original decision was made by the Fines, Penalties, and Forfeitures Officer, will be initially reviewed by that official. The Fines, Penalties, and Forfeitures Officer may choose to grant more relief and issue a decision indicating that additional relief to the petitioner. If the petitioner is dissatisfied with the further relief granted or if the Fines, Penalties, and Forfeitures Officer decides to grant no further relief, the supplemental petition will be forwarded to a designated Headquarters official assigned to a field location for review and decision, except that supplemental petitions filed in cases involving violations of 19 U.S.C. 1641 where the amount of the penalty assessed exceeds \$10,000 will be forwarded to the Chief, Penalties Branch, Border Security and Trade Compliance Division, Regulations and Rulings, Office of International Trade.

(b) *Decisions of CBP Headquarters.* Supplemental petitions filed on cases where the original decision was made by the Chief, Penalties Branch, Regulations and Rulings, Office of International Trade, CBP Headquarters, will be forwarded to the Director, Border Security and Trade Compliance Division, CBP Headquarters, for review and decision.

[T.D. 00-57, 65 FR 53578, Sept. 5, 2000, as amended by CBP Dec. 07-82, 72 FR 59175, Oct. 19, 2007]

§ 171.63 [Reserved]

§ 171.64 Waiver of statute of limitations.

The deciding Customs official always reserves the right to require a waiver

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of the statute of limitations executed by the claimants to the property or charged party or parties as a condition precedent before accepting a supplemental petition in any case in which less than one year remains before the statute will be available as a defense to all or part of that case.

APPENDIX A TO PART 171—GUIDELINES FOR DISPOSITION OF VIOLATIONS OF 19 U.S.C. 1497

Liabilities incurred under section 497, Tariff Act of 1930 (19 U.S.C. 1497), shall be mitigated or remitted in accordance with the following guidelines (see also part 148, Customs Regulations):

1. *Violations Involving Dutiable Articles.* For violations involving articles subject to duty and for which there is no applicable exemption from duty, the following rules apply:

1. *Mitigated Penalty for First Offense.* For violations which are the first offense, where there is knowledge of the declaration requirements, and where the undeclared articles are discovered by the Customs officers, the liabilities shall be remitted upon payment of Three Times the Duty (but not less than \$50), or the domestic value, whichever is lower.

2. *Mitigating Factors.* When one or more of the following mitigating factors are present, the deciding officer may, within his discretion, remit the liabilities upon payment of Between One and One-Half and Three Times the Duty or the domestic value, whichever is lower:

a. Communications with the violator are impaired because of language barrier, mental condition, or physical ailment;

b. Violator cooperates with Customs officers after discovery of the violation by providing additional information which facilitates conclusion of the case;

c. Violator is an inexperienced traveler;

d. There is contributory Customs error (for example, violator demonstrates he was given incorrect advice by a Customs officer).

3. *Aggravating Factors.* When one or more of the following aggravating factors are present, the deciding officer may, within his discretion, remit the liabilities upon payment of Between Three and Six Times the Duty (but not less than \$100), or the domestic value, whichever is lower:

a. Documentary or other evidence discovered establishes violator's intent;

b. Informant provides information which tends to establish violator's intent and leads to discovery of the violation after the violator has been given an opportunity to properly declare;

c. Violator is an experienced traveler;

d. Undeclared articles are concealed to evade U.S. law;