

the lower rate of duty specified by law. When such proof is not filed within 3 years from the date of entry or withdrawal from warehouse for consumption, the entry shall be liquidated dutiable under the appropriate subheading of the Harmonized Tariff Schedule of the United States.

(b) *Exception for blackstrap molasses.* An entry covering blackstrap molasses, as hereinafter defined, may be accepted and liquidated with duty at the lower rate after the filing of the declaration of intent required by § 10.134 and the deposit of estimated duties required by § 10.135 without compliance with §§ 10.136, 10.137, and 10.138. Blackstrap molasses is "final" molasses practically free from sugar crystals, containing not over 58 percent total sugars and having a ratio of

total sugars×100/Brix

not in excess of 71. In the event of doubt, an ash determination may be made. An ash content of not less than 7 percent indicates a blackstrap molasses within the meaning of this paragraph.

[T.D. 71-139, 36 FR 10727, June 2, 1971, as amended by T.D. 89-1, 53 FR 51252, Dec. 21, 1988]

IMPORTATIONS NOT OVER \$200 AND BONA FIDE GIFTS

§ 10.151 Importations not over \$200.

Subject to the conditions in § 10.153 of this part, the port director shall pass free of duty and tax any shipment of merchandise, as defined in § 101.1 of this chapter, imported by one person on one day having a fair retail value, as evidenced by an oral declaration or the bill of lading (or other document filed as the entry) or manifest listing each bill of lading, in the country of shipment not exceeding \$200, unless he has reason to believe that the shipment is one of several lots covered by a single order or contract and that it was sent separately for the express purpose of securing free entry therefor or of avoiding compliance with any pertinent law or regulation. Merchandise subject to this exemption shall be entered under the informal entry procedures (see subpart C, part 143, and

§§ 128.24, 145.31, 148.12, and 148.62, of this chapter).

[T.D. 94-51, 59 FR 30293, June 13, 1994, as amended by T.D. 95-31, 60 FR 18990, Apr. 14, 1995; T.D. 95-31, 60 FR 37875, July 24, 1995; T.D. 97-82, 62 FR 51769, Oct. 3, 1997]

§ 10.152 Bona-fide gifts.

Subject to the conditions in § 10.153 of this part, the port director shall pass free of duty and tax any article sent as a bona-fide gift from a person in a foreign country to a person in the United States, provided that the aggregate fair retail value in the country of shipment of such articles received by one person on one day does not exceed \$100 or, in the case of articles sent from a person in the Virgin Islands, Guam, and American Samoa, \$200. Articles subject to this exemption shall be entered under the informal entry procedures (see subpart C, part 143, and §§ 145.32, 148.12, 148.51, and 148.64, of this chapter). An article is "sent" for purposes of this section if it is conveyed in any manner other than on the person or in the accompanied or unaccompanied baggage of the donor or donee.

[T.D. 94-51, 59 FR 30293, June 13, 1994]

§ 10.153 Conditions for exemption.

Customs officers shall be further guided as follows in determining whether an article or parcel shall be exempted from duty and tax under § 10.151 or § 10.152:

(a) A "bona fide gift" for purposes of § 10.152 is an article formerly owned by a donor (may be a commercial firm) who gave it outright in its entirety to a donee without compensation or promise of compensation. It does not include articles acquired by purchase, barter, promissory exchange, or similar transaction, nor does it include articles said to be "given" in conjunction with a purchase, barter, promissory exchange, or similar transaction, such as a so-called bonus article.

(b) A parcel addressed to a person in the United States from an individual in a foreign country which contains a gift should be clearly marked on the outside to indicate that it contains a gift. Such marking is not conclusive evidence of a gift nor is the absence of such marking conclusive evidence that

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an article is not a gift. Ordinarily an article not exceeding \$100 in fair retail value in the country of shipment sent from a person in a foreign country to a person in the United States (\$200, in the case of an article sent from a person in the Virgin Islands, Guam, and American Samoa) will be recognizable as a gift from the nature of the article and obvious facts surrounding the shipment.

(c) A parcel addressed to a person in the United States from a business firm in a foreign country would ordinarily not contain a gift from a donor in the foreign country. When such a parcel in fact contains an article entitled to free entry under §10.152, the parcel should be clearly marked to indicate that it contains such a gift and a statement to this effect should be enclosed in the parcel.

(d) Consolidated shipments addressed to one consignee shall be treated for purposes of §§10.151 and 10.152 as one importation. The foregoing shall not apply to shipments of bona fide gifts consolidated abroad for shipment to the United States when:

(1) The consolidation for shipment to the United States is in a cargo van or similar containerization which is consigned to a common carrier, freight forwarder, freight handler, or other public service agency for distribution of the gift packages;

(2) The separate gifts not exceeding \$100 in fair retail value in the country of shipment (\$200, in the case of articles sent from persons in the Virgin Islands, Guam, and American Samoa) included in the consolidated shipment are before shipment individually wrapped and addressed to the donee in the United States;

(3) Each gift package is marked on the outside to indicate that it contains a gift not exceeding \$100 in fair retail value in the country of shipment (\$200, in the case of packages sent from persons in the Virgin Islands, Guam, and American Samoa); and

(4) Each gift package is separately listed in the name of the addressee-donee on a packing list, manifest, bill of lading, or other shipping document.

(e) No alcoholic beverage, perfume containing alcohol (except where the aggregate fair retail value in the country of shipment of all merchandise contained in the shipment does not exceed \$5), cigars, or cigarettes shall be exempted from the payment of duty and tax under §10.151 or §10.152.

(f) The exemptions provided for in §10.151 or §10.152 are not to be allowed in respect of any shipment containing one or more gifts having an aggregate fair retail value in the country of shipment in excess of \$100 (\$200, in the case of articles sent from persons in the Virgin Islands, Guam, and American Samoa), except as indicated in paragraph (d) of this section. For example, an article ordinarily subject to an ad valorem rate of duty but sent as a gift, if the fair retail value exceeds the \$100 (or \$200) exemption, would be subject to a duty based upon its value under the provisions of section 402 or 402(a), Tariff Act of 1930, as amended (19 U.S.C. 1401a or 1402), even though the dutiable value is less than the \$100 (or \$200) exemption.

(g) The exemption referred to in §10.151 is not to be allowed in the case of any merchandise of a class or kind provided for in any absolute or tariff-rate quota, whether the quota is open or closed. In the case of merchandise of a class or kind provided for in a tariff-rate quota, the merchandise is subject to the rate of duty in effect on the date of entry.

[T.D. 73-175, 38 FR 17445, July 2, 1973, as amended by T.D. 75-185, 40 FR 31753, July 29, 1975; T.D. 78-394, 43 FR 49787, Oct. 25, 1978; T.D. 85-123, 50 FR 29953, July 23, 1985; T.D. 94-51, 59 FR 30293, June 13, 1994]

GENERALIZED SYSTEM OF PREFERENCES

§ 10.171 General.

(a) *Statutory authority.* Title V of the Trade Act of 1974 as amended (19 U.S.C. 2461-2467) authorizes the President to establish a Generalized System of Preferences (GSP) to provide duty-free treatment for eligible articles imported directly from designated beneficiary developing countries. Beneficiary developing countries and articles eligible for duty-free treatment