Pub. L. 109–432, § 401(e)(1), inserted ''or smokeless tobacco products'' after ''cigarettes'' in two places.

Subsec. (a)(4). Pub. L. 109–432, § 401(e)(1), inserted ''or smokeless tobacco products'' after ''cigarettes'' wherever appearing.

Subsec. (b). Pub. L. 109–432, § 401(e)(1), which directed insertion of ''or smokeless tobacco products'' after ''cigarettes'' wherever appearing, was executed by making the insertion after ''Cigarettes'' in introductory provisions, to reflect the probable intent of Congress.

Subsec. (b)(1). Pub. L. 109–432, § 401(e)(2)(B)(i), inserted ''or smokeless tobacco products'' after ''cigarettes'' in heading.

Pub. L. 109–432, § 401(e)(1), which directed insertion of ''or smokeless tobacco products'' after ''cigarettes'' wherever appearing, was executed by making the insertion after ''Cigarettes'' in subsec. (b)(1), to reflect the probable intent of Congress.

Pub. L. 109–432, § 401(b), inserted at end ''The preceding sentence shall not apply to any cigarettes or smokeless tobacco products sold in connection with a delivery sale.''

Subsec. (b)(2), (3). Pub. L. 109–432, § 401(e)(2)(B)(ii), inserted ''or smokeless tobacco products'' after ''Cigarettes'' in heading.

Pub. L. 109–432, § 401(e)(1), which directed insertion of ''or smokeless tobacco products'' after ''cigarettes'' wherever appearing, was executed by making the insertion after ''Cigarettes'' and ''cigarettes'' wherever appearing, to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 109–432, § 401(e)(2)(C)(i), inserted ''or smokeless tobacco product'' after ''cigarette'' in heading.

Pub. L. 109–432, § 401(e)(1), inserted ''or smokeless tobacco products'' after ''cigarettes'' in introductory and concluding provisions.

Subsec. (c)(1). Pub. L. 109–432, § 401(e)(2)(C)(ii), inserted ''or section 4403 of title 15, as the case may be'' after ''section 1335a of title 15''.

Pub. L. 109–432, § 401(e)(1), inserted ''or smokeless tobacco products'' after ''cigarettes'' in two places.

Subsec. (c)(2)(A). Pub. L. 109–432, § 401(e)(2)(C)(iii), inserted ''or section 4402 of title 15, as the case may be,'' after ''section 1333 of title 15'' in introductory provisions.

Pub. L. 109–432, § 401(e)(1), inserted ''or smokeless tobacco products'' after ''cigarettes'' in cls. (i) and (ii).

Subsec. (c)(2)(B). Pub. L. 109–432, § 401(e)(2)(C)(iv), inserted ''or section 4402(d) of title 15, as the case may be'' after ''section 1333(c) of title 15''.

Pub. L. 109–432, § 401(e)(1), inserted ''or smokeless tobacco products'' after ''cigarettes''.

Subsec. (c)(3)(A). Pub. L. 109–432, § 401(e)(1), inserted ''or smokeless tobacco products'' after ''cigarettes'' wherever appearing.

Subsec. (d). Pub. L. 109–432, § 401(c), added subsec. (d).

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–432 applicable with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after Dec. 20, 2006, see section 401(g) of Pub. L. 109–432, set out as a note under section 1681 of this title.

§ 1681b. Enforcement

(a) Civil penalty

Any person who violates a provision of section 1681a of this title shall, in addition to the tax and any other penalty provided by law, be liable for a civil penalty for each violation equal to the greater of $1,000 or 5 times the amount of the tax imposed by chapter 52 of the Internal Revenue Code of 1986 on all cigarettes or smokeless tobacco products that are the subject of such violation.

(b) Forfeitures

Any tobacco product, cigarette papers, or tube, or any smokeless tobacco product, that was imported into the United States or is sought to be imported into the United States in violation of, or without meeting the requirements of, section 1681a of this title shall be forfeited to the United States, or to any State in which such tobacco product, cigarette papers, or tube is found. Notwithstanding any other provision of law, any product forfeited to the United States, or to any State, pursuant to this subtitle shall be destroyed.

(June 17, 1930, ch. 497, title VIII, § 803, as added Pub. L. 106–476, title IV, § 4004(a), Nov. 9, 2000, 114 Stat. 2180; amended Pub. L. 109–432, div. C, title IV, § 401(d), (e)(1), (3), Dec. 20, 2006, 120 Stat. 3048, 3049.)

REFERENCES IN TEXT

Chapter 52 of the Internal Revenue Code of 1986, referred to in subsec. (a), is classified to section 5701 et seq. of Title 26, Internal Revenue Code.

CODIFICATION

Another section 803 of act June 17, 1930, is classified to section 1683a of this title.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109–432, § 401(e)(1), inserted ''or smokeless tobacco products'' after ''cigarettes''.

Subsec. (b). Pub. L. 109–432, § 401(d), (e)(3), in first sentence, inserted '', or any smokeless tobacco product,'' before ''that was imported'' and '', or to any State in which such tobacco product, cigarette papers, or tube is found'' before period at end and, in second sentence, inserted '', or to any State,'' after ''United States''.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–432 applicable with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after Dec. 20, 2006, see section 401(g) of Pub. L. 109–432, set out as a note under section 1681 of this title.

SUBTITLE VI—SOFTWOOD LUMBER

CODIFICATION

Subtitle is comprised of title VIII of act June 17, 1930, as added by Pub. L. 110–246, title III, § 3301(a), June 18, 2008, 122 Stat. 1844. Another title VIII of act June 17, 1930, was added by Pub. L. 106–476, title IV, § 4004(a), Nov. 9, 2000, 114 Stat. 2178, and is classified to subtitle V (§ 1681 et seq.) of this chapter.

§ 1683. Definitions

In this subtitle:

(1) Appropriate congressional committees

The term ''appropriate congressional committees'' means the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

(2) Country of export

The term ''country of export'' means the country (including any political subdivision of the country) from which softwood lumber or a softwood lumber product is exported before entering the United States.

(3) Customs laws of the United States

The term ''customs laws of the United States'' means any law or regulation enforced or administered by U.S. Customs and Border Protection.

(4) Export charges

The term ''export charges'' means any tax, charge, or other fee collected by the country

from which softwood lumber or a softwood lumber product, described in section 1683b(a) of this title, is exported pursuant to an international agreement entered into by that country and the United States.

(5) Export price

(A) In general

The term ''export price'' means one of the following:

(i) In the case of softwood lumber or a softwood lumber product that has undergone only primary processing, the value that would be determined F.O.B. at the facility where the product underwent the last primary processing before export.

(ii)(I) In the case of softwood lumber or a softwood lumber product described in subclause (II), the value that would be determined F.O.B. at the facility where the lumber or product underwent the last primary processing.

(II) Softwood lumber or a softwood lumber product described in this subclause is lumber or a product that underwent the last remanufacturing before export by a manufacturer who—

(aa) does not hold tenure rights provided by the country of export;

(bb) did not acquire standing timber directly from the country of export; and

(cc) is not related to the person who holds tenure rights or acquired standing timber directly from the country of export.

(iii)(I) In the case of softwood lumber or a softwood lumber product described in subclause (II), the value that would be determined F.O.B. at the facility where the product underwent the last processing before export.

(II) Softwood lumber or a softwood lumber product described in this subclause is lumber or a product that undergoes the last remanufacturing before export by a manufacturer who—

(aa) holds tenure rights provided by the country of export;

(bb) acquired standing timber directly from the country of export; or

(cc) is related to a person who holds tenure rights or acquired standing timber directly from the country of export.

(B) Related persons

For purposes of this paragraph, a person is related to another person if—

(i) the person bears a relationship to such other person described in section 152(a) of title 26;

(ii) the person bears a relationship to such other person described in section 267(b) of such title, except that ''5 percent'' shall be substituted for ''50 percent'' each place it appears;

(iii) the person and such other person are part of a controlled group of corporations, as that term is defined in section 1563(a) of such title, except that ''5 percent'' shall be substituted for ''80 percent'' each place it appears;

(iv) the person is an officer or director of such other person; or

(v) the person is the employer of such other person.

(C) Tenure rights

For purposes of this paragraph, the term ''tenure rights'' means rights to harvest timber from public land granted by the country of export.

(D) Export price where F.O.B. value cannot be determined

(i) In general

In the case of softwood lumber or a softwood lumber product described in clause (i), (ii), or (iii) of subparagraph (A) for which an F.O.B. value cannot be determined, the export price shall be the market price for the identical lumber or product sold in an arm's-length transaction in the country of export at approximately the same time as the exported lumber or product. The market price shall be determined in the following order of preference:

(I) The market price for the lumber or a product sold at substantially the same level of trade as the exported lumber or product but in different quantities.

(II) The market price for the lumber or a product sold at a different level of trade than the exported lumber or product but in similar quantities.

(III) The market price for the lumber or a product sold at a different level of trade than the exported lumber or product and in different quantities.

(ii) Level of trade

For purposes of clause (i), ''level of trade'' shall be determined in the same manner as provided under section 351.412(c) of title 19, Code of Federal Regulations (as in effect on January 1, 2008).

(6) F.O.B.

The term ''F.O.B.'' means a value consisting of all charges payable by a purchaser, including those charges incurred in the placement of merchandise on board of a conveyance for shipment, but does not include the actual shipping charges or any applicable export charges.

(7) HTS

The term ''HTS'' means the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202) (as in effect on January 1, 2008).

(8) Person

The term ''person'' includes any individual, partnership, corporation, association, organization, business trust, government entity, or other entity subject to the jurisdiction of the United States.

(9) United States

The term ''United States'' means the customs territory of the United States, as defined in General Note 2 of the HTS.

(June 17, 1930, ch. 497, title VIII, § 802, as added Pub. L. 110–246, title III, § 3301(a), June 18, 2008, 122 Stat. 1844.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in par. (7), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

CODIFICATION

Another section 802 of act June 17, 1930, is classified to section 1681a of this title.

EFFECTIVE DATE

Pub. L. 110–246, title III, § 3301(b), June 18, 2008, 122 Stat. 1853, provided that: ''The amendments made by this section [enacting this subtitle] shall take effect on the date that is 60 days after the date of the enactment of this Act [June 18, 2008].''

§ 1683a. Establishment of softwood lumber importer declaration program

(a) Establishment of program

(1) In general

The President shall establish and maintain an importer declaration program with respect to the importation of softwood lumber and softwood lumber products described in section 1683b(a) of this title. The importer declaration program shall require importers of softwood lumber and softwood lumber products described in section 1683b(a) of this title to provide the information required under subsection (b) and declare the information required by subsection (c), and require that such information accompany the entry summary documentation.

(2) Electronic record

The President shall establish an electronic record that includes the importer information required under subsection (b) and the declarations required under subsection (c).

(b) Required information

The President shall require the following information to be submitted by any person seeking to import softwood lumber or softwood lumber products described in section 1683b(a) of this title:

(1) The export price for each shipment of softwood lumber or softwood lumber products.

(2) The estimated export charge, if any, applicable to each shipment of softwood lumber or softwood lumber products as calculated by applying the percentage determined and published by the Under Secretary for International Trade of the Department of Commerce pursuant to section 1683c of this title to the export price provided in subsection (b)(1).

(c) Importer declarations

Pursuant to procedures prescribed by the President, any person seeking to import softwood lumber or softwood lumber products described in section 1683b(a) of this title shall declare that—

(1) the person has made appropriate inquiry, including seeking appropriate documentation from the exporter and consulting the determinations published by the Under Secretary for International Trade of the Department of Commerce pursuant to section 1683c(b) of this title; and

(2) to the best of the person's knowledge and belief—

(A) the export price provided pursuant to subsection (b)(1) is determined in accordance with the definition provided in section 1683(5) of this title;

(B) the export price provided pursuant to subsection (b)(1) is consistent with the export price provided on the export permit, if any, granted by the country of export; and

(C) the exporter has paid, or committed to pay, all export charges due—

(i) in accordance with the volume, export price, and export charge rate or rates, if any, as calculated under an international agreement entered into by the country of export and the United States; and

(ii) consistent with the export charge determinations published by the Under Secretary for International Trade pursuant to section 1683c(b) of this title.

(June 17, 1930, ch. 497, title VIII, § 803, as added Pub. L. 110–246, title III, § 3301(a), June 18, 2008, 122 Stat. 1847.)

REFERENCES IN TEXT

Section 1683 of this title, referred to in subsec. (c)(2)(A), was in the original section ''802'', and was translated as meaning the section 802 of act June 17, 1930, as added by section 3301(a) of Pub. L. 110–246, to reflect the probable intent of Congress.

CODIFICATION

Another section 803 of act June 17, 1930, is classified to section 1681b of this title.

§ 1683b. Scope of softwood lumber importer declaration program

(a) Products included in program

The following products shall be subject to the importer declaration program established under section 1683a of this title:

(1) In general

All softwood lumber and softwood lumber products classified under subheading 4407.10.00, 4409.10.10, 4409.10.20, or 4409.10.90 of the HTS, including the following softwood lumber, flooring, and siding:

(A) Coniferous wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded, or finger-jointed, of a thickness exceeding 6 millimeters.

(B) Coniferous wood siding (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded, or the like) along any of its edges or faces, whether or not planed, sanded, or finger-jointed.

(C) Other coniferous wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded, or the like) along any of its edges or faces (other than wood moldings and wood dowel rods) whether or not planed, sanded, or finger-jointed.

(D) Coniferous wood flooring (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, v-jointed, beaded, molded, rounded, or the like) along