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and quantity at the time it becomes subject to sale.

[T.D. 70-134, 35 FR 9268, June 13, 1970, as amended by T.D. 74-114, 39 FR 12095, Apr. 3, 1974]

**PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS**

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AUTHORITY: 19 U.S.C. 66, 1496, 1498, 1624. The provisions of this part, except for subpart C, are also issued under 19 U.S.C. 1202 (General Note 23, Harmonized Tariff Schedule of the United States);

Section 148.21 also issued under 19 U.S.C. 1461, 1462.

Section 148.22 also issued under 19 U.S.C. 1629;

Sections 148.43, 148.51, 148.63, 148.64, 148.74 also issued under 19 U.S.C. 1321;

Section 148.87 also issued under 22 U.S.C. 288.

SOURCE: T.D. 73-27, 38 FR 2449, Jan. 26, 1973, unless otherwise noted.

### § 148.0 Scope.

This part contains the regulations governing the allowance of exemptions for residents and nonresidents arriving in the United States, for crewmembers of carriers engaged in international traffic, for military and civilian employees of the United States, for certain evacuees, and for certain personnel of foreign governments and international organizations. Procedures and requirements are also set forth pertaining to registration of articles to be taken abroad, declaration and entry, and examination of baggage, and collection of duties and taxes.

### Subpart A—General Provisions

#### § 148.1 Registration of effects to be taken abroad.

(a) *Persons who may use procedure.* Any person, except a nonresident seaman, airman, or person engaged in similar employment, who intends to take effects of foreign origin abroad may register such articles before departure from the United States in order to facilitate their identification on return to the United States. Only articles of foreign origin having serial numbers or other distinctive, permanently affixed unique markings can be registered.

(b) *Procedures for registration.* Applicants for registration of articles of foreign origin shall present the articles, together with a completed, but unsigned, Customs Form 4457, which may be obtained in advance of departure, to a Customs officer. After the Customs officer has examined the articles and verified their description, he shall have the applicant sign the form. The Customs officer shall then sign the form and return it to the applicant for presentation on return of the articles. Customs form 4455 may be required in any case in which Customs form 4457 will

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not adequately serve the purpose of registration.

(c) *Presentation on return and reuse.* The form shall be presented to the Customs officer when the registered articles are returned to the United States. The form shall be valid for reuse as long as the document is legible to identify the registered articles.

[T.D. 82-102, 47 FR 24119, June 3, 1982, as amended by T.D. 91-35, 56 FR 19260, Apr. 26, 1991]

### § 148.2 Residence status of arriving persons.

(a) *General.* Persons arriving from foreign countries shall be divided into two classes for Customs purposes:

(1) Residents of the United States returning from abroad, and

(2) All other persons, hereinafter referred to as nonresidents.

(b) *Status as returning resident.* Citizens of the United States, or persons who have formerly resided in the United States, (including American citizens who are residents of American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States) shall be deemed residents of the United States returning from abroad within the meaning of "residents" as used in Chapter 98, Subchapter IV, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), in the absence of satisfactory evidence that they have established a home elsewhere. For this purpose, the residence of a wife shall be deemed to be that of her husband unless satisfactory evidence is presented that the wife has established a separate residence elsewhere. The residence of a minor child shall be presumed to be that of his parents.

(c) *Status as nonresident.* Any person arriving in the United States who is not a resident of the United States or who, though a resident of the United States, is not returning from abroad, shall be treated for the purpose of these regulations as a nonresident.

(d) *Optional claim of nonresident status.* Any person arriving in the United States who would otherwise be considered a returning resident, may claim at his option the status of a nonresident if he intends to remain in the United States for only a short period of time

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before returning abroad. If the status as a nonresident claimed by an arriving person is allowed, the procedures in § 148.8 shall be followed.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 78-394, 43 FR 49788, Oct. 25, 1978; T.D. 89-1, 53 FR 51263, Dec. 21, 1988; T.D. 97-75, 62 FR 46441, Sept. 3, 1997]

### § 148.3 Customs treatment after transiting the Panama Canal.

Passengers' baggage and effects and purchases of officers and crewmembers landed in the United States from vessels which have transited the Panama Canal are subject to Customs examination and treatment in the same manner as arrivals from any other foreign country.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 79-276, 44 FR 61957, Oct. 29, 1979]

### § 148.4 Accompanying articles.

(a) *Generally.* Articles shall be considered as accompanying a passenger or brought in by him if the articles arrive on the same vessel, vehicle, or aircraft on the same date as that of his arrival in the United States.

(b) *Baggage shipped as freight.* Articles in baggage shipped as freight on a bill of lading or airway bill shall be considered as accompanying a passenger when the baggage arrives on the conveyance on which he arrives in the United States.

(c) *Precleared articles.* Articles in baggage, or in baggage shipped as freight, shall be considered as accompanying a passenger if examined at an established preclearance station and the baggage is hand-carried, checked or manifested on the conveyance on which he arrives in the United States.

(d) *Automobiles.* An automobile which arrives on the same mode of conveyance on the same date as a passenger arrives in the United States shall be considered as accompanying him.

(e) *Misdirected baggage.* Baggage which arrives on the same mode of conveyance ahead of, or after a passenger, shall be treated as accompanying him if it is fully evident to the examining officer from the circumstances that:

(1) The passenger intended the baggage to arrive with him; and

(2) It was misdirected through no fault of the passenger.

**§ 148.5 Regular entry of articles in baggage.**

Subject to any applicable exemption from entry requirements, articles imported as baggage but not passed under a baggage declaration or under the procedure provided in § 148.6 for unaccompanied shipments of effects subject to personal exemptions shall be entered in the same manner as a cargo importation of like goods. In making regular entry for articles imported in baggage, the value of articles entitled to free entry under subheadings 9804.00.10, or 9804.00.45, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), shall be disregarded in determining whether formal or informal entry is required.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 89-1, 53 FR 51263, Dec. 21, 1988]

**§ 148.6 Entry of unaccompanied shipments of effects subject to personal exemptions.**

(a) *Declaration to support free entry.* When effects claimed to be free of duty under subheadings 9804.00.10, 9804.00.20, 9804.00.25, 9804.00.35 or 9804.00.45, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202), do not accompany the importer on his arrival in the United States or are forwarded in bond, a declaration of the importer on Customs Form 3299 shall be required to support the claim for free entry. However, an oral declaration may be accepted in lieu of a written declaration on Customs Form 3299, for effects of a resident which are free of duty under subheadings 9804.00.10 or 9804.00.45. Effects of returning residents entitled to free entry under subheadings 9804.00.10 or 9804.00.45 (except automobiles and other vehicles of residents returning from countries other than Canada or Mexico) need not be itemized if a written declaration is required.

(b) *Exemption from entry.* If the port director is satisfied that an entry would serve no good purpose, none need be required, but evidence of ownership for Customs purposes, such as a carrier's certificate or properly endorsed

bill of lading, shall be required with the declaration. Such exemption from entry may also be applied with respect to household effects or tools of trade entitled to free entry (see §§ 148.52 and 148.53 respectively) which are unaccompanied or forwarded in bond.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 89-1, 53 FR 51264, Dec. 21, 1988]

**§ 148.7 Unclaimed baggage.**

Articles in passengers' baggage on which duties due are not paid and baggage not claimed within a reasonable time shall be treated as unclaimed and sent to general order.

**§ 148.8 Temporary importation by residents arriving for short visits.**

A person claiming the status of a nonresident upon arrival for a short visit in the United States before returning abroad may import articles free of duty under subheadings 9804.00.20, 9804.00.25, 9804.00.30, 9804.00.35, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), in accordance with the following procedure:

(a) The person claiming the status shall agree to export all such articles upon his departure from the United States, except articles imported as gifts under subheading 9804.00.30, and articles consumed during his visit;

(b) When required to do so, the person claiming the status shall list all articles of substantial value which he is importing on Customs Form 4455, in duplicate, noting thereon the expected duration of his visit. He shall present the completed form to the inspecting officer who will initial both copies and return the duplicate to him;

(c) Upon his departure from the United States at the completion of his visit, the person claiming the status of a nonresident shall present to a Customs officer the duplicate copy of Customs Form 4455, initialed by the inspecting officer, and the articles listed thereon shall be subject to inspection; and

(d) If he decides not to return abroad, the person claiming the status shall immediately notify the director of the port of entry. The port director will advise him of the amount of duties and

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taxes due by reason of his failure to return abroad.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 89-1, 53 FR 51264, Dec. 21, 1988]

### Subpart B—Declarations

#### § 148.11 Declaration required.

All articles brought into the United States by any individual shall be declared to a Customs officer at the port of first arrival in the United States, on a conveyance en route to the United States on which a Customs officer is assigned for that purpose, or at a preclearance office in a foreign country where a United States Customs officer is stationed for that purpose.

#### § 148.12 Oral declarations.

(a) *Generally.* Returning residents and nonresidents arriving in the United States may make an oral declaration under the conditions set forth in paragraph (b) of this section. However, written declarations may be required generally or in respect to particular types of traffic at any port if necessary to effect prompt and orderly clearance of passengers and their effects, and may be required in particular cases at any port if deemed necessary to protect the revenue. If an oral declaration is permitted, completion of the identifying information on Customs Form 6059-B may be required.

(b) *When permitted.* Oral declarations may be permitted under the following conditions:

(1) *Residents.* A returning resident may make an oral declaration if:

(i) The aggregate fair retail value in the country of acquisition of all accompanying articles acquired abroad by him and of alterations and dutiable repairs made abroad to personal and household effects taken out and brought back by him does not exceed:

(A) \$400; or

(B) \$600 in the case of a direct arrival from a beneficiary country as defined in § 10.191(b)(1) of this chapter, not more than \$400 of which shall have been acquired elsewhere than in beneficiary countries; or

(C) \$1,200 in the case of a direct or indirect arrival from American Samoa, Guam, the Commonwealth of the

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Northern Mariana Islands, or the Virgin Islands of the United States, not more than \$400 of which shall have been acquired elsewhere than in such locations except that up to \$600 of which may have been acquired in one or more beneficiary countries as defined in § 10.191(b)(1) of this chapter;

(ii) None of his accompanying articles are forwarded in bond; and

(iii) None of his accompanying articles are imported for the account of any other person or for sale.

(2) *Nonresidents.* An arriving nonresident may make an oral declaration if all the articles he has to declare are:

(i) Entitled to free entry under his personal exemptions (see Subpart E of this part); or

(ii) Eligible for the administrative exemption for articles not exceeding \$200 in aggregate value, provided in section 321(a)(2)(B), Tariff Act of 1930, as amended (19 U.S.C. 1321(a)(2)(B)) (see § 148.51).

(c) *Memorandum baggage declaration for dutiable articles.* When an arriving person is carrying a few dutiable or taxable articles which can be readily identified and segregated from articles entitled to free entry under his personal exemptions, the Customs officer may prepare a memorandum baggage declaration using a cash receipt, Customs Form 368 or 368A, for dutiable or taxable articles if he determines that a written declaration by the arriving person is not essential.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 78-394, 43 FR 49788, Oct. 25, 1978; T.D. 86-118, 51 FR 22516, June 20, 1986; T.D. 92-56, 57 FR 24944, June 12, 1992; T.D. 94-51, 59 FR 30296, June 13, 1994; T.D. 97-75, 62 FR 46441, Sept. 3, 1997]

#### § 148.13 Written declarations.

(a) *When required.* Unless an oral declaration is accepted under § 148.12, the declaration required of a person arriving in the United States shall be in writing on Customs Form 6059-B.

(b) *Completion and presentation of written declarations.* The person arriving in the United States shall complete the information required by Customs Form 6059-B and shall list all articles acquired abroad which are in his possession at the time of arrival. Individual items not exceeding \$5 per item in fair

retail value in the country of acquisition may be grouped on the written declaration as "Miscellaneous" up to but not exceeding a total value of \$50. Articles not requiring itemization as set forth in paragraph (c) of this section shall be declared orally to the Customs officer. The form shall be presented to the Customs officer who will inspect the passenger's baggage.

(c) *Itemization of certain articles not required.* Except as required by §148.62 or §148.66 for crewmembers' articles, the following need not be itemized in written declarations:

(1) Effects of a returning resident entitled to free entry under subheading 9804.00.10, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202), for tools of trade taken abroad, or under subheading, 9804.00.45, HTSUS, for personal or household effects taken abroad. However, automobiles and other vehicles of residents returning from countries other than Canada or Mexico and the cost of all repairs or alterations to articles taken abroad must be itemized.

(2) Effects of a nonresident entitled to free entry under subheading 9804.00.20, HTSUS (19 U.S.C. 1202), for wearing apparel and other similar personal effects; subheading 9804.00.25, HTSUS, for tobacco products and alcoholic beverages; subheading 9804.00.30, HTSUS, for articles to be disposed of as bona fide gifts; or subheading 9804.00.40, HTSUS, for articles accompanying a person in transit to a place outside U.S. customs territory.

(3) Books, libraries, furniture, and similar household effects entitled to free entry under subheading 9804.00.05, HTSUS.

(d) *Value.* Opposite the description of each article required to be declared specifically in a written declaration, the passenger shall state either:

(1) The price actually paid for the article in the currency of purchase, or its equivalent in U.S. currency; or

(2) The fair retail value in the country of acquisition if the article was not acquired by purchase, in the currency of the country in which the article was acquired, or its equivalent in U.S. currency.

(e) *Acknowledgment before Customs officer.* Each written declaration shall be

acknowledged by the declarant before the Customs officer who examines the baggage covered by the declaration.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 87-89, 52 FR 24445, July 1, 1987; T.D. 89-1, 53 FR 51264, Dec. 21, 1988]

#### § 148.14 Family declarations.

A family group residing in one household, traveling together, and having the same residence status may be permitted to declare orally articles acquired abroad for the personal or household use of any member of the family if the value of such articles does not exceed the total amount of the exemption to which the family group is entitled. (See §148.34.) Where a written declaration is required, one member of a family group may declare for all. Servants accompanying a family group shall not be included in the family declaration.

#### § 148.15 Inclusion of articles not for personal or household use.

Articles not personal in character, or which are intended for sale or are brought in on commission for another person, may be included in the baggage declaration of a resident or nonresident under the conditions specified in §148.23(c). If not so included, regular entry shall be required.

#### § 148.16 Amendment of declaration.

(a) *Before examination.* A passenger shall be permitted to add an article to his declaration if, before examination of his baggage has begun, the fact that the article has not been declared is brought to the attention of the examining officer by the passenger.

(b) *After examination is begun.* A passenger shall be permitted to add an article to his declaration after examination of his baggage has begun if, before any undeclared article is found, the passenger advises the examining officer that he has such an article and the officer is satisfied that there was no fraudulent intent. Under no circumstances shall a passenger be permitted to add any undeclared article to his declaration after such article has been discovered by the examining officer.

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### § 148.17 Declaration on arrival incidental to further foreign travel.

(a) *Declaration on incidental arrival.* A resident who enters the United States merely as an incident of foreign travel and who will continue his foreign travel before finally returning to the United States from a continuous trip shall declare, but need not clear through Customs, any articles he has acquired or had repaired or altered while abroad. The incidental character of the arrival shall be made known to the Customs officer.

(b) *Treatment of articles on incidental arrival.* In order that a resident may claim the \$400, \$600, or \$1,200 exemption upon his final arrival in the United States from a continuous trip, articles accompanying him at the time of an incidental arrival may be exported directly from Customs custody or after transportation in bond, or the articles may be left in Customs custody if the resident upon his final return is to arrive at the Customs facility where the articles are deposited.

(c) *Failure to advise of incidental character of arrival.* If the traveler fails to advise the Customs officer of the incidental character of his arrival, or for other reason declares any articles for allowance of the \$400, \$600, or \$1,200 exemption, such declaration shall mark the beginning of the respective period or periods during which a further exemption cannot be granted.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 86-118, 51 FR 22516, June 20, 1986; T.D. 97-75, 62 FR 46441, Sept. 3, 1997]

### § 148.18 Failure to declare.

(a) *Penalty incurred.* Any article in the baggage of a passenger arriving from a foreign country which is not declared as required by this subpart shall be seized if it is available for seizure at the time the violation is detected, and the personal penalty prescribed by section 497, Tariff Act of 1930 (19 U.S.C. 1497), shall be demanded from the passenger. If the article is not seized, a claim for the personal penalty shall be made against the person who imported the article without declaration. No duty shall be collected, because undeclared articles are treated as smuggled.

(b) *Remission of liability.* When an article not declared as required by this subpart is found in the baggage of a person arriving in the United States, the personal penalty and forfeiture may be mitigated or remitted in accordance with the Guidelines for Disposition of Violations of 19 U.S.C. 1497 in the appendix to part 171 of this chapter.

[T.D. 83-145, 48 FR 30100, June 30, 1983]

### § 148.19 False or fraudulent statement.

A passenger who makes any false or fraudulent statement or engages in other conduct within the purview of section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592), whereby a Customs officer is or may be induced to pass an article free of duty or at less than the proper amount of duty, or to treat an article in some other manner in order to obtain a benefit, shall be deemed to have violated 19 U.S.C. 1592. In any such case the article involved shall be seized only if one or more of the conditions set forth in section 162.75 of this chapter are present, if it is available for seizure at the time the violation is detected, and if such seizure is otherwise practicable, unless the article is in the possession of an innocent holder for value who has full right to possession as against any party to the Customs violation. If seizure is not made, an amount equivalent to the maximum penalty which may be assessed in accordance with the passenger's degree of culpability as provided in 19 U.S.C. 1592(c) shall be demanded from the passenger. The amount demanded in lieu of seizure shall be determined in accordance with the guidelines contained in the appendix to part 171 of this chapter. In all cases, the estimated duties shall be demanded of the passenger as soon as possible after the discovery of the violation. Any applicable internal revenue tax shall also be demanded unless the merchandise is to be, or has been, forfeited.

[T.D. 84-18, 49 FR 1678, Jan. 13, 1984; 49 FR 3986, Feb. 1, 1984]

### Subpart C—Examination of Baggage and Collection of Duties and Taxes

#### § 148.21 Opening of baggage, compartments, or vehicles.

A Customs officer has the right to open and examine all baggage, compartments and vehicles brought into the United States under Sections 461, 462, 496 and 582, Tariff Act of 1930, as amended (19 U.S.C. 1461, 1462, 1496, and 1582) and 19 U.S.C. 482. To the extent practical, the owner or his agent shall be asked to open the baggage, compartment or vehicle first. If the owner or his agent is unavailable or refuses to open the baggage, compartment, or vehicle, it shall be opened by the Customs officer. If any article subject to duty, or any prohibited article is found upon opening by the Customs officer, the whole contents and the baggage or vehicle shall be subject to forfeiture, pursuant to 19 U.S.C. 1462.

[T.D. 95-86, 60 FR 54188, Oct. 20, 1995]

#### § 148.22 Examination of air travelers' baggage in foreign territory.

(a) *Examination and surrender of declaration.* When places have been established in a foreign country where U.S. Customs officers have been stationed for the purpose of conducting Customs inspections and examinations (see §§ 101.5 and 162.8 of this chapter), persons destined to the United States on flights shall present themselves to those officers for inspection and examination of their baggage which may be passed in accordance with § 148.23 prior to boarding the flight. They shall comply with all U.S. Customs laws and other civil and criminal laws of the United States relating to importation of merchandise, including baggage, to the filing of false or fraudulent statements, and to the unlawful removal of merchandise from Customs custody, in the same manner as if the passengers, were arriving at an airport within the Customs territory of the United States. When baggage is examined in foreign territory, the baggage declaration shall be surrendered to the Customs officer at the airport of departure for the United States prior to boarding the flight.

(b) *Subsequently acquired articles.* When a person whose baggage has been examined and passed in foreign territory in accordance with paragraph (a) of this section subsequently acquires additional articles prior to return to the United States, the Customs officer to whom the declaration was surrendered may permit the amendment of that declaration to include the additional articles.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 77-241, 42 FR 54944, Oct. 12, 1977; T.D. 89-22, 54 FR 5076, Feb. 1, 1989]

#### § 148.23 Examination and clearance of baggage.

(a) *Articles free of duty.* The inspector, including inspectors on trains or ferries, who examines the baggage of any person arriving in the United States may examine and pass, without limitation as to value, the following articles in such baggage or otherwise accompanying such person:

(1) All articles which are for the personal or household use of the arriving person and are free of duty under Chapter 98, Subchapter IV, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202), including automobiles and other articles under § 148.32.

(2) Works of art classifiable under subheadings 9701.10.00 or 9701.90.00, HTSUS.

(3) Works of art classifiable under subheadings 9702.00.00 or 9703.00.00, HTSUS, upon compliance with § 10.48 of this chapter.

(b) *Articles subject to duty.* The inspector who examines the baggage of any person arriving in the United States may examine, determine the dutiable value of, collect duty on, and pass articles accompanying the arriving person which are for his personal or household use but are subject to duty, including articles imported to be disposed of by him as bona fide gifts.

(c) *Articles not for personal use—(1) Valued at not more than \$2,000 (with exceptions).* The inspector may also examine, determine the dutiable value of, collect duty on, and pass articles accompanying any person arriving in the United States properly listed on the baggage declaration which are not for



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the personal or household use of the declarant or which are intended for sale or are brought in on commission for another, provided the aggregate value of such articles is not more than \$2,000 (except for articles valued in excess of \$250 classified in Sections VII, VIII, XI, and XII; Chapter 94, and Chapter 99, Subchapter III and IV, HTSUS).

(2) *Valued over \$2,000 (with exceptions).* Articles in the baggage of or otherwise accompanying any person arriving in the United States which have an aggregate value over \$2,000 (except for articles valued in excess of \$250 classified in Sections VII, VIII, XI, and XII; Chapter 94 and Chapter 99, Subchapters III and IV, HTSUS) and are not intended for his personal or household use, or are intended for sale or are brought in on commission for another, may be examined and entered and cleared on a baggage declaration at the place of their arrival with a passenger if:

(i) The articles are accompanied by a proper invoice if one is required (see § 141.83 of this chapter); and

(ii) It is practicable to appraise the articles at the place of arrival.

(d) *Examination of tea for personal use imported in baggage.* Tea for personal use in one or more packages weighing not more than 5 pounds each, when imported in a passenger's baggage, may be delivered without examination for purity under 21 U.S.C. 41-50 and without payment of the examination fee prescribed in 21 U.S.C. 46a.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 84-149, 49 FR 28699, July 16, 1984; T.D. 86-118, 51 FR 22516, June 20, 1986; T.D. 89-1, 53 FR 51264, Dec. 21, 1988; T.D. 89-82, 54 FR 36026, Aug. 31, 1989; T.D. 98-28, 63 FR 16417, Apr. 3, 1998]

## § 148.24 Determination of dutiable value.

(a) *Principles applied.* In determining the dutiable value of articles examined under § 148.23, the Customs inspector shall apply the principles of section 402, Tariff Act of 1930, as amended (19 U.S.C. 1401a), and shall not regard the declared value or price as conclusive.

(b) *Adjustment of value declared.* An adjustment shall be made by the Customs inspector whenever the purchase price or value declared differs from the

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fair retail value, whether by reason of depreciation due to wear or use, circumstances of purchase, or acquisition, or for any other reason. He shall give due consideration to the condition of the articles at the time of importation, but he shall not make any allowance for wear and use in excess of 25 per centum of the declared price or value of a worn or used article. A passenger who desires to claim a larger allowance may arrange for formal entry and appraisal of his goods.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 87-89, 52 FR 24445, July 1, 1987]

## § 148.25 Reexamination and protest.

(a) *Reexamination.* Whenever the Customs officer deems it advisable any or all of a passenger's baggage may be sent to the public stores for examination or reexamination. Passengers dissatisfied with the assessment of duty on their baggage may demand a reexamination, provided the articles have not been removed from Customs custody. In either case, a receipt for the baggage to be examined or reexamined shall be given on Customs Form 6051.

(b) *Protest.* If the passenger remains dissatisfied with the assessment of duty after reexamination, he shall pay the duty assessed and may protest the decision of the port director in accordance with part 174 of this chapter.

## § 148.26 Collection of internal revenue taxes.

(a) *Cigars and cigarettes.* The internal revenue tax on taxable cigars and cigarettes in a passenger's baggage shall be paid to Customs, using the Customs entry form as a return. Any such return shall show the kind, the quantity, and the tax by class on cigars and cigarettes separately from the statement of duty. Unless for the personal consumption of the importer or disposition as his bona fide gift, cigars and cigarettes are subject to the packaging and marking requirements in the regulations of the Bureau of Alcohol, Tobacco, and Firearms.

(b) *Alcoholic beverages.* The internal revenue tax shall be collected on all

wines and liquors in excess of the quantity entitled to exemption as specified in this part.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 89-1, 53 FR 51264, Dec. 21, 1988]

**§ 148.27 Receipt for payment.**

When duties and internal revenue taxes on articles in a passenger's baggage are collected, a receipt on Customs Form 368 or 368A shall be issued to the passenger if such duties and taxes are paid in cash. If such duties and taxes are paid by personal check, the check shall be the passenger's receipt unless a receipt is requested.

[T.D. 73-27 38 FR 2449, Jan. 26, 1973, as amended by T.D. 92-56, 57 FR 24944, June 12, 1992]

**Subpart D—Exemptions for Returning Residents**

**§ 148.31 Effects taken abroad.**

(a) *Exemption.* Each returning resident (including American citizens who are residents of American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States) is entitled to bring in free of duty and internal revenue tax under subheading 9804.00.45, and Chapter 98, U.S Note 3, Harmonized Tariff Schedule of the United States, (19 U.S.C. 1202), all personal and household effects taken abroad. To ensure allowance of the exemption, articles of foreign origin should be registered in accordance with § 148.1. Automobiles and other vehicles, aircraft, boats, teams and saddle horses, together with their accessories, may be brought in free of duty if taken abroad for noncommercial use (see § 148.32).

(b) *Repair or alteration while abroad.* If any such personal or household effect taken abroad has been advanced in value or improved in condition while abroad by repairs (including cleaning) not merely incidental to wear or use while abroad, or by alterations (including additions) which did not change the identity of the article, the cost or value of such repairs or alterations is subject to duty unless all or part of such cost or value is covered by an allowance of the \$400, \$600, or \$1,200 ex-

emption for articles acquired abroad (see § 148.33). An effect taken abroad and there changed into a different article is dutiable at its full value when returned to the United States, unless covered in whole or in part by some provision for free entry.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 78-394, 43 FR 49788, Oct. 25, 1978; T.D. 86-118, 51 FR 22516, June 20, 1986; T.D. 89-1, 53 FR 51264, Dec. 21, 1988; T.D. 97-75, 62 FR 46441, Sept. 3, 1997]

**§ 148.32 Vehicles, aircraft, boats, teams and saddle horses taken abroad.**

(a) *Admission free of duty.* Automobiles and other vehicles, aircraft, boats, teams and saddle horses, together with their accessories, taken abroad for noncommercial use and returned by a returning resident shall be admitted free of duty upon being satisfactorily identified.

(b) *Identification of articles taken abroad.* Upon the request of the owner or his agent, the port director shall cause any article described in paragraph (a) of this section to be examined before it is taken abroad, and shall issue a certificate of registration therefor on Customs Form 4455. On the return of the article, the certificate may be accepted as satisfactory identification of the described article for the purpose of admitting the article free of duty. In lieu of Customs Form 4455, the following may be accepted as satisfactory identification of such articles taken abroad:

(1) For an automobile, the State registration card;

(2) For an aircraft, the certificate of registration issued by the Federal Aviation Administration; and

(3) For a pleasure boat, the yacht license or motorboat identification certificate.

(c) *Repairs, alterations, and accessories.* Repairs made abroad to articles described in paragraph (a) of this section, if incidental to use abroad, are not subject to duty. Repairs not incidental to use abroad, and alterations and additions made abroad, shall be assessed with duty upon their value at the rate at which the article itself would be dutiable if imported. Accessories for articles described in paragraph (a) of this section which are acquired abroad are

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dutiable as if separately imported. Any accessories, repairs, alterations, or additions, which accompany the returning resident at the time of his return to the United States shall be included in his baggage declaration.

(d) *Entry.* Entry on a baggage declaration or regular entry (see § 148.5) shall be required if:

(1) The owner or his agent is unable to produce a proper registration card or certificate to cover the article;

(2) A claim for free entry of repairs, alterations, additions, or accessories is to be made under the \$400, \$600, or \$1,200 returning resident's exemption for articles acquired abroad; or

(3) Duty is to be collected.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 86-118, 51 FR 22516, June 20, 1986; T.D. 97-75, 62 FR 46441, Sept. 3, 1997]

§ 148.33 Articles acquired abroad.

(a) *Exemption.* Each returning resident is entitled to bring in free of duty and internal revenue tax under subheadings 9804.00.65, 9804.00.70 and 9804.00.72, and Chapter 98, U.S. Note 3, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), articles for his personal or household use which were purchased or otherwise acquired abroad merely as an incident of the foreign journey from which he is returning, subject to the limitations and conditions set forth in this section and §§ 148.34-148.38. The aggregate fair retail value in the country of acquisition of such articles for personal and household use shall not exceed:

(1) \$400, and provided that the articles accompany the returning resident;

(2) Whether or not the articles accompany the returning resident, \$600 in the case of a direct arrival from a beneficiary country as defined in § 10.191(b)(1) of this chapter, not more than \$400 of which shall have been acquired elsewhere than in beneficiary countries; or

(3) Whether or not the articles accompany the returning resident, \$1,200 in the case of a direct or indirect arrival from American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States, not more than \$400 of which shall have been acquired elsewhere than in such locations except

that up to \$600 of which may have been acquired in one or more beneficiary countries as defined in § 10.191(b)(1) of this chapter.

(b) *Application to articles of highest rate of duty.* The \$400, \$600, or \$1,200 exemption shall be applied to the aggregate fair retail value in the country of acquisition of the articles acquired abroad which are subject to the highest rates of duty. If an internal revenue tax is applicable, it shall be combined with the duty in determining which rates are highest.

(c) *Gifts.* An article acquired abroad by a returning resident and imported by him to be disposed of after importation as his bona fide gift is considered to be for the personal use of the returning resident and may be included in the exemption.

(d) *Tobacco products and alcoholic beverages.* Cigars, cigarettes, manufactured tobacco, and alcoholic beverages may be included in the exemption to which a returning resident is entitled, with the following limits:

(1) No more than 200 cigarettes and 100 cigars may be included, except that in the case of American Samoa, Guam, the Commonwealth of the Northern Mariana Islands and the Virgin Islands of the United States the cigarette limit is 1,000, not more than 200 of which shall have been acquired elsewhere than in such locations;

(2) No alcoholic beverages shall be included in the case of an individual who has not attained the age of 21; and

(3) No more than 1 liter of alcoholic beverages may be included, except that:

(i) An individual returning directly or indirectly from American Samoa, Guam, the Commonwealth of the Northern Mariana Islands or the Virgin Islands of the United States may include in the exemption not more than 5 liters of alcoholic beverages, not more than 1 liter of which shall have been acquired elsewhere than in such locations and not more than 4 liters of which shall have been produced elsewhere than in such locations; and

(ii) An individual returning directly from a beneficiary country as defined in § 10.191(b)(1) of this chapter may include in the exemption not more than 2 liters of alcoholic beverages if at

least 1 liter is the product of one or more beneficiary countries.

(e) *Exemption not applicable.* The exemption does not apply to articles intended for sale or acquired on commission, i.e., for the account of another person, with or without compensation for the service rendered. Articles acquired on one journey and left in a foreign country cannot be allowed the exemption accruing upon the return of the resident from a subsequent journey.

(f) *Remainder not applicable to subsequent journey.* A returning resident who has received a total exemption of less than the \$400, \$600, or \$1,200 maximum in connection with his return from one journey is not entitled to apply the unused portion of that maximum amount to articles acquired abroad on a subsequent journey.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 78-394, 43 FR 49788, Oct. 25, 1978; T.D. 80-179, 45 FR 45580, July 7, 1980; T.D. 86-118, 51 FR 22516, June 20, 1986; T.D. 89-1, 53 FR 51264, Dec. 21, 1988; T.D. 97-75, 62 FR 46441, Sept. 3, 1997]

**§ 148.34 Family grouping of exemptions for articles acquired abroad.**

(a) *Grouping of exemptions.* Each member of a family is entitled to the \$400, \$600, or \$1,200 exemption for articles acquired abroad, subject to the conditions prescribed in this subpart. When members of a family residing in one household travel together on their return to the United States, the \$400, \$600, or \$1,200 exemption to which the several members of the family may be entitled may be grouped and allowed without regard to which member of the family is the owner of the articles. However, a group exemption shall not include an exemption for a family member not entitled to it in his own right, nor shall a group exemption be applied to any property of such a member. The exemption of a family member who has not attained the age of 21 shall not be applied under the group exemption to alcoholic beverages. No exemptions allowable to a resident servant accompanying the family shall be included in the family grouping.

(b) *Members of a family residing in one household.* The term "members of a

family in one household" shall include all persons, regardless of age, who:

(1) Are related by blood, marriage, or adoption;

(2) Lived together in one household at their last permanent residence; and

(3) Intend to live together in one household after their arrival in the United States.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 86-118, 51 FR 22516, June 20, 1986; T.D. 97-75, 62 FR 46442, Sept. 3, 1997]

**§ 148.35 Length of stay for exemption of articles acquired abroad.**

(a) *Required for allowance of \$400, \$600, or \$1,200 exemption.* Except as otherwise provided in this paragraph or in paragraph (b) of this section, the \$400, \$600, or \$1,200 exemption for articles acquired abroad shall not be allowed unless the returning resident has remained beyond the territorial limits of the United States for a period of not less than 48 hours. The \$400 exemption may be allowed on articles acquired abroad by a returning resident arriving directly from Mexico without regard to the length of time the person has remained outside the territorial limits of the United States.

(b) *Not required for allowance of \$1,200 exemption on return from Virgin Islands.* The \$1,200 exemption applicable in the case of the arrival of a returning resident directly or indirectly from the Virgin Islands of the United States may be allowed without regard to the length of time such person has remained outside the territorial limits of the United States.

(c) *Computation of time.* The 48-hour period a returning resident must have completed abroad to be entitled to an exemption shall be computed exactly. For example, a resident leaving United States territory at 1:30 p.m. on June 1 would complete the 48-hour period at 1:30 p.m. on June 3.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 86-118, 51 FR 22516, June 20, 1986; T.D. 97-75, 62 FR 46442, Sept. 3, 1997]

**§ 148.36 Frequency of allowance of exemption for articles acquired abroad.**

(a) *30-day period.* The \$400, \$600, or \$1,200 exemption for articles acquired

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abroad shall not be granted to a returning resident who has taken advantage of such exemption within the 30-day period immediately preceding his return to the United States. The date of the returning resident's latest prior arrival on which he declared articles acquired abroad for allowance of the \$400, \$600, or \$1,200 exemption shall be deemed the date he took advantage of the applicable exemption.

(b) *Computation of time.* The 30-day period immediately preceding the resident's return shall be computed by excluding the day of arrival and counting backward 30 days. For example, in the case of an arrival on May 28, the resident would not be entitled to the \$400, \$600, or \$1,200 exemption if he had taken advantage of such exemption on or after the preceding April 28.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 86-118, 51 FR 22516, June 20, 1986; T.D. 97-75, 62 FR 46442, Sept. 3, 1997]

**§ 148.37 Replacement of unsatisfactory articles acquired abroad.**

(a) *Free entry of replacement articles.* An article furnished by a foreign supplier to replace a like article of comparable value previously exempted from duty under the \$400, \$600, or \$1,200 exemptions for articles acquired abroad shall be allowed free entry if the original article is found by the importer to be unsatisfactory and the procedures provided by paragraph (b) of this section are followed. In any case in which the importer has failed to follow these procedures, the port director may allow free entry of the replacement article if he is satisfied that the unsatisfactory article was timely exported and that the failure to comply with the procedures of paragraph (b) of this section was due to inadvertence or lack of experience in Customs matters and was without willful intent to avoid Customs supervision.

(b) *Procedure for replacement.* Any article previously exempted from duty under the \$400, \$600, or \$1,200 exemptions found by the importer to be unsatisfactory shall be returned to Customs custody and exported under Customs supervision at the expense of the importer within 60 days after its importation. A certificate of registration on Customs Form 4455 shall be issued

to the importer with instructions as to its use when the unsatisfactory article is exported for replacement under the provisions of subheading 9804.00.75, Harmonized Tariff Schedule of the United States.

(c) *Articles found damaged upon declaration.* The requirement that the original article be exported under Customs supervision does not apply when a duplicate article is furnished by a foreign supplier as a replacement for an article declared for entry under the \$400, \$600, or \$1,200 exemption and found by the Customs inspector or other examining officer to be so damaged as to constitute a nonimportation (§158.11 of this chapter). In such a case, Customs Form 4455 shall be issued to the importer at the time the determination of nonimportation is made and the duplicate replacement shall be considered to have been acquired abroad for the purposes of the \$400, \$600, or \$1,200 exemption provision, provided no charge is made to the importer for the duplicate replacement.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 86-118, 51 FR 22516, June 20, 1986; T.D. 89-1, 53 FR 51264, Dec. 21, 1988; T.D. 97-75, 62 FR 46442, Sept. 3, 1997]

**§ 148.38 Sale of articles acquired abroad.**

An article brought in under the \$400, \$600, or \$1,200 exemption for articles acquired abroad for personal or household use and subsequently sold is not dutiable or subject to forfeiture by reason of the sale if the returning resident actually acquired and imported the article for his bona fide personal or household use and not for sale.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 86-118, 51 FR 22516, June 20, 1986; T.D. 97-75, 62 FR 46442, Sept. 3, 1997]

**§ 148.39 Rented automobiles.**

(a) *Importation for temporary period.* An automobile rented by a resident of the United States while abroad may be brought into the United States by or on behalf of such resident for a temporary period not to exceed 30 days under subheading 9804.00.60, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202), without payment of duty. The automobile shall be used for the transportation of

the resident and that of his family and guests, and for such incidental carriage of articles as may be appropriate to his personal use of the automobile. No entry or security for exportation shall be required.

(b) *Unauthorized use or failure to export.* If any automobile exempted from duty under subheading 9804.00.60, HTSUS (19 U.S.C. 1202), is used otherwise than for the purpose expressed or is not returned abroad within 30 days, without prior payment to a port director of the duty which would have been payable at the time of entry if entered without benefit of the exemption, the automobile or its value (to be recovered from the importer) shall be subject to forfeiture.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 89-1, 53 FR 51264, Dec. 21, 1988]

### Subpart E—Exemptions for Nonresidents

#### § 148.41 Articles carried through the United States.

An arriving nonresident who is in transit to a place outside U.S. Customs territory may take with him through U.S. Customs territory for carriage to such place articles not exceeding \$200 in aggregate value (including not more than 4 liters of alcoholic beverages) without the payment of duty or internal revenue taxes as provided in subheading 9804.00.40, Chapter 98, U.S. Note 3, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202).

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 78-394, 43 FR 49788, Oct. 25, 1978; T.D. 89-1, 53 FR 51264, Dec. 21, 1988; T.D. 97-82, 62 FR 51771, Oct. 3, 1997]

#### § 148.42 Personal effects.

(a) *Exemption.* A nonresident arriving in the United States, regardless of age, is entitled under subheading 9804.00.20, and Chapter 98, U.S. Note 3, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), to entry free of duty and internal revenue tax for his wearing apparel, articles of personal adornment, toilet articles, and similar personal effects. "Similar personal effects" include all articles intended and appropriate for the personal use of the

nonresident while traveling, such as hunting and fishing equipment, wheelchairs for invalids or crippled persons, pet and hunting dogs, and the like.

(b) *Application of exemption.* The exemption applies only to articles which were actually owned by the nonresident and in his possession abroad at the time of, or prior to, his departure for the United States. The articles must be appropriate for the personal use of the nonresident, and intended only for such use and not as a gift for another person nor for sale.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 89-1, 53 FR 51264, Dec. 21, 1988]

#### § 148.43 Tobacco products and alcoholic beverages.

(a) *For personal use.* Fifty cigars, or 200 cigarettes, or 2 kilograms of smoking tobacco, and not exceeding 1 liter of alcoholic beverages may be passed free of duty and internal revenue tax under subheading 9804.00.25 and Chapter 98, U.S. Note 3, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202), when brought in by an adult nonresident for his personal use, and not for commercial use or to be given to another person. This exemption for tobacco products may be applied proportionately. The exemption may be applied to more than one kind of alcoholic beverages but not to an aggregate volume of more than 1 liter for one adult nonresident.

(b) *For gifts.* A nonresident who is allowed the \$100 gift exemption (see § 148.44) may include not more than 100 cigars under such exemption from duty and internal revenue tax, provided the cigars accompany him and are to be disposed of only as bona fide gifts.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 78-394, 43 FR 49789, Oct. 25, 1978; T.D. 80-19, 45 FR 45580, July 7, 1980; T.D. 89-1, 53 FR 51264, Dec. 21, 1988]

#### § 148.44 Gifts.

(a) *Exemption.* An arriving nonresident who intends to remain in the United States for not less than 72 hours is entitled to claim as free of duty and internal revenue tax under subheading 9804.00.30 and Chapter 98, U.S. Note 3, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), articles

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not over \$100 in aggregate value (not including alcoholic beverages and cigarettes, but including not more than 100 cigars) which accompany him and are to be disposed of by him as bona fide gifts. See § 148.43(b) for limitations on cigars under this exemption.

(b) *Frequency of allowance.* The exemption for gifts may be allowed only if the nonresident has not claimed the exemption within the immediately preceding 6 months.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 78-394, 43 FR 49789, Oct. 25, 1978; T.D. 89-1, 53 FR 51265, Dec. 21, 1988]

## § 148.45 Vehicles and other conveyances.

Nonresidents are entitled to entry free of duty and internal revenue tax under subheading 9804.00.35 and Chapter 98, U.S. Note 3, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), for automobiles, trailers, aircraft, motorcycles, bicycles, baby carriages, boats, horse-drawn conveyances, horses, and similar means of transportation and the usual equipment accompanying them, if such articles are imported in connection with the arrival of the nonresident to be used in the United States only for the transportation of the nonresident, his family and guests, and such incidental carriage of articles as may be appropriate to his personal use of the conveyance.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 89-1, 53 FR 51265, Dec. 21, 1988]

## § 148.46 Sale of exempted articles.

(a) *Sale resulting in forfeiture.* The following articles or their value (to be recovered from the importer) upon their sale, shall be subject to forfeiture in accordance with the provisions of Chapter 98, Subchapter IV, U.S. Note 1, HTSUS (19 U.S.C. 1202), unless the procedure set forth in paragraph (b) of this section is followed:

(1) Any jewelry or similar articles of personal adornment having an aggregate value of \$300 or more which have been allowed an exemption under § 148.42, if sold within 3 years of the date of importation.

(2) Any conveyance or its equipment allowed an exemption under § 148.45, if

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sold within 1 year after the date of importation.

(b) *Procedure permitting sale.* Articles described in paragraph (a) of this section may be sold if, prior to the time of sale, payment is made to a port director of the duty which would have been payable at the time of entry if the article had been entered without the benefit of the applicable exemption.

(c) *Permissible sales.* A sale pursuant to a judicial order or in liquidation of the estate of a decedent is not a basis for any liability for duty or forfeiture.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 89-1, 53 FR 51265, Dec. 21, 1988]

## Subpart F—Other Exemptions

### § 148.51 Special exemption for personal or household articles.

(a) *Application of exemption.* The exemption from duty and internal revenue tax contemplated by section 321(a)(2)(B), Tariff Act of 1930, as amended (19 U.S.C. 1321(a)(2)(B)), may be applied to articles for his personal or household use including gifts, but not for any business or commercial use, accompanying:

(1) A nonresident arriving in the United States who is not entitled to an exemption for gifts under subheading 9804.00.30 Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202) (see § 148.44); or

(2) A returning resident who is not entitled to the \$400, \$600, or \$1,200 exemption for articles acquired abroad under subheading 9804.00.65, 9804.00.70 or 9804.00.72, HTSUS (see Subpart D of this part).

(b) *Limitations.* No article accompanying a person arriving in the United States shall be exempted from duty or internal revenue tax under section 321(a)(2)(B), Tariff Act of 1930, as amended, if any article accompanying such person is subject to duty or tax by reason of the following limitations on the application of this exemption:

(1) *Value of articles.* The exemption shall be allowed only when the aggregate fair retail value of all articles not otherwise entitled to an exemption does not exceed \$200.

(2) *Articles subject to internal revenue tax.* The exemption shall not be applied

to articles subject to internal revenue tax other than:

- (i) Cigarettes not in excess of 50;
  - (ii) Cigars not in excess of 10;
  - (iii) Alcoholic beverages not in excess of 150 milliliters; or
  - (iv) Alcoholic perfumery not in excess of 150 milliliters; or
- (c) *Family grouping*. Family grouping of the exemption shall not be allowed.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 78-394, 43 FR 49789, Oct. 25, 1978; T.D. 80-179, 45 FR 45580, July 7, 1980; T.D. 86-118, 51 FR 22516, June 20, 1986; T.D. 89-1, 53 FR 51265, Dec. 21, 1988; T.D. 94-51, 59 FR 30296, June 13, 1994; T.D. 97-75, 62 FR 46442, Sept. 3, 1997; T.D. 99-64, 64 FR 43267, Aug. 10, 1999]

**§ 148.52 Exemption for household effects used abroad.**

(a) *Exemption*. Furniture, carpets, paintings, tableware, books, libraries, and other usual household furnishings and effects actually used abroad for not less than 1 year by resident or non-residents, and not intended for any other person or for sale may be allowed entry free of duty and tax under subheading 9804.00.05, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202). Household effects used abroad not less than 1 year by a family of which the importer was a resident member for not less than 1 year during the period of use may be allowed free entry whether or not the importer owned the effects at the time of such use. The year of use need not be continuous, nor need it immediately precede the time of importation.

(b) *Proof of use*. In order to obtain free entry for household effects under this section, the use of the effects abroad for 1 year must be proven to the satisfaction of the port director. The port director, in his discretion, may require evidence of use other than the declaration provided for in paragraph (c) of this section.

(c) *Declaration*. When household effects are claimed to be free of duty a declaration of the owner on Customs Form 3299 shall be required to support the claim for free entry. If it is impracticable to produce the declaration at the time of entry, the importer may give a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter, for the produc-

tion of the owner's declaration within 6 months.

(d) *Arrival of effects more than 10 years after arrival of importer*. As a general rule, household effects arriving more than 10 years after the last arrival of the importer from the country in which the effects were used shall not be admitted free of duty under this exemption unless the port director is satisfied from the importer's explanation that the effects were unavoidably detained beyond the 10-year period. However, in no case shall free entry be allowed under this provision when a period of 25 years or more has elapsed since the last arrival of the importer in the United States from the country in which the effects were used.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 84-213, 49 FR 41186, Oct. 19, 1984; T.D. 89-1, 53 FR 51265, Dec. 21, 1988]

**§ 148.53 Exemption for tools of trade.**

(a) *Exemption*. Professional books, implements, instruments, or tools of trade, occupation or employment, may be allowed entry free of duty and tax under the provisions of subheading 9804.00.15, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), for such articles owned and used abroad by any person emigrating to the United States, or subheading 9804.00.10 for such articles taken abroad by or for the account of any person arriving in the United States. The exemption for emigrants under subheading 9804.00.15, HTSUS shall not be applied to:

- (1) Theatrical scenery, properties, or apparel;
- (2) Articles for use in any manufacturing establishment;
- (3) Articles for any other person; or
- (4) Articles for sale.

(b) *Declaration*. A declaration of the emigrant or returning individual on Customs Form 3299 shall be required to support the claim of free entry. However, an oral declaration may be accepted from a returning individual in lieu of a written declaration for any such articles claimed to be free of duty under subheading 9804.00.10, HTSUS (19 U.S.C. 1202).

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 89-1, 53 FR 51265, Dec. 21, 1988]



**§ 148.54 Exemption for effects of citizens dying abroad.**

(a) *Exemption.* Articles claimed to be personal and household effects, not stock in trade, the title to which is in the estate of a citizen of the United States who died abroad may be allowed entry free of duty and tax under sub-heading 9804.00.85, and Chapter 98, U.S. Note 3, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202).

(b) *Entry.* Such effects shall be entered in accordance with the provisions of §§ 143.11 through 143.16 of this chapter, or if the value of such effects does not exceed \$250, entry may be permitted under the provisions of §§ 143.21 through 143.28 of this chapter.

(c) *Statement of facts required.* The port director shall require in connection with the entry the written statement of a person having knowledge of the facts or shall otherwise satisfy himself as to the citizenship of the deceased owner of the effects at the time of death.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 78-99, 43 FR 13061, Mar. 28, 1978; T.D. 89-1, 53 FR 51265, Dec. 21, 1988]

**§ 148.55 Exemption for articles bearing American trademark.**

(a) *Application of exemption.* An exemption is provided for trademarked articles accompanying any person arriving in the United States which would be prohibited entry under section 526, Tariff Act of 1930, as amended (19 U.S.C. 1526), or section 42 of the Act of July 5, 1946 (60 Stat. 440; 15 U.S.C. 1124), because the trademark has been registered with the U.S. Patent and Trademark Office and recorded with Customs. The exemption may be applied to those trademarked articles of foreign manufacture bearing a trademark owned by a citizen of, or a corporation or association created or organized within, the United States when imported for the arriving person's personal use in the quantities provided in paragraph (c) of this section. Unregistered and unrecorded trademarked articles are not subject to quantity limitation.

(b) *Limitations—(1) 30-day period.* The exemption in paragraph (a) of this section shall not be granted to any person who has taken advantage of the exemp-

tion for the same type of article within the 30-day period immediately prior to his arrival in the United States. The date of the person's last arrival on which he claimed this exemption shall be considered to be the date he last took advantage of the exemption.

(2) *Sale of exempted articles.* If an article which has been exempted is sold within one year of the date of importation, the article or its value (to be recovered from the importer), is subject to forfeiture. A sale subject to judicial order or in the liquidation of an estate is not subject to the provisions of this paragraph.

(c) *Quantities.* Generally, each person arriving in the United States may apply the exemption to one article of the type bearing a protected trademark. The Commissioner shall determine if a quantity of an article in excess of one may be entered and, with the approval of the Secretary of the Treasury, publish in the FEDERAL REGISTER a list of types of articles and the quantities of each entitled to the exemption. If the holder of a protected trademark allows importation of a quantity in excess of one of its particular trademarked article, the total of those trademarked articles authorized by the trademark holder may be entered without penalty.

[T.D. 79-159, 44 FR 31969, June 4, 1979; 44 FR 35208, June 19, 1979, as amended by T.D. 91-77, 56 FR 46115, Sept. 10, 1991]

**Subpart G—Crewmember  
Declarations and Exemptions**

**§ 148.61 Status as crewmembers.**

The following persons arriving in the United States shall not be treated as crewmembers:

(a) Members of the uniformed services of the United States and persons in the civil service of the United States engaged in the operation of a vessel, vehicle, or aircraft owned by, or under the complete control and management of, the United States or any of its agencies.

(b) Persons engaged in the operation of a private or public aircraft.

(c) Persons not connected with the operation, navigation, ownership, or

business of a vessel, vehicle or aircraft engaged in international traffic.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 76-338, 41 FR 54167, Dec. 13, 1976]

**§ 148.62 Declaration and entry of articles by crewmembers.**

(a) *Declaration required.* Articles which are to be landed by a crewmember, including any person traveling on board a vessel, vehicle, or aircraft engaged in international traffic who is returning from a trip on which he was employed as a crewmember, shall be declared upon arrival of the vessel, vehicle, or aircraft in the United States. When practicable, the clearance of articles through Customs shall be made and permission to unlade obtained before the articles are taken from the carrier. However, if no danger to the revenue will result, articles may be submitted for examination and clearance to the Customs office on the pier or at the landing place.

(b) *Form of declaration—(1) Oral declaration.* A crewmember may be permitted to make an oral declaration and entry if all articles he has to declare, in addition to articles for use in port on temporary leave for which no entry is required in accordance with § 148.63, may be admitted free of duty and tax under section 321(a)(2)(B), Tariff Act of 1930, as amended (19 U.S.C. 1321(a)(2)(B)) (See § 148.64).

(2) *Written declaration.* A written declaration on Customs Form 5129, Crewmember's Declaration shall be required in any case in which an oral declaration is not permitted. A written declaration may be required in any case if necessary to effect prompt and orderly clearance of crewmembers and their effects or if deemed necessary to protect the revenue.

(c) *Transfer without declaration.* Articles belonging to a crewmember may be transferred from one carrier to another in international traffic without declaration, entry, or assessment of duty if the transfer is carried out under the supervision of Customs officers, or by a bonded cartman if necessary.

(d) *Entry at port where articles to be landed.* Articles in the possession of or owned by a crewmember of a character for which entry must be made when

they are brought into the United States shall be entered at the port where the articles are to be landed. However, if the crewmember remains on a vessel, vehicle, or aircraft which is to proceed to another port of the United States in a movement in which entry of the vessel, vehicle, or aircraft will not be required, entry of the articles shall be made at the port at which such movement begins.

(e) *Collection of duty and taxes.* Any duties and taxes found due shall be collected as in the case of arriving passengers.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 78-99, 43 FR 13061, Mar. 29, 1978]

**§ 148.63 Articles for use while on temporary leave.**

(a) *Exemption.* Articles in the possession of and exclusively for use by any crewmember during the trip or voyage, such as necessary clothing, toiletries, and purely personal effects, may be landed by such crewmember for use on temporary leave without a written declaration or entry, and without payment of duty or internal revenue tax under subheading 9804.00.80, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202), if the port director is satisfied that:

(1) The articles are reasonable and appropriate for the crewmember's accommodation while on temporary leave, and are to be taken out of the United States, except for articles consumed in use;

(2) The articles are intended exclusively for the crewmember's bona fide personal use;

(3) The quantities are reasonable, depending on the circumstances in each particular case; and

(4) In the case of tobacco products and alcoholic beverages, the containers have been opened and the total quantity landed shall not exceed 50 cigars, 300 cigarettes, or 2 kilograms of smoking tobacco, or a proportionate amount of each, and 1 liter of alcoholic beverages.

(b) *Temporary leave.* A crewmember is not considered to be on temporary leave from a vessel, vehicle, or aircraft

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engaged in international traffic or entitled to the exemption under this section upon disembarkation when he is to remain in the confines of a pier, terminal, airport, or area immediately adjacent thereto, in order to timely embark on the carrier in the course of a continuous journey or on a concurrently scheduled arrival and departure.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 80-179, 45 FR 45580, July 7, 1980; T.D. 89-1, 53 FR 51265, Dec. 21, 1988]

### § 148.64 Administrative exemption.

(a) *Application of exemption.* The exemption from duty and internal revenue tax contemplated by section 321(a)(2)(B), Tariff Act of 1930, as amended (19 U.S.C. 1321(a)(2)(B)), may be applied to articles for the personal and household use, including gifts, of a crewmember arriving in the United States who is not entitled to an exemption under subheading 9804.00.30, 9804.00.65, 9804.00.70, or 9804.00.72, Harmonized Tariff Schedule of the United States (HTSUS) (see §§ 148.66(c) and 148.65). The exemption may be applied when the crewmember is entitled to an exemption under subheading 9804.00.80, HTSUS (19 U.S.C. 1202), for articles for use while on temporary leave (§ 148.63).

(b) *Limitations.* No article accompanying a crewmember arriving in the United States shall be exempted from duty or internal revenue tax under section 321(a)(2)(B), Tariff Act of 1930, as amended, if any article accompanying such crewmember is subject to duty or internal revenue tax by reason of the following limitations.

(1) *Value of articles.* The exemption shall be allowed only when the aggregate fair retail value of all articles not otherwise entitled to an exemption does not exceed \$200.

(2) *Articles subject to internal revenue tax.* The exemption shall not be applied to any article subject to internal revenue tax in addition to any articles allowed an exemption under subheading 9804.00.80, HTSUS (19 U.S.C. 1202), other than:

- (i) Cigarettes not in excess of 50;
- (ii) Cigars not in excess of 10;
- (iii) Alcoholic beverages not in excess of 150 milliliters; or
- (iv) Alcoholic perfumery not in excess of 150 milliliters (Subheading

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9805.00.50, HTSUS (19 U.S.C. 1202, 1321)). [T.D. 80-179.].

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 80-179, 45 FR 45580, July 7, 1980; T.D. 84-149, 49 FR 28699, July 16, 1984; T.D. 89-1, 53 FR 51265, Dec. 21, 1988; T.D. 94-51, 59 FR 30296, June 13, 1994; T.D. 97-75, 62 FR 46442, Sept. 3, 1997]

### § 148.65 Exemption for resident crewmembers.

(a) *Status as returning resident.* A crewmember arriving in a vessel, vehicle, or aircraft from a foreign port who is a resident of the United States shall be considered a returning resident qualifying for the exemptions allowed under Chapter 98, Subchapter IV, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), and subpart D of this part if he permanently leaves the carrier without the intention of resuming his employment on the same or any other carrier that is engaged in international traffic.

(b) *Statement of declaration.* A resident crewmember who claims that articles declared by him are entitled to be passed free of duty and tax under the returning resident's exemption, shall include a legible statement on the declaration, Customs Form 5129, of the basis for his claim for entitlement to the resident's exemption.

[T.D. 81-218, 46 FR 42657, Aug. 24, 1981, as amended by T.D. 89-1, 53 FR 51265, Dec. 21, 1988]

### § 148.66 Exemptions for nonresident crewmembers.

(a) *Status as arriving nonresident.* A nonresident crewmember will be treated as an arriving nonresident for purposes of claiming the exemptions allowable under Chapter 98, Subchapter IV, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202), and subpart E of this part when he permanently leaves his employment with a vessel, vehicle, or aircraft at a port in the United States without intention of resuming employment on the same or another carrier in international traffic. However, a nonresident crewmember shall not be treated as an arriving nonresident for this purpose when he departs a carrier for temporary leave but retains his employment with the carrier so that he will be

going foreign again in the course of his continuing employment (see § 148.63).

(b) *Articles carried through the United States.* A nonresident crewmember, permanently leaving a carrier in a U.S. port to travel as a passenger on another carrier which will take him to a place outside the United States, who desires to take with him articles not exceeding \$200 in aggregate value (including not more than 4 liters of alcoholic beverages) without the payment of duty or internal revenue tax as provided in item 812.40 (see § 148.41), may be accorded free entry of the articles under the following procedure:

(1) *Declaration and supporting statement.* The nonresident crewmember shall itemize the articles on his declaration and entry, Customs Form 5129, required by § 148.62(b)(2), and shall state in writing in support of his declaration that:

(i) He has been finally discharged from the carrier, with the date of discharge;

(ii) He intends to depart from the same or another U.S. port as a passenger on another carrier for a place outside U.S. Customs territory; and

(iii) The articles will be taken with him on such carrier and will not remain in the United States.

(2) *Allowance by port director.* The port director may require verification of the crewmember's discharge and a statement as to the accuracy of the second and third supporting statements of the crewmember from the person in charge of the carrier, the vessel agent, or the port captain. If the port director is satisfied that the crewmember's statements are correct, the articles may be passed free of duty and internal revenue tax under subheading 9808.00.40, HTSUS (19 U.S.C. 1202).

(c) *Articles to be disposed of as gifts.* A nonresident crewmember shall itemize on his baggage declaration and entry, Customs Form 5123 or 5129, required by § 148.62, all articles in his possession for which he seeks entry under subheading 9804.00.30, HTSUS (19 U.S.C. 1202), as bona fide gifts. The crewmember must be permanently leaving his employment on the international carrier for a stay in the United States of at least 72

hours before departing for a place outside the United States as a passenger.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 78-99, 43 FR 13061, Mar. 29, 1978; T.D. 78-394, 43 FR 49789, Oct. 25, 1978; T.D. 89-1, 53 FR 51265, Dec. 21, 1988]

#### § 148.67 Penalties for failure to declare articles.

(a) *Avoidance of inspection.* When articles may be presented to the Customs office on the pier or at the landing place for inspection and clearance, if the circumstances under which the articles are landed indicate an attempt to avoid inspection, the penalties prescribed in section 453, Tariff Act of 1930, as amended (19 U.S.C. 1453), shall be assessed.

(b) *Articles landed without declaration.* Any article landed without having been properly declared as provided in § 148.62 shall be considered as having been unladen without a permit and the penalties provided in 19 U.S.C. 1453 or 19 U.S.C. 1644 and 1644a shall be assessed as applicable.

(c) *Articles omitted from declaration.* If the declaration does not include all the articles landed, the crewmember shall be subject to the penalties prescribed in section 497, Tariff Act of 1930 (19 U.S.C. 1497), with respect to the articles omitted. The penalties prescribed in section 453, Tariff Act of 1930, as amended (19 U.S.C. 1453), shall not be assessed if any, though not all, of the articles are declared, except as provided in paragraph (a) of this section.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 98-74, 63 FR 51290, Sept. 25, 1998]

### Subpart H—Military and Civilian Employees of the United States, and Evacuees

#### § 148.71 Status of persons in service of United States as returning residents.

A person in the service of the United States and members of his family arriving in the United States are ordinarily considered returning residents for the purpose of Chapter 98, Subchapter IV, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), except that the following persons are treated as nonresidents:

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(a) A wife or husband of any person in the service of the United States emigrating to the United States, and

(b) A child born abroad of any person in the service of the United States who is arriving in the United States for the first time.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 89-1, 53 FR 51265, Dec. 21, 1988]

§ 148.72 [Reserved]

§ 148.73 **Baggage on carriers operated by the Department of Defense.**

(a) *Declaration.* All persons, including crewmembers, entering the United States on carriers operated by or for the Department of Defense shall execute written baggage declarations.

(b) *Exemptions applicable.* Passengers on transports shall be granted the applicable exemptions from duty provided for in Chapter 98, Subchapter IV, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202). Members of the Armed Forces of the United States and personnel in the civil service of the United States engaged in the operation of the vessel shall be accorded the same privilege. Civilian officers and crewmembers not in the service of the United States shall be subject to the provisions of subpart G of this part with respect to exemption from duty.

(c) *Examination of baggage.* Baggage on transports shall be examined at the port where landed in the same manner as baggage on commercial vessels.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 82-213, 48 FR 46979, Oct. 17, 1983; T.D. 89-1, 53 FR 51265, Dec. 21, 1988]

§ 148.74 **Exemption on termination of assignment to extended duty or on evacuation.**

(a) *Exemption.* With the limitation on alcoholic beverages and tobacco products provided in paragraph (c) of this section, entry free of duty and tax under subheading 9805.00.50, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), may be accorded personal and household effects of:

(1) Any person in the service of the United States who returns to the United States upon the termination of assignment to extended duty at a post

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or station outside the Customs territory of the United States;

(2) Members of his family who have resided with him at such post or station and are returning upon the termination of his assignment; or

(3) Any person evacuated to the United States under Government orders or instructions.

(b) The term "personal effects" as used in subheading 9805.00.50, HTSUS, is not confined to that class of articles described in subheading 9804.00.20, HTSUS, nor is any period of use, such as prescribed by subheading 9804.00.05, HTSUS, applicable to household effects entered under subheading 9805.00.50, HTSUS. The privilege of free entry under subheading 9805.00.50, HTSUS, does not apply to:

(1) Articles imported for sale, or for the account of any person not specified in subheading 9805.00.50, HTSUS; or

(2) Articles which have not been in the direct personal possession of the claimant, or a member of his household, while abroad.

(c) *Limitation on alcoholic beverages and tobacco products.* A total of not more than 4 liters of alcoholic beverages and not more than 100 cigars shall be accorded free entry under subheading 9805.00.50, HTSUS, subject to the conditions that:

(1) These articles accompany the person making the claim for free entry upon his arrival in the U.S.;

(2) Not more than 1 liter of any such alcoholic beverages shall have been distilled or otherwise manufactured and bottled in any place other than the United States or its possessions;

(3) Such individual has not concurrently claimed exemption as a returning resident under subheading 9804.00.65, 9804.00.70, or 9804.00.72, HTSUS; and

(4) Such person, if other than one in the service of the U.S., shall have attained the age of 21.

(d) *Termination of assignment to extended duty.* The requirement of subheading 9805.00.50, HTSUS that the person "returns to the United States upon the termination of assignment to extended duty" shall be considered met upon the necessary proof being submitted that any one of the following is applicable:

(1) The person is returning upon the termination of a tour of duty outside the Customs territory of the United States of at least 140 days' duration.

(2) The person is returning after the termination of an assignment under permanent change of station orders to duty at a post or station outside the Customs territory of the United States, regardless of the duration of the duty. A crewmember, including a member of a command, serving on a United States naval vessel when it departs from the United States on an intended deployment of 120 days or more outside the Customs territory of the United States and who continues to serve on the vessel until it returns to the United States may be considered as returning after the termination of an assignment of duty under permanent change of station orders.

(3) The person is returning to the United States upon the termination of a tour of duty at any time after leaving the United States for duty of not less than 140 days outside the Customs territory of the United States.

(4) The person, although not returning to the United States, is ordered by the Government agency involved from duty at a post or station outside the Customs territory of the United States to duty at another post or station outside the Customs territory of the United States necessitating the return to the United States of his personal and household effects.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 80-179, 45 FR 45580, July 7, 1980; T.D. 89-1, 53 FR 51265, Dec. 21, 1988; T.D. 97-75, 62 FR 46442, Sept. 3, 1997]

**§ 148.75 Persons ineligible for exemption on termination of assignment.**

(a) *Persons returning from temporary assignment.* No person, or member of his family, shall be allowed free entry of personal and household effects under subheading 9805.00.50, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202), where the person returns to the United States pursuant to Government orders or instructions which authorized him initially to proceed to a foreign post or station and return to the United States

upon termination of temporary duty, except as it may otherwise be deemed proper in accordance with the provisions of § 148.74(d) or § 148.76.

(b) *Persons returning on leave or before termination of extended duty assignment.* A person returning on leave, other than on reemployment leave at the termination of assignment to extended duty as defined in § 148.74(d), or otherwise returning before the termination of an assignment to extended duty outside the Customs territory of the United States, with or without orders covering the return, is not eligible for an exemption under subheading 9805.00.50, HTSUS (19 U.S.C. 1202).

(c) *Person returning on temporary duty assignment.* A person returning to the United States under orders on temporary duty assignment at the termination of which he is returned to his duty station abroad to resume his regular duties is not regarded as returning to the United States at the termination of extended duty outside the Customs territory of the United States and is not eligible for an exemption under subheading 9805.00.50, HTSUS (19 U.S.C. 1202).

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 89-1, 53 FR 51266, Dec. 21, 1988]

**§ 148.76 Waiver of requirements or limitations.**

In any case in which the limitation on the quantity of alcoholic beverages and tobacco products which may be exempted from duty and tax under § 148.74(c) or the failure of the person to meet the requirements that he be returning upon the termination of assignment to "extended duty," as explained in § 148.74(d), will cause undue hardship to the person through no fault of his own, but rather because of the nature of his assignment or other hardship circumstances, the Commissioner of Customs, upon receipt of a request from the Government agency involved, may waive the limitation or the requirement, as the case may be, if he deems such waiver warranted by the facts.

**§ 148.77 Entry of effects on termination of assignment to extended duty, or on evacuation.**

(a) *General procedure.* All articles for which free entry is claimed under subheading 9805.00.50, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), shall be entered or withdrawn in accordance with the requirements prescribed by the Tariff Act of 1930, as amended. Port directors shall be satisfied in all cases that the articles for which free entry is claimed under subheading 9805.00.50, HTSUS, are personal and household effects of the importer entitled to the benefits of item 817.00, particularly in those cases where the quantity of effects imported may appear to be unreasonable for personal or household use. No invoice shall be required for articles accorded free entry under this provision.

(b) *Declaration and entry—(1) Person entitled to exemption.* Declaration and entry for articles claimed to be exempt from duty and tax under subheading 9805.00.50, HTSUS (19 U.S.C. 1202), may be made on Customs Form 3299, or Department of Defense Form (DD) 1252 when entry is made in the name of the person who is entitled to the benefits of the exemption. The date of the person's last departure from the United States shall be indicated on the declaration and entry.

(2) *Designated official.* Customs Form 3299 or Department of Defense Form 1252 executed on behalf of the owner of unaccompanied personal and household effects by either a United States Dispatch Agent or a designated responsible military official in his own name, may be accepted by the Customs officer as the declaration and entry if there is a valid reason evident from the owner's travel orders or information at hand why the United States Government agency concerned is unable to present Department of Defense Form (DD) 1252 or Customs Form 3299 executed by the owner. The date of the owner's last departure from the United States need not be indicated on the form. The following statement shall be added across the face or to the back of Customs Form 3299 or Department of Defense Form 1252.

This form is completed on behalf of (Name of Government employee) Travel orders and

information on hand in this office show that the named person has met all requirements of section 148.74, Customs Regulations, and is entitled to the benefits of subheading 9805.00.50, Harmonized Tariff Schedule of the United States. The shipment imported consists of nothing but personal and household effects of the named person, which effects are not imported for sale or as an accommodation for others.

(c) *Verification of claim for exemption—*

(1) *By travel orders.* The declaration and entry shall be verified by the Customs officer by an inspection of the owner's travel orders. If the port director accepts an inspection of the owner's travel orders as evidence that the effects were brought into the United States within the requirements of subheading 9805.00.50, the owner's travel orders shall be identified on the entry, which shall be handled like a free baggage declaration.

(2) *By other evidence.* The declaration and entry may be verified by other evidence which satisfies the port director that the effects were brought into the United States in connection with:

(i) The person's return to the United States upon the termination of assignment to extended duty, as explained in § 148.74(d);

(ii) The return of members of his family who have resided with him at his post or station upon the termination of his assignment; or

(iii) The evacuation of a person to the United States under Government orders or instructions.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 82-145, 47 FR 35478, Aug. 16, 1982; T.D. 85-123, 50 FR 29955, July 23, 1985; T.D. 89-1, 53 FR 51266, Dec. 21, 1988]

**Subpart I—Personnel of Foreign Governments and International Organizations and Special Treatment for Returning Individuals**

**§ 148.81 General provisions.**

(a) *Reciprocal privileges.* The privileges provided for in §§ 148.81 through 148.86 and § 148.90 of this chapter shall be accorded only if reciprocal privileges are granted by the foreign government involved to U.S. personnel of comparable status.

(b) *Baggage and effects.* The term “baggage and effects,” as used in this subpart includes all articles which were in the possession of a person abroad, and are being imported in connection with his arrival, and which are intended for his bona fide personal or household use. It does not include articles imported as an accommodation to others or for sale or other commercial use.

(c) *Aliens.* The privileges provided in this subpart shall be accorded only to alien representatives, officers, employees, and members of the armed forces of foreign governments and designated public international organizations.

(d) *Internal revenue tax.* Any article exempted from the payment of duty under this subpart shall be exempt also from the payment of any internal revenue tax imposed upon or by reason of importation.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 73-227, 38 FR 22548, Aug. 22, 1973]

**§ 148.82 Diplomatic, consular, and other privileged personnel.**

(a) *Inviolability of the person of diplomatic personnel.* The person of the representatives of foreign governments and members of their families set forth below shall be free from arrest, search, or detention:

(1) Ambassadors, ministers, *chargés d'affaires*, secretaries, counselors, *attachés* of foreign embassies and legations, and other heads of diplomatic missions or members of the diplomatic staffs of such missions, accredited to the United States or en route between other countries to which accredited and their own countries.

(2) Members of the families forming part of the households of the diplomatic personnel listed in the preceding subparagraph, who are accompanying them or traveling separately to join them incidental to their official travel, excluding those members of families who are U.S. nationals.

(3) Members of the administrative and technical staffs of diplomatic missions accredited to the United States and members of their families forming part of their household, all of whom are not nationals or permanent residents of the United States who are ac-

companying them or traveling separately to join them incidental to their official travel.

(4) Diplomatic and consular couriers.

(b) *Exemption for baggage and effects and admission without entry.* The baggage and effects of the following representatives of foreign governments shall be admitted free of duty without the filing of an entry, upon the request of the Department of State and appropriate instructions from the United States Customs Service in each instance:

(1) Ambassadors, ministers, *chargés d'affaires*, secretaries, counselors, *attachés* of embassies and legations, and other members of the diplomatic staffs of such missions accredited to the United States or en route to or from other countries to which assigned, as well as recognized consular officers, and the immediate families, suites, and servants of all the above under subheading 9806.00.05, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202).

(2) Members of the administrative and technical staffs of diplomatic missions and members of their families forming part of their households, all of whom are not nationals or permanent residents of the United States under subheading 9806.00.05, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202). Unless more extensive privileges are provided in treaties or special agreements between the United States and the foreign country concerned, this privilege is limited to baggage and effects imported at the time of first installation.

(3) Consular employees who are not nationals or permanent residents of the United States. Unless more extensive privileges are provided in treaties or special agreements between the United States and the foreign country concerned, this privilege is limited to articles imported at the time of first installation.

(4) Other high officials of foreign governments and such distinguished foreign visitors as may be designated by the Department of State, and their immediate families under subheading 9806.00.25, HTSUS.

(5) Foreign government personnel entitled to privileges under statutes or



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treaties under subheading 9806.00.30, HTSUS.

(6) Diplomatic couriers, limited to accompanying baggage and effects.

(c) *Absence of special request.* In the absence of special request from the Department of State prior to the arrival of representatives of foreign governments enumerated in paragraph (b)(1) of this section, their immediate families as well as accompanying suites and servants, and diplomatic couriers, their baggage and effects may be admitted free of duty without entry upon presentation of their credentials or other proof of their identity.

(d) *Delay in arrival of baggage or effects.* If by accident or unavoidable delay in shipment the baggage or other effects of a person entitled to the privileges of this section shall arrive after him upon satisfactory proof of ownership, such baggage or effects may be passed free of duty without entry.

(e) *Inspection of baggage—(1) Exemption for representatives of foreign governments.* The personal baggage of the following representatives of foreign governments and their families is ordinarily exempt from inspection:

(i) Ambassadors, ministers, *chargés d'affaires*, secretaries, counselors, attachés of foreign embassies or legations, and other members of the diplomatic staffs of such missions, who are accredited to the United States or en route between other countries to which accredited and their own countries and members of their families forming part of their household who are not nationals of the United States.

(ii) Consular officers recognized by the United States and members of their families forming part of their household who are not nationals or permanent residents of the United States, provided the baggage accompanies them.

(iii) Diplomatic couriers, provided the baggage accompanies them.

(2) *Conditions permitting inspection.* The personal baggage of representatives of foreign governments listed in paragraph (e)(1) of this section and members of their families may be inspected if there is serious reason to believe that it contains:

(i) Articles other than those for the personal use of such persons or for the

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use of their establishments or for official mission use.

(ii) In the case of consular officers and their families, articles intended for consumption in excess of the quantities necessary for direct use by the person concerned.

(iii) Articles which are absolutely or conditionally prohibited importation or exportation under the laws or regulations of the United States, or which are subject to the quarantine laws or regulations of the United States.

(3) *Presence of foreign representative.* When inspection of personal baggage is permitted under paragraph (e)(2) of this section, the inspection shall take place only in the presence of the affected representative of a foreign government, or his authorized agent.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 89-1, 53 FR 51266, Dec. 21, 1988]

**§ 148.83 Diplomatic and consular bags.**

(a) *Diplomatic bags.* The contents of diplomatic bags are restricted to diplomatic documents and articles intended exclusively for official use and packages constituting the diplomatic bag must bear visible marks of their character. Diplomatic bags shall not be opened or detained nor shall they be subject to duty or entry.

(b) *Consular bags.* Consular bags must bear visible external marks of their character and their contents are restricted to official correspondence and documents or articles intended exclusively for official use. Consular bags shall not be subject to duty and ordinarily shall not be opened or detained. However, if Customs officers have serious reason to believe that a consular bag contains other than permissible materials, they may request that the bag be opened in their presence by an authorized representative of the foreign government concerned. If this request is refused, the consular bag shall be returned to its place of origin.

**§ 148.84 Special treatment for returning individuals.**

(a) Except as otherwise provided by law, an individual returning to the United States from abroad:

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(1) Shall not have his or her baggage and effects admitted free of duty without entry.

(2) Shall not be entitled to expedited Customs examination and clearance of his or her baggage and effects unless the port director finds:

(i) That the individual:

(A) Is seriously ill or infirm;

(B) Was summoned by news of affliction or disaster; or

(C) Is accompanying the body of a deceased relative; or

(ii) That a special circumstance exists which warrants expedited examination and clearance.

(b) For purposes of this section, the term "baggage and effects" means any article which was in the possession of the individual while abroad, is being imported in connection with his or her arrival, and is intended for his or her bona fide personal or household use. This term does not include any article imported as an accommodation to others or for sale or other commercial use.

[T.D. 78-394, 43 FR 49789, Oct. 25, 1978]

**§ 148.85 Subsequent importations for the personal or family use of diplomatic, consular and other privileged personnel.**

The privilege of importing free of duty and without the filing of any entry articles for personal or family use, but not as an accommodation for others or for sale or other commercial use, shall be granted upon the request of the Department of State and upon appropriate instructions from the United States Customs Service in each instance, to the following:

(a) Ambassadors, ministers, *chargés d'affaires*, secretaries, counselors and attachés of foreign embassies and legations accredited to the United States under subheading 9806.00.40, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202);

(b) Other representatives, officers and employees of foreign governments, under subheading 9806.00.50, HTSUS; and

(c) Other persons designated pursuant to statute or pursuant to treaties between the United States and the

countries which they represent, under subheading 9806.00.55, HTSUS.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 89-1, 53 FR 51266, Dec. 21, 1988]

**§ 148.86 Articles for official use of representatives of foreign governments and public international organizations.**

Office supplies and equipment and other articles for the official use of members and attaches of foreign embassies and legations, consular officers, and other representatives of foreign governments or of personnel of public international organizations, may be admitted free of duty under subheading 9809.00.20, Harmonized Tariff Schedule of the United States, without the filing of an entry, upon the request of the Department of State.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 82-145, 47 FR 35478, Aug. 16, 1982; T.D. 89-1, 53 FR 51266, Dec. 21, 1988]

**§ 148.87 Officers and employees of, and representatives to public international organizations.**

(a) *Exemption for baggage and effects.* The baggage and effects of the alien officers and employees of, or representatives of foreign governments, to the organizations designated by the President as public international organizations pursuant to section 1 of the International Organizations Immunities Act (22 U.S.C. 288), and the baggage and effects of their families, suites, and servants, shall be admitted free of duty and without entry under subheading 9806.00.15, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), but only upon the receipt in each instance of instructions from the United States Customs Service issued at the request of the Department of State.

(b) *Designated public international organizations.* The President, by virtue of the authority vested in him by section 1 of the International Organizations Immunities Act of December 29, 1945 (22 U.S.C. 288), has designated certain organizations as public international organizations entitled to the free entry privileges of that statute. The following is a list of the public international organizations currently entitled to such free entry privileges and

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the Executive orders by which they were designated:

Organization	Executive Order	Date
African Development Bank .....	12403	Feb. 8, 1983.
African Development Fund .....	11977	Mar. 14, 1977.
Asian Development Bank .....	11334	Mar. 7, 1967.
Border Environmental Cooperation Commission.	12904	Mar. 16, 1994.
Caribbean Organization .....	10983	Dec. 30, 1961.
Commission for Environmental Cooperation.	12904	Mar. 16, 1994.
Commission for Labor Cooperation.	12904	Mar. 16, 1994.
Commission for the Study of Alternatives to the Panama Canal.	12567	Oct. 2, 1986.
Customs Cooperation Council ..	11596	June 5, 1971.
European Bank for Reconstruction and Development.	12766	June 18, 1991.
European Space Agency (formerly the European Space Research Organization (ESRO)).	12766	June 18, 1991.
Food and Agriculture Organization.	9698	Feb. 19, 1946.
Great Lakes Fishery Commission.	11059	Oct. 23, 1962.
Inter-American Defense Board	10228	Mar. 26, 1951.
Inter-American Development Bank.	10873	Apr. 8, 1960.
Inter-American Institute of Agricultural Sciences.	9751	July 11, 1946.
Inter-American Investment Corporation.	12567	Oct. 2, 1986.
Inter-American Statistical Institute.	9751	Do.
Inter-American Tropical Tuna Commission.	11059	Oct. 23, 1962.
Intergovernmental Maritime Consultative Organization.	10795	Dec. 13, 1958.
International Atomic Energy Agency.	10727	Aug. 31, 1957.
International Bank for Reconstruction and Development.	9751	July 11, 1946.
International Boundary and Water Commission, United States & Mexico.	12467	Mar. 2, 1984.
International Centre for Settlement of Investment Disputes.	11966	Jan. 19, 1977.
International Civil Aviation Organization.	9863	May 31, 1947.
International Coffee Organization.	11225	May 22, 1965.
International Committee of the Red Cross.	12643	June 23, 1988.
International Cotton Advisory Committee.	9911	Dec. 19, 1947.
International Cotton Institute .....	11283	May 27, 1966.
International Criminal Police Organization (INTERPOL)—Limited privileges..	12425	June 16, 1983.
	12971	Sep. 15, 1995.
International Development Association.	11966	Jan. 19, 1977.
International Development Law Institute.	12842	Mar. 29, 1993.
International Fertilizer Development Center.	11977	Mar. 14, 1977.
International Finance Corporation.	10680	Oct. 2, 1956.

Organization	Executive Order	Date
International Food Policy Research Institute—Limited privileges only.	12359	Apr. 22, 1982.
International Fund for Agricultural Development.	12732	Oct. 31, 1990.
International Hydrographic Bureau.	10769	May 29, 1958.
International Joint Commission—United States and Canada.	9972	June 25, 1948.
International Labor Organization	9698	Feb. 19, 1946.
International Maritime Satellite Organization.	12238	Sept. 12, 1980.
International Monetary Fund .....	9751	July 11, 1946.
International Pacific Halibut Commission.	11059	Oct. 23, 1962.
International Secretariat for Volunteer Service.	11363	July 20, 1967.
International Telecommunications Satellite Organization (INTELSAT).	11966	Jan. 19, 1977.
International Telecommunication Union.	9863	May 31, 1947.
International Wheat Advisory Committee (International Wheat Council).	9823	Jan. 24, 1947.
Multilateral Investment Guarantee Agency.	12647	Aug. 2, 1988.
Multinational Force and Observers.	12359	Apr. 22, 1982.
North American Development Bank.	12904	Mar. 16, 1994.
North Pacific Anadromous Fish Commission.	12895	Jan. 26, 1994.
North Pacific Marine Science Organization.	12894	Jan. 26, 1994.
Organization for Economic Cooperation and Development [formerly Organization for European Economic Cooperation].	10133	June 27, 1950.
Organization of African Unity (OAU).	11767	Feb. 19, 1974.
Organization of American States.	10533	June 3, 1954.
Organization of Eastern Caribbean States.	12669	Feb. 20, 1989.
Pacific Salmon Commission .....	12567	Oct. 2, 1986.
Pan American Health Organization (includes the Pan American Sanitary Bureau).	10864	Feb. 18, 1960.
Preparatory Commission of the International Atomic Energy Agency.	10727	Aug. 31, 1957.
Provisional Intergovernmental Committee for the Movement of Migrants from Europe (now known as the Intergovernmental Committee for European Migration).	10335	Mar. 28, 1952.
South Pacific Commission .....	10086	Nov. 25, 1949.
United International Bureau for the Protection of Intellectual Property.	11484	Sept. 29, 1969.
United Nations .....	9698	Feb. 19, 1946.
United Nations Educational, Scientific, and Cultural Organization.	9863	May 31, 1947.
United Nations Industrial Development Organization.	12628	Mar. 8, 1988.
Universal Postal Union .....	10727	Aug. 31, 1957.
World Health Organization .....	10025	Dec. 30, 1948.

Organization	Executive Order	Date
World Intellectual Property Organization.	11866	June 18, 1975.
World Meteorological Organization.	10676	Sept. 1, 1956.
World Tourism Organization .....	12508	Mar. 22, 1985.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 148.87, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

**§ 148.88 Certain representatives to and officers of the United Nations and the Organization of American States.**

(a) *Exemption for baggage and effects and admission without entry.* At the request of the Department of State and upon appropriate instructions from the United States Customs Service in each instance, the privilege of admission free of duty without the filing of an entry may be extended to the baggage and effects of the following alien representatives, officers, and members of the staff of the United Nations and the Organization of American States, and their personal baggage is ordinarily exempt from inspection, subject to § 148.82(e)(2):

- (1) Every person designated by a United Nations member nation as the principal resident representative to the United Nations of such member or as a resident representative with the rank of ambassador or minister plenipotentiary and members of their families;
- (2) Such resident members of their staffs as may be agreed upon between the Secretary-General of the United Nations, the Government of the United States, and the Government of the United Nations member concerned and members of their families;
- (3) Every person designated by a United Nations member of a specialized United Nations agency as its principal resident representative, with the rank of ambassador or minister plenipotentiary at the headquarters of such agency in the United States and members of their families;
- (4) Such other principal resident representatives of United Nations mem-

bers to a specialized United Nations agency and such resident members of the staffs of representatives to a specialized United Nations agency as may be agreed upon between the principal executive officer of the specialized agency, the Government of the United States, and the Government of the United Nations member concerned and members of their families;

(5) The Secretary-General, Under Secretaries-General, and Assistant Secretaries-General to the United Nations and members of their families;

(6) Representatives of members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations, while exercising their functions and during their journey to and from the place of meeting, with regard to personal baggage only;

(7) Experts performing missions for the United Nations, the same facilities for personal baggage as are accorded diplomatic envoys;

(8) Any person designated by a member of the Organization of American States as its representative or interim representative on the council of the Organization of American States and members of their families; and

(9) All other permanent members of the Delegation of a member of the organization of American States and members of their families regarding whom there is agreement for that purpose between the government of the member state concerned, the Secretary-General of the Organization of American States, and the Government of the United States of America.

(b) *Absence of special request.* In the absence of a special request from the Department of State prior to the arrival of persons of the classes enumerated in paragraph (a) of this section, the privilege of admission free of duty without entry may be extended to their baggage and effects upon presentation of their credentials or other proof of identity.

(c) *Importations for personal or family use.* Upon the request of the Department of State and appropriate instructions from the United States Customs Service, the privilege of importing without entry and free of duty articles for their personal or family use but not

as an accommodation for others or for sale or other commercial use may be granted to persons of the classes enumerated in paragraph (a) of this section except those in paragraph (a) (6) and (7) of this section, under subheading 9806.00.55, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202).

(d) *Personal inviolability.* The person of the representatives to and officers of the United Nations and the Organization of American States set forth in paragraph (a) of this section shall be free from arrest, search, and detention except that persons of the rank set forth in paragraph (a) (6) and (7) of this section shall be accorded this privilege only while exercising their function and traveling to and from the place of meeting.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 89-1, 53 FR 51266, Dec. 21, 1988]

**§ 148.89 Property of public international organizations and foreign governments.**

(a) *Exemption from duty.* Property of designated international organizations listed in paragraph (b) of § 148.87 or of foreign governments shall be admitted free of duty and internal-revenue taxes imposed upon or by reason of importation under 22 U.S.C. 288a(d), but such exemption shall be granted only upon the receipt in each instance of instruction from the United States Customs Service issued at the request of the Department of State.

(b) *Bond.* Any Customs bond which may be required from a designated international organization (see paragraph (b) of § 148.87) in connection with the importation or entry of merchandise into, or the exportation of merchandise from, the United States may be accepted without surety.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 82-145, 47 FR 35479, Aug. 16, 1982]

**§ 148.90 Foreign military personnel.**

(a) *Exemptions allowed.* Port directors shall in accordance with the provisions of this section admit the following free of duty and internal revenue tax imposed upon or by reason of importation:

(1) The baggage and effects of persons on duty in the United States as members of the armed forces of any foreign country, and of their immediate families under subheading 9806.00.20, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202);

(2) Articles entered or withdrawn from warehouse for consumption by a member of the armed forces of any foreign country on duty in the United States, for his personal use or that of any member of his immediate family but not as an accommodation to others or for sale or other commercial use, under subheading 9806.00.45, HTSUS; and

(3) Articles entered or withdrawn from warehouse for consumption for the official use of members of the armed forces of any foreign country on duty in the United States, under subheading 9809.00.30, HTSUS.

(b) *Reciprocity limitation.* When port directors have been advised officially of a finding by the Secretary of the Treasury that a foreign country does not reciprocate to members of the armed forces of the United States on duty in its country and members of their immediate families the privileges accorded its members and their families in the United States, the port directors shall accord to the personnel of such foreign government privileges under the law only to the extent to which the foreign government accords similar treatment to members of the armed forces of the United States and members of their immediate families.

(c) *Status of importer questioned.* If any question arises as to the status of the importer under subheadings 9806.00.20, 9806.00.45 and 9809.00.30, HTSUS, or whether articles entered thereunder are for official use or for personal or family use, but not as an accommodation to others or for sale or other commercial use, the port director shall report the available facts to the Commissioner of Customs for instructions.

(d) *Alcoholic beverages for personal or family use—(1) General rule—(i) Limitation stated.* Except in the case of exceptional circumstances set forth in paragraph (d)(2) of this section, entry of alcoholic beverages (other than malt beverages) for personal or family use but not as an accommodation to others

or for sale or other commercial use under subheading 9806.00.45, HTSUS, is limited to one case each month.

(ii) *Advance entry or withdrawal.* A maximum of three cases (the initial one plus two cases in advance) may be entered or withdrawn at any one time in a given 3-month period if the port director is satisfied they are for personal or family use but not as an accommodation to others or for sale or other commercial use. Such advance entry or withdrawal shall not be deemed to broaden the one case per month limitation.

(iii) *Certification.* At the time of each entry or withdrawal, the member of the Armed Forces must certify that since his last entry or withdrawal there have expired a number of months equal to the numbers of cases last entered or withdrawn.

(2) *Exceptional circumstances.* In exceptional circumstances an additional quantity of alcoholic beverages for personal or family use but not as an accommodation to others or for sale or other commercial use, in excess of the one case per month limitation may be allowed under the following procedure:

(i) A statement signed by the member of the Armed Forces and attached to his declaration for free entry will be submitted to the port director, setting forth the reason for requesting the additional quantity;

(ii) The statement of request must be approved by the officer or person in charge of the Armed Forces involved, or a person specifically authorized by such officer or person to approve such requests; and

(iii) The port director must be satisfied that the need for the additional quantity is justified. Questionable cases shall be referred to the Commissioner of Customs for instructions.

(3) *Retention and verification of the warehouse proprietors' records.* The warehouse proprietor shall retain all records relating to the entry and withdrawal of alcoholic beverages under subheading 9806.00.45, HTSUS, for 3 years from the date of the entry against which the withdrawal of the alcoholic beverages is charged.

(e) *Entry requirements.* The entry requirements prescribed in the Tariff Act of 1930, as amended (Title 19, United

States Code), and the regulations thereunder are applicable to articles for which free entry is claimed under subheadings 9806.00.20, 9806.00.45, 9809.00.30, HTSUS. No invoices shall be required.

[T.D. 73-227, 38 FR 22548, Aug. 22, 1973, as amended by T.D. 79-159, 44 FR 31969, June 4, 1979; T.D. 89-1, 53 FR 51266, Dec. 21, 1988]

### Subpart J—Noncommercial Importations of Limited Value

#### § 148.101 Applicability.

Each person, including a crew-member, arriving in the United States who enters articles for his personal or household use, or as bona fide gifts not imported for sale nor for the account of another person, valued in the aggregate at not over \$1,000 fair retail value in the country of acquisition, shall be assessed a flat rate of duty on the articles, as provided in § 148.102. The entry shall be made under subheading 9816.00.20 or 9816.00.40, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), and is subject to the limitations and conditions in this subpart. Except as provided in § 148.105, the flat rate of duty shall be assessed in place of any rates of duty other than free rates of duty. If the dutiable amount of the article(s) is over \$1,000 fair retail value, the flat rate of duty provisions shall apply to the amount not over \$1,000 fair retail value, and the excess amount shall be valued under section 402, Tariff Act of 1930, as amended (19 U.S.C. 1401a). The article(s) shall be classified under the appropriate subheading number of the tariff schedule. For purposes of this subpart, "fair retail value" in the country of acquisition means the price at which the merchandise is freely offered there for sale at retail and "country of acquisition" includes America Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States.

Two examples of the application of this subpart are set forth below:

*Example 1:* B returned from Europe where he acquired merchandise having a fair retail value of \$1,950. Assume for purposes of this example that (1) in addition to the personal exemption of \$400, \$100 of the merchandise carries a free rate of duty, (2) allowances and

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exemptions have not been used within the past 30 days, and (3) all articles in excess of allowances and exemptions and duty-free articles are dutiable at rates other than the flat rate.

B presents his baggage to the Customs officer for examination and his declaration for verification. Duty is figured as follows:

	Fair retail value	Duty
(a) The \$400 personal exemption .....	\$400	.....
(b) Articles which carry a free rate of duty .....	100	.....
(c) The \$1,000 flat rate of duty allowance calculated at: .....	1,000	.....
4 percent (effective 01/01/01 through 12/31/01) .....		\$40
3 percent (effective from 01/01/02) .....		30
(d) Balance of articles subject to duty at rates other than flat rate .....	1,450	( <sup>1</sup> )
<b>Total .....</b>	<b>1,950</b>	<b>(<sup>1</sup>)</b>

<sup>1</sup>The articles not covered by exemptions, allowances, and duty-free rates will be valued under section 402, Tariff Act of 1930, as amended, and duty calculated at rates other than the flat rate.

*Example 2:* Mr. and Mrs. B return from the U.S. Virgin Islands. During the trip, they acquired merchandise having a fair retail value of \$4,900. Assume for purposes of this example that (1) in addition to the personal exemption of \$1,200 for each returning resident, \$100 of the merchandise carries a free rate of duty, (2) allowances and exemptions have not been used within the past 30 days, (3) all articles in excess of allowances and exemptions and duty-free articles are dutiable at rates other than the flat rate, and (4) Mrs. B made \$400 in purchases on the trip, none of which carries a free rate of duty.

Mr. and Mrs. B present their baggage to the Customs officer for examination and their declaration for verification. Duty is figured as follows:

	Fair retail value	Duty
(a) The \$1,200 personal exemptions for residents returning from the U.S. Virgin Islands are grouped for a total of .....	\$2,400	.....
(b) Articles which carry a free rate of duty .....	100	.....
(c) The \$1,000 flat rate of duty allowance calculated at: .....	2,000	.....
2 percent (effective 01/01/01 through 12/31/01) .....		\$40
1.5 percent (effective from 01/01/02) .....		30
(d) Balance of articles subject to duty at rates other than flat rate .....	1,400	( <sup>1</sup> )
<b>Total .....</b>	<b>14,900</b>	<b>(<sup>1</sup>)</b>

<sup>1</sup>The articles not covered by exemptions, allowances, and duty-free rates will be valued under section 402, Tariff Act of 1930, as amended, and duty calculated at rates other than the flat rate.

[T.D. 78-394, 43 FR 49789, Oct. 25, 1978, as amended by T.D. 86-118, 51 FR 22516, June 20, 1986; 52 FR 12149, Apr. 15, 1987; T.D. 87-89, 52 FR 24446, July 1, 1987; T.D. 89-1, 53 FR 51266, Dec. 21, 1988; T.D. 97-75, 62 FR 46442, Sept. 3, 1997; T.D. 01-61, 66 FR 46218, Sept. 4, 2001]

**§ 148.102 Flat rate of duty.**

(a) *Generally.* The rate of duty on articles accompanying any person, including a crewmember, arriving in the United States (exclusive of duty-free articles and articles acquired in American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States) shall be 4 percent, effective January 1, 2001, and 3 percent, effective January 1, 2002, of the fair retail value in the country of acquisition.

(b) *American Samoa, Guam, the Northern Mariana Islands, and the Virgin Islands.* The rate of duty on articles accompanying any person, including a crewmember, arriving in the United States directly or indirectly from American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States (exclusive of duty-free articles), acquired in these locations as an incident of the person's physical presence there, shall be 2 percent, effective January 1, 2001, and 1.5 percent, effective January 1, 2002, of the fair retail value in the location in which acquired.

[T.D. 01-61, 66 FR 46218, Sept. 4, 2001]

**§ 148.103 Family grouping of allowances.**

(a) *Generally.* When members of a family residing in one household travel together on their return to the United States, the flat rate of duty allowance will be grouped and allowed without regard to which member of the family is the owner of the articles. A group allowance shall not include an allowance for a family member not entitled to it in his own right, nor shall a group allowance be applied to any property of that member.

(b) *Members of a family residing in one household.* "Members of a family residing in one household" shall include all persons, regardless of age, who:

- (1) Are related by blood, marriage, or adoption;

- (2) Lived together in one household at their last permanent residence; and
- (3) Intend to live in one household after their arrival in the United States.

[T.D. 78-394, 43 FR 49789, Oct. 25, 1978]

**§ 148.104 Frequency of use.**

(a) *30-day period.* The flat rate of duty shall not apply to a person who has used the provision within the 30-day period immediately prior to his arrival in the United States. The date of the person's last arrival on which he declared articles for which the flat rate of duty was applicable shall be considered the date that rate was last used.

(b) *Computation of time.* The 30-day period immediately prior to the person's arrival in the United States shall be computed by excluding the day of arrival and counting backward 30 days.

(c) *Remainder not applicable to subsequent journey.* A person who has received a flat rate of duty allowance of less than \$1,000 in connection with his return from one journey is not entitled to apply the remainder to articles acquired abroad on a subsequent journey.

[T.D. 78-394, 43 FR 49789, Oct. 25, 1978, as amended by T.D. 86-118, 51 FR 22516, June 20, 1986; T.D. 97-75, 62 FR 46443, Sept. 3, 1997]

**§ 148.105 Procedure for excluding articles from flat rate of duty.**

(a) *Generally.* Any person who has information that merchandise is being imported into the United States under the provisions of subheading 9816.00.20 or 9816.00.40, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), and this subpart which adversely affects the economic interest of the United States may communicate the information in writing to the Commissioner of Customs, Attention: Office of Field Operations, Washington, DC 20229.

(b) *Content of communication.* The communication to the Commissioner need not be in any particular form but shall contain the following:

- (1) The name of the individual and the person, firm, or association the individual represents, if any;
- (2) The nature of the individual's interest in the matter, if any;
- (3) A description of the merchandise, which it is alleged affects the economic

interest of the United States adversely, including subheadings of the HTSUS, if known;

(4) The country of acquisition and the ports and dates of entry of the merchandise, if known; and

(5) A statement and supporting evidence as to the manner in which the individual believes the economic interest of the United States is being adversely affected.

(c) *Inquiry to be conducted.* Upon receipt of a communication containing the information required by paragraph (b) of this section, an inquiry will be conducted.

(d) *Negative determination.* If the inquiry results in a finding that no reasonable cause exists to believe that the application of the flat rate of duty provisions to a particular article of merchandise is adversely affecting the economic interest of the United States, the inquirer shall be advised in writing of the finding and the matter shall be closed.

(e) *Publication of tentative finding.* If the inquiry results in a finding by the Secretary of the Treasury that reasonable cause exists to believe that the application of the flat rate of duty provisions to a particular article of merchandise is affecting the economic interest of the United States adversely, a notice of the finding will be published in the FEDERAL REGISTER and Customs Bulletin, along with a statement of intent to exclude the articles from application of the flat rate of duty provisions. Interested persons will be given an opportunity to submit written comments on the notice.

(f) *Final determination.* Based upon the comments received and the results of any additional inquiry as may be necessary, if it is determined by the Secretary of the Treasury that application of the flat rate of duty provisions adversely affects the economic interest of the United States, a Treasury Decision will be published in the FEDERAL REGISTER and Customs Bulletin announcing that the merchandise will be excluded from application of the flat rate of duty provisions. Excluded articles of merchandise shall be listed in § 148.106. If it is determined by the Secretary of the Treasury that a valid basis for excluding the merchandise



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from the flat rate of duty provisions does not exist, the notice proposing to exclude the article will be withdrawn by publishing a notice in the FEDERAL REGISTER and the Customs Bulletin.

[T.D. 78-394, 43 FR 49789, Oct. 25, 1978, as amended by T.D. 89-1, 53 FR 51267, Dec. 21, 1988; T.D. 91-77, 56 FR 46115, Sept. 10, 1991; T.D. 93-66, 58 FR 44130, Aug. 19, 1993]

**§ 148.106 Excluded articles of merchandise.**

The following articles of merchandise have been found to affect the economic interest of the United States adversely, and they are excluded from the application of the flat rate of duty provisions.

[Reserved for listing.]

[T.D. 78-394, 43 FR 49789, Oct. 25, 1978]

**Subpart K—Unaccompanied Shipments From American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States**

**§ 148.110 Applicability.**

The provisions of this subpart are applicable to articles not accompanying a person, including a crewmember, which are purchased in *and* shipped from American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States. However, this subpart is not applicable to the importation of unaccompanied articles in a manner prohibited by law or regulation (e.g., mail shipments of alcoholic beverages or alcoholic beverages shipped other than by mail in excess of quantities authorized by State laws or regulations).

The following is a summary of the procedure to be followed to obtain the benefits of this subpart: A person purchasing articles in American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States would receive a sales slip, invoice, or other evidence of purchase which he would present to the Customs officer along with his baggage declaration, Customs Form 6059-B, and a Declaration of Unaccompanied Articles, Customs Form 255. The latter form is prepared

in triplicate for each shipment to follow. The Customs officer would verify the information, indicate on the form whether the article or articles were free of duty, dutiable at the flat rate, or a combination of the foregoing, and validate the form. Two copies would be returned to the traveler, who would send one form to the vendor. Upon receipt of the form the vendor would place it in an envelope, affix it to the outside of the package, clearly mark the package "Unaccompanied Tourist Shipment," and send the package to the traveler, generally via mail, although it could be sent by other means. If sent through the mail, the package would be examined by Customs and forwarded to the Postal Service for delivery. Any duties due would be collected by the mailman. If the shipment arrives other than through the mail, the traveler would be notified by the carrier when the article arrives. Entry would be made by the carrier or the traveler at the customhouse. Any duties due would be collected at that time.

[T.D. 78-394, 43 FR 49790, Oct. 25, 1978; 43 FR 55758, Nov. 29, 1978; T.D. 97-75, 62 FR 46443, Sept. 3, 1997]

**§ 148.111 Written declaration for unaccompanied articles.**

The baggage declaration, Customs Form 6059-B, of a person (the crewmembers declaration, Customs Form 5129, in the case of a returning crewmember) arriving directly or indirectly from American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States shall be in writing if it covers articles which do not accompany him and:

(a) The articles are entitled to free entry under the \$1,200 exemption provided by subheading 9804.00.70, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202), or

(b) The articles are noncommercial importations of limited value subject to a flat rate of duty under subheading 9816.00.40, HTSUS.

[T.D. 78-394, 43 FR 49790, Oct. 25, 1978, as amended by T.D. 86-118, 51 FR 22516, June 20, 1986; T.D. 89-1, 53 FR 51267, Dec. 21, 1988; T.D. 97-75, 62 FR 46443, Sept. 3, 1997]

**§ 148.112 Evidence of purchase.**

A sales slip, invoice, or other evidence of purchase, shall be presented with the declaration for all unaccompanied articles.

[T.D. 78-394, 43 FR 49790, Oct. 25, 1978]

**§ 148.113 Declaration, entry, and collection of duty.**

(a) *Declaration and entry for unaccompanied articles*—(1) *Declaration.* A baggage declaration covering articles for which a claim of free entry, in whole or in part, is made under the \$1,200 exemption provided by subheading 9804.00.70, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202), or a baggage or crewmembers declaration covering articles for which the flat rate of duty provision of subheading 9816.00.40, HTSUS appears to be applicable, shall be accompanied by a Declaration of Unaccompanied Articles, Customs Form 255. Customs Form 255 shall be prepared in triplicate by the vendor or declarant for each shipment of declared articles not accompanying the person. A shipment consists of one or more packages or containers sent as a unit.

(2) *Verification.* The Customs officer shall verify the information from the declaration, sales slip, invoice, or other evidence of purchase furnished by the person. The completed Customs Form 255 shall be validated by the Customs officer and two copies given to the person.

(b) *Collection of duty.* Duties shall be collected before release of the articles, after their arrival in the United States, as provided in § 145.12 or § 148.115.

[T.D. 78-394, 43 FR 49790, Oct. 25, 1978, as amended by T.D. 86-118, 51 FR 22516, June 20, 1986; T.D. 89-1, 53 FR 51267, Dec. 21, 1988; T.D. 93-66, 58 FR 44131, Aug. 19, 1993; T.D. 97-75, 62 FR 46443, Sept. 3, 1997]

**§ 148.114 Shipment of unaccompanied articles.**

One copy of the validated Customs Form 255 shall be returned to the vendor. The vendor shall place the form in an envelope, affix it to the outside of the shipment, and clearly mark the outside of the shipment "Unaccompanied Tourist Shipment."

[T.D. 78-394, 43 FR 49790, Oct. 25, 1978]

**§ 148.115 Release of shipment.**

(a) *Release after examination.* Unaccompanied tourist shipments:

(1) To which the personal exemption provided in subheading 9804.00.70, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202), is applicable, or

(2) For which entry is made under the flat rate of duty provisions of subheading 9816.00.40, HTSUS, or under those provisions in conjunction with the regular rate of duty provision of another subheading of the tariff schedule, shall be released if:

(i) The shipment is properly marked and accompanied by a validated copy of Customs Form 255,

(ii) The examining Customs officer is satisfied that the contents of the shipment are as stated on the Customs Form 255 and, if applicable, that they are properly classified,

(iii) The declared value conforms to the fair retail value in the country of acquisition, and

(iv) In respect to shipments for which entry is made under subheading 9816.00.40, HTSUS, any duties found to be due are paid.

(b) *Removal of Customs Form 255.* The copy of Customs Form 255 attached to the shipment shall be removed by the Customs officer and retained for Customs purposes.

(c) *Missing Customs Form 255.* If a validated copy of Customs Form 255 does not accompany the shipment, entry shall be made under the provisions of part 141 or 145 of this chapter.

(d) *Restricted or prohibited shipments.* No shipment containing prohibited or restricted merchandise for which exemption is claimed under subheading 9804.00.70, HTSUS, or for which entry is claimed under subheading 9816.00.40, HTSUS, shall be released except upon compliance with the provisions of part 12 and §§ 145.51 through 145.59 of this chapter, and other applicable laws and regulations.

(e) *Verification of claim.* The port director may withhold release of any shipment for which exemption is claimed under subheading 9804.00.70, HTSUS, or for which entry is claimed under subheading 9816.00.40, HTSUS, to verify the validity of the claim. If he is

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unable to verify the claim, the merchandise shall be released under the provisions of part 141 or 145 of this chapter.

[T.D. 78-394, 43 FR 49790, Oct. 25, 1978; 43 FR 55758, Nov. 29, 1978, as amended by T.D. 89-1, 53 FR 51267, Dec. 21, 1988; T.D. 93-66, 58 FR 44131, Aug. 19, 1993]

### § 148.116 Claim for refund.

Any person who has filed a declaration of unaccompanied articles under §§ 148.112 and 148.113 and who is dissatisfied with the amount of duty assessed on the articles upon their arrival in the United States may file a claim for administrative review under subpart C, part 145, of this chapter if the articles arrived by mail, or under parts 173 and 174 if the articles arrived other than by mail. Any supporting documents, including a copy of Customs Form 255, should be submitted with the claim.

[T.D. 78-394, 43 FR 49790, Oct. 25, 1978; 43 FR 55758, Nov. 29, 1978]

## PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

Sec.

151.0 Scope.

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