

U.S. Customs and Border Protection, DHS; Treasury

§ 4.20

to the criminal penalties provided for in 18 U.S.C. 1001.

[66 FR 16397, Mar. 26, 2001, as amended at 74 FR 53651, Oct. 20, 2009; 77 FR 17332, Mar. 26, 2012]

§ 4.15 Fishing vessels touching and trading at foreign places.

(a) Before any vessel documented with a fishery license endorsement shall touch and trade at a foreign port or place, the master shall obtain from the port director a permit on Customs Form 1379 to touch and trade.

When a fishing vessel departs from the United States and there is an intent to stop at a foreign port (1) to lade vessel equipment which was preordered, (2) to purchase and lade vessel equipment, or (3) to purchase and lade vessel equipment to replace existing vessel equipment, the master of the vessel must either clear for that foreign port or obtain a permit to touch and trade, whether or not the vessel will engage in fishing on that voyage.²⁸ Purchases of such equipment, whether intended at the time of departure or not, are subject to declaration, entry, and payment of duty pursuant to section 466 of the Tariff Act of 1930, as amended (19 U.S.C. 1466). The duty may be remitted if it is established that the purchases resulted from stress of weather or other casualty.

(b) Upon the arrival of a documented vessel with a fishery endorsement which has put into a foreign port or place, the master shall report its arrival, make entry, and conform in all respects to the regulations applicable in the case of a vessel arriving from a foreign port.

(c) If a vessel which has been granted a permit to touch and trade arrives at a port in the United States, whether or not the vessel has touched at a foreign port or place, such permit shall forthwith be surrendered to the port director.

²⁸If such a vessel puts into a foreign port or place and only obtains bunkers, stores, or supplies suitable for a fishing voyage, it is not considered to have touched and traded there. Fish nets and netting are considered vessel equipment and not vessel supplies.

²⁹⁻⁶¹ [Reserved]

(d) No permit to touch and trade shall be issued to a vessel which does not have a Certificate of Documentation with a fishery license endorsement.

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 77-28, 42 FR 3161, Jan. 17, 1977; T.D. 83-214, 48 FR 46512, Oct. 13, 1983; T.D. 94-24, 59 FR 13200, Mar. 21, 1994; T.D. 95-77, 60 FR 50010, Sept. 27, 1995]

§ 4.16 [Reserved]

§ 4.17 Vessels from discriminating countries.

The prohibition against imports in, and the penalty of forfeiture of, certain vessels from countries which discriminate against American vessels provided for in subsections 2 and 3 of paragraph J, section IV, Tariff Act of 1913, as amended by the act of March 4, 1915 (19 U.S.C. 130, 131), shall be enforced only in pursuance of specific instructions issued and published from time to time by the Secretary of the Treasury or such other officer as the Secretary may designate. (See also §§ 4.20(c) and 159.42 of this chapter.)

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 73-175, 38 FR 17444, July 2, 1973]

TONNAGE TAX AND LIGHT MONEY

§ 4.20 Tonnage taxes.

(a) Except as specified in § 4.21, a regular tonnage tax or duty of 2 cents per net ton, not to exceed in the aggregate 10 cents per net ton in any 1 year, shall be imposed at each entry on all vessels which shall be entered in any port of the United States from any foreign port or place in North America, Central America, the West Indies, the Bahama Islands, the Bermuda Islands, the coast of South America bordering on the Caribbean Sea (considered to include the mouth of the Orinoco River), or the high seas adjacent to the U.S. or the above listed foreign locations, and on all vessels (except vessels of the U.S., recreational vessels, and barges, as defined in § 2101 of Title 46) that depart a U.S. port or place and return to the same port or place without being entered in the United States from another port or place, and regular tonnage tax of 6 cents per net ton, not to exceed 30 cents per net ton per annum,

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shall be imposed at each entry on all vessels which shall be entered in any port of the United States from any other foreign port. In determining the port of origin of a voyage to the United States and the rate of tonnage tax, the following shall be used as a guide:

(1) When the vessel has proceeded in ballast from a port to which the 6-cent rate is applicable to a port to which the 2-cent rate applies and there has laden cargo or taken passengers, tonnage tax upon entry in the United States shall be assessed at the 2-cent rate.

(2) The same rate shall be applied in a case in which the vessel has transported cargo or passengers from a 6-cent port to a 2-cent port when all such cargo or passengers have been unladen or discharged at the 2-cent port, without regard to whether the vessel thereafter has proceeded to the United States in ballast or with cargo or passengers laden or taken on board at the 2-cent port.

(3) The 6-cent rate shall be applied when the vessel proceeds from a 2-cent port to a 6-cent port en route to the United States under circumstances

similar to paragraph (a) (1) or (2) of this section.

(4) If the vessel arrives in the United States with cargo or passengers taken at two or more ports to which different rates are applicable, tonnage tax shall be collected at the higher rate.

(b) The tonnage year shall be computed from the date of the first entry of the vessel concerned, without regard to the rate of the payment made at that entry, and shall expire on the day preceding the corresponding date of the following year. There may be 5 payments at the maximum (6 cent) and 5 at the minimum (2-cent) rate during a tonnage year, so that the maximum assessment of tonnage duty may amount to 40 cent per net ton for the tonnage year of a vessel engaged in alternating trade.

(c) A vessel shall also be subject on every entry from a foreign port or place, whether or not regular tonnage tax is payable on the particular entry, to the payment of a special tonnage tax and to the payment of light money at the rates and under the circumstances specified in the following table:

Classes of vessels	Rate per net ton		
	Regular tax	Special tax	Light money
Vessels of the United States:			
1. Under provisional register, without regard to citizenship of officers	\$.02 or \$.06	.....	.....
2. All others:			
(i) If all the officers are citizens .....	.02 or .06	.....	.....
(ii) If any officer is not a citizen .....	.02 or .06	¹ 0.50	¹ .50
Undocumented vessels which are owned by citizens ² .....	.02 or .06	.50	³ .50
Foreign vessels:			
1. Of nations whose vessels are exempted from special tax or light money .....	.02 or .06	.....	.....
2. All others:			
(i) Built in the U.S. ....	.02 or .06	.30	.50
(ii) Not built in the U.S. ....	.02 or .06	.50	.50
(iii) In addition to (i) or (ii) of 2., Foreign Vessels, when entering from a foreign port or place where vessels of the U.S. are not ordinarily permitted to enter and trade ^{3a} .....	.02 or .06	42.00	4.50

¹ This does not apply on the first arrival of a vessel in a port of the United States from a foreign or intercoastal voyage if all the officers who are not citizens are below the grade of master and are filling vacancies which occurred on the voyage.

² This special tax and light money do not apply if the vessel is documented as a vessel of the United States before leaving the port.

³ This does not apply if the vessel is under a certificate of protection and the owner or master files with the port director the oath required by 46 U.S.C. App. 129. An unrecorded bill of sale is not such a document as will exempt a vessel from the payment of light money under 46 U.S.C. App. 128, and the recording of such bill of sale after the arrival of the vessel is not sufficient to relieve it from the payment of the tax.

^{3a} The Democratic People's Republic of Korea (North Korea), does not ordinarily permit vessels of the United States to enter and trade.

⁴ This is to be collected on each entry of a vessel from such a port or place.

(d) Tonnage tax shall be imposed upon a vessel even though she enters a port of the United States only for orders.

(e) The fact that a vessel passes through the Panama Canal does not affect the rate of tonnage tax otherwise applicable to the vessel.

(f) For the purpose of computing tonnage tax, the net tonnage of a vessel stated in the vessel's marine document shall be accepted unless (1) such statement is manifestly wrong, in which case the net tonnage shall be estimated, pending admeasurement of the vessel, or the tonnage reported for her by any recognized classification society may be accepted, or (2) an appendix is attached to the marine document showing a net tonnage ascertained under the so-called "British rules" or the rules of any foreign country which have been accepted as substantially in accord with the rules of the United States, in which case the tonnage so shown may be accepted and the date the appendix was issued shall be noted on the tonnage tax certificate, Customs Form 1002, and on the Vessel Entrance or Clearance Statement, Customs Form 1300. For the purpose of computing tonnage tax on a vessel with a tonnage mark and dual tonnages, the higher of the net tonnages stated in the vessel's marine document or tonnage certificate shall be used unless the Customs officer concerned is satisfied by report of the boarding officer, statement or certificate of the master, or otherwise that the tonnage mark was not submerged at the time of arrival. Whether the vessel has a tonnage mark, and if so, whether the mark was submerged on arrival, shall be noted on Customs Form 1300 by the boarding officer.

(g) The decision of the Commissioner of Customs is the final administrative decision on any question of interpretation relating to the collection of tonnage tax or to the refund of such tax when collected erroneously or illegally, and any question of doubt shall be referred to him for instructions.

(h) Any person adversely affected by a decision of the Commissioner of Customs relating to the collection of tonnage tax, or to the refund of such tax when collected erroneously or illegally, may appeal the decision in the Court of International Trade provided that the appeal action is commenced in accordance with the rules of the Court within

2 years after the cause of action first accrues.

[28 FR 14596, Dec. 31, 1963, as amended by T.D. 71-169, 36 FR 12603, July 2, 1971; T.D. 75-110, 40 FR 21027, May 15, 1975; T.D. 76-280, 41 FR 42647, Sept. 28, 1976; T.D. 79-276, 44 FR 61956, Oct. 29, 1979; T.D. 82-145, 47 FR 35475, Aug. 16, 1982; T.D. 85-91, 50 FR 21429, May 24, 1985; T.D. 85-90, 50 FR 21430, May 24, 1985; T.D. 93-12, 58 FR 13196, Mar. 10, 1993; T.D. 95-76, 60 FR 48028, Sept. 18, 1995; T.D. 97-82, 62 FR 51769, Oct. 3, 1997; T.D. 00-22, 65 FR 16515, Mar. 29, 2000; CBP Dec. 03-16, 68 FR 48280, Aug. 13, 2003]

§ 4.21 Exemptions from tonnage taxes.

(a) Tonnage taxes and light money shall be suspended in whole or in part whenever the President by proclamation shall so direct.

(b) The following vessels, or vessels arriving in the circumstances as defined below, shall be exempt from tonnage tax and light money:

(1) It comes into port for bunkers (including water), sea stores, or ship's stores; transacts no other business in the port; and departs within 24 hours after its arrival.

(2) It arrives in distress, even though required to enter.

(3) It is brought into port by orders of United States naval authorities and transacts no business while in port other than the taking on of bunkers, sea stores, or ship's stores.

(4) It is a vessel of war or other vessel which is owned by, or under the complete control and management of the United States or the government of a foreign country, and which is not carrying passengers or merchandise in trade or, if in ballast, which is not arriving from a foreign port during the usual course of its employment as a vessel engaged in trade.

(5) It is a yacht or other pleasure vessel not carrying passengers or merchandise in trade.

(6) It is engaged exclusively in scientific activities.

(7) It is engaged exclusively in laying or repairing cables.

(8) It is engaged in whaling or other fisheries, even though it may have entered a foreign port for fuel or supplies, if it did not carry passengers or merchandise in trade.

(9) It is a passenger vessel making three trips or more a week between a