

§ 10.153

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subject to this exemption shall be entered under the informal entry procedures (see subpart C, part 143, and §§ 145.32, 148.12, 148.51, and 148.64, of this chapter). An article is “sent” for purposes of this section if it is conveyed in any manner other than on the person or in the accompanied or unaccompanied baggage of the donor or donee.

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

§ 10.153 Conditions for exemption.

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

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

(b) A parcel addressed to a person in the United States from an individual in a foreign country which contains a gift should be clearly marked on the outside to indicate that it contains a gift. Such marking is not conclusive evidence of a gift nor is the absence of such marking conclusive evidence that an article is not a gift. Ordinarily an article not exceeding \$100 in fair retail value in the country of shipment sent from a person in a foreign country to a person in the United States (\$200, in the case of an article sent from a person in the Virgin Islands, Guam, and American Samoa) will be recognizable as a gift from the nature of the article and obvious facts surrounding the shipment.

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

this effect should be enclosed in the parcel.

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

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

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

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

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

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

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

provisions of section 402 or 402(a), Tariff Act of 1930, as amended (19 U.S.C. 1401a or 1402), even though the dutiable value is less than the \$100 (or \$200) exemption.

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

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

GENERALIZED SYSTEM OF PREFERENCES

§ 10.171 General.

(a) *Statutory authority.* Title V of the Trade Act of 1974 as amended (19 U.S.C. 2461-2467) authorizes the President to establish a Generalized System of Preferences (GSP) to provide duty-free treatment for eligible articles imported directly from designated beneficiary developing countries. Beneficiary developing countries and articles eligible for duty-free treatment are designated by the President by Executive order in accordance with sections 502(a)(1) and 503(a) of the Trade Act of 1974 as amended (19 U.S.C. 2462(a)(1), 2463(a)).

(b) *Country defined.* For purposes of §§10.171 through 10.178, except as otherwise provided in §10.176(a), the term "country" means any foreign country, any overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands. In the case of an association of countries which is a free trade area or customs union or which is contributing to comprehensive regional economic integration among its members through appropriate means, including but not limited to, the reduction of duties, the President may by Executive order provide that all members of such association other than members which are barred from designation under section 502(b) of the Trade Act of 1974 (19 U.S.C.

2462(b)) shall be treated as one country for purposes of §§10.171 through 10.178.

[T.D. 76-2, 40 FR 60047, Dec. 31, 1975, as amended by T.D. 80-271, 45 FR 75641, Nov. 17, 1980; T.D. 00-67, 65 FR 59675, Oct. 5, 2000]

§ 10.172 Claim for exemption from duty under the Generalized System of Preferences.

A claim for an exemption from duty on the ground that the Generalized System of Preferences applies shall be allowed by the port director only if he is satisfied that the requirements set forth in this section and §§10.173 through 10.178 have been met. If duty-free treatment is claimed at the time of entry, a written claim shall be filed on the entry document by placing the symbol "A" as a prefix to the sub-heading of the Harmonized Tariff Schedule of the United States for each article for which such treatment is claimed.

[T.D. 76-2, 40 FR 60048, Dec. 31, 1975, as amended by T.D. 77-36, 42 FR 5041, Jan. 27, 1977; T.D. 89-1, 53 FR 51252, Dec. 21, 1988; T.D. 94-47, 59 FR 25569, May 17, 1994; T.D. 99-27, 64 FR 13675, Mar. 22, 1999]

§ 10.173 Evidence of country of origin.

(a) *Shipments covered by a formal entry*—(1) *Merchandise not wholly the growth, product, or manufacture of a beneficiary developing country.* (i) *Declaration.* In a case involving merchandise covered by a formal entry which is not wholly the growth, product, or manufacture of a single beneficiary developing country, the exporter of the merchandise or other appropriate party having knowledge of the relevant facts shall be prepared to submit directly to the port director, upon request, a declaration setting forth all pertinent detailed information concerning the production or manufacture of the merchandise. When requested by the port director, the declaration shall be prepared in substantially the following form:

GSP DECLARATION

I, _____ (name), hereby declare that the articles described below were produced or manufactured in _____ (country) by means of processing operations performed in that country as set forth below and were also subjected to processing operations in the other