

from a continuous trip, articles accompanying him at the time of an incidental arrival may be exported directly from CBP custody or after transportation in bond, or the articles may be left in CBP custody if the resident upon his final return is to arrive at the CBP facility where the articles are deposited.

(c) *Failure to advise of incidental character of arrival.* If the traveler fails to advise the CBP officer of the incidental character of his arrival, or for other reason declares any articles for allowance of the \$800 or \$1,600 exemption, such declaration will 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; CBP Dec. 09-37, 74 FR 48854, Sept. 25, 2009]

#### § 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