

been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized, such a committee is recognized to be an advisory committee under 5 U.S.C. App. 3.

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of the advisory committee, premature disclosure of the committee's deliberations and reports would be likely to lead to significant financial speculation in the securities market. Thus, these meetings fall within the exemption covered by 5 U.S.C. 552b(c)(9)(A).

The Office of the Under Secretary for Domestic Finance is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552b.

Dated: July 6, 1995.

John D. Hawke, Jr.,

Under Secretary of the Treasury (Domestic Finance).

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Customs Service

Receipt of Domestic Interested Party Petition Concerning Country of Origin Marking for Safety Glasses

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice of receipt of domestic interested party petition; solicitation of comments.

SUMMARY: Customs has received a petition filed on behalf of domestic interested parties concerning the country of origin marking requirements for prescription safety glasses. Under current practice, imported safety glass frames are excepted from country of origin marking requirements if an employer actually purchases the completed prescription safety glasses despite the fact that the wearer of the safety glasses may have some choice in selecting the frames. Customs has ruled that the insertion of the prescription lenses into the frames in the United States to make safety glasses substantially transforms the frames into a new article of commerce. The petitioners request that Customs adopts the position that employer-purchased imported prescription safety glass

frames that an employee selects be required to be marked with their country of origin. Public comment is solicited regarding the application of the marking requirements to imported prescription safety frames.

DATES: Comments must be received on or before September 11, 1995.

ADDRESSES: Comments (preferably in triplicate) may be submitted to the U.S. Customs Service, Regulations Branch, Office of Regulations and Rulings, 1301 Constitution Avenue NW. (Franklin Court), Washington, D.C. 20229. Comments may be viewed at the Office of Regulations and Rulings, Franklin Court, 1099 14th Street NW., Suite 4000, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: David Cohen, Special Classification and Marking Branch, Office of Regulations and Rulings, U.S. Customs Service, (202) 482-6980.

SUPPLEMENTARY INFORMATION

Background

Pursuant to section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516) and Part 175, Customs Regulations (19 CFR Part 175), a domestic interested party may challenge certain decisions made by Customs regarding imported merchandise which is claimed to be similar to the class or kind of merchandise manufactured, produced or wholesaled by the domestic interested party. This document provides notice that domestic interested parties are challenging a marking decision made by Customs.

The petitioners are the Industrial Safety Equipment Association (ISEA) and the Optical Industry Association (OIA)—trade associations who represent their members who are domestic manufacturers of safety glasses. Both entities qualify as domestic interested parties within the meaning of 19 U.S.C. 1516(a)(2).

Section 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), provides that, unless excepted, every article of foreign origin shall be marked in a conspicuous place with the English name of the country of origin. The country of origin marking requirements and exceptions of 19 U.S.C. 1304 are implemented by part 134, Customs Regulations (19 CFR part 134).

The petitioners contend that imported safety frames should be required to be marked with their country of origin notwithstanding a limited number of alternatives of frames from which to select. Customs present position excepts prescription safety glass frames from country of origin marking under the circumstances set forth in Headquarters

Ruling Letter (HRL) 734258, dated January 7, 1992.

In HRL 734258, the importer proposed to mark the safety frames by affixing a hangtag or an adhesive sticker to the safety frames with the name of the country of origin printed thereon. This method of marking would inform the optical laboratory of the country of origin of the frames. The optical laboratories would remove the hangtag/sticker when they installed the prescription safety lenses. While the manufacturer of the safety frames produced a variety of frames, the employer of the safety glass wearer provided a very limited selection of frames from which the employees could select. In limited circumstances, employers would set a cap for the amount that they would spend on the safety glass frames. The employees could elect to supplement this amount with their own funds to acquire a particular style of safety frames. Based on these facts, Customs concluded that the optical laboratories that insert the safety lenses into the safety frames are the ultimate purchasers of the eyeglass frames and that the use of the hangtags or stickers to mark the frames which the laboratories remove when the lenses are attached is acceptable, provided the marking of the hangtags or stickers is conspicuous, legible, and permanent.

In reaching the conclusion set forth in HRL 734258, Customs relied on HRL 729649, dated October 27, 1986, which was a ruling in response to a request to reconsider HRL 729451, dated May 27, 1986. In HRL 729451, Customs determined that the consumer is the ultimate purchaser of prescription eyeglass frames rather than the lab that places the lenses into the frames. In that ruling, Customs noted:

[O]nly after the initial decision is made on the frame is it sent to the lab for the addition of the particular lens. The decision to purchase a particular frame is made separate and apart from the processing involved in the addition of the prescription lens. In view of these circumstances, we find that the consumer is the ultimate purchaser of the frames and is entitled to be informed of its country of origin.

Customs reconsidered HRL 729451 due to the addition of material facts that had been omitted from the ruling request upon which HRL 729451 was based. The omitted fact was that the importer was a manufacturer of safety spectacle frames, which unlike ordinary prescription spectacle frames, consist of special frames and lenses that are manufactured to meet certain safety guidelines. In addition, the employee was given a few choices of safety frames, but it was the employer who

determined the type of safety glasses that were required for its employees. The Occupational Safety and Health Act of 1970, and regulations promulgated thereunder, required that these employers provide safety eyewear for their employees.

As a result of these additional facts, Customs ruled that the purchaser of the safety glasses was not making two purchasing decisions (frames and lenses). Rather, Customs concluded that the employer was actually purchasing one item (safety glasses). Therefore, Customs concluded that the optical laboratory that assembled the frames and lenses substantially transformed the frames into a new and different article of commerce (safety glasses).

The instant petition requests that Customs reconsider and reject the position stated in HRL 734258, and, essentially, adopt the position that prescription safety glasses are no different from prescription glasses, provided the employee exercises some degree of choice in selecting safety frames. Accordingly, the petitioner

seeks to have Customs treat an employee's selection of prescription safety spectacle frames as a purchasing decision which is separate from the subsequent process of inserting the safety prescription lenses into the safety frames. Should Customs adopt this position, the safety frames at issue in HRL 734258 would be required to be marked with their country of origin for the benefit of the ultimate purchaser—the employee who receives and uses the safety frames in the workplace.

Comments

Pursuant to section 175.21(a), Customs Regulations (19 CFR 175.21(a)), before making a determination on this matter, Customs invites written comments from interested parties. The petition of the domestic interested party, as well as all comments received in response to this notice, will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), section 1.4, Treasury Department Regulations (31 CFR 1.4), and section 103.11(b),

Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:00 p.m. at the Regulations Branch, Suite 4000, Franklin Court, 1099 14th Street N.W., Washington, D.C.

Authority

This notice is published in accordance with section 175.21(a), Customs Regulations (19 CFR 175.21(a)).

Drafting Information

The principal drafter of this document was David Cohen, Special Classification and Marking Branch, United States Customs Service. Personnel from other Customs offices participated in its development.

Michael H. Lane,

Acting Commissioner of Customs.

Approved: May 16, 1995.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.
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