

§301.8 Instructions for entering instruments through U.S. Customs under subheading 9810.00.60, HTSUS.

Failure to follow the procedures in this section may disqualify an instrument for duty-free entry notwithstanding an approval of an application on its merits by the Department of Commerce.

(a) *Entry procedures.* (1) An applicant desiring duty-free entry of an instrument may make a claim at the time of entry of the instrument into the Customs territory of the United States (as defined in 19 CFR 101.1) that the instrument is entitled to duty-free classification under subheading 9810.00.60, HTSUS.

(2) If no such claim is made the instrument shall be immediately classified without regard to subheading 9810.00.60, HTSUS, duty will be assessed, and the entry liquidated in the ordinary course.

(3) If a claim is made for duty-free entry under subheading 9810.00.60, HTSUS, the entry shall be accepted without requiring a deposit of estimated duties provided that a copy of the form, stamped by Customs as accepted for transmittal to the Department of Commerce in accordance with §301.4(b), is filed simultaneously with the entry.

(4) If a claim for duty-free entry under subheading 9810.00.60, HTSUS is made but is not accompanied by a copy of the properly stamped form, a deposit of the estimated duty is required. Liquidation of the entry shall be suspended for a period of 180 days from the date of entry. On or before the end of this suspension period the applicant must file with the Customs Port a properly stamped copy of the form. In the event that the Customs Port does not receive a copy of the properly stamped form within 180 days the instrument shall be classified and liquidated in the ordinary course, without regard to subheading 9810.00.60, HTSUS.

(5) Entry of an instrument after the Director's approval of an application. Whenever an institution defers entry until after it receives a favorable final determination on the application for duty-free entry of the instrument, either by delaying importation or by

placing the instrument in a bonded warehouse or foreign trade zone, the importer shall file with the entry of the instrument (i) the stamped copy of the form, (ii) the institution's copy of the favorable final determination and (iii) proof that a bona fide order for the merchandise was placed on or before the 60th day after the favorable decision became final pursuant to §301.7 of these regulations. Liquidation in such case shall be made under subheading 9810.00.60, HTSUS.

(b) *Normal Customs entry requirements.* In addition to the entry requirements in paragraph (a) of this section, the normal Customs entry requirements must be met. In most of the cases, the value of the merchandise will be such that the formal Customs entry requirements, which generally include the filing of a Customs entry bond, must be complied with. (For further information, see 19 CFR 142.3 and 142.4 (TD-221).)

(c) *Late filing.* Notwithstanding the preceding provisions of this section any document, form, or statement required by regulations in this section to be filed in connection with the entry may be filed at any time before liquidation of the entry becomes final, provided that failure to file at the time of entry or within the period for which a bond was filed for its production was not due to willful negligence or fraudulent intent. Liquidation of any entry becomes conclusive upon all persons if the liquidation is not protested in writing in accordance with 19 CFR part 174, or the necessary document substantiating duty-free entry is not produced in accordance with 19 CFR 10.112, within 90 days after notice of liquidation. Upon notice of such final and conclusive liquidation, the Department of Commerce will cease the processing of any pending application for duty-free entry of the subject article. In all other respects, the provisions of this section do not apply to Department of Commerce responsibilities and procedures for processing applications pursuant to other sections of these regulations.

(d) *Payment of duties.* The importer of record will be billed for payment of duties when Customs determines that such payment is due. If a refund of a deposit made pursuant to paragraph

(a)(4) of this section is due, the importer should contact Customs officials at the port of entry, not the Department of Commerce.

[47 FR 32517, July 28, 1982, as amended at 66 FR 28834, May 25, 2001]

§ 301.9 Uses and disposition of instruments entered under subheading 9810.00.60, HTSUS.

(a) An instrument granted duty-free entry may be transferred from the applicant institution to another eligible institution provided the receiving institution agrees not to use the instrument for commercial purposes within 5 years of the date of entry of the instrument. In such cases title to the instrument must be transferred directly between the institutions involved. An institution transferring a foreign instrument entered under subheading 9810.00.60, HTSUS within 5 years of its entry shall so inform the Customs Port in writing and shall include the following information:

- (1) The name and address of the transferring institution.
- (2) The name and address of the transferee.
- (3) The date of transfer.
- (4) A detailed description of the instrument.
- (5) The serial number of the instrument and any accompanying accessories.
- (6) The entry number, date of entry, and port of entry of the instrument.

(b) Whenever the circumstances warrant, and occasionally in any event, the fact of continued use for 5 years for noncommercial purposes by the applicant institution shall be verified by Customs.

(c) If an instrument is transferred in a manner other than specified above or is used for commercial purposes within 5 years of entry, the institution for which such instrument was entered shall promptly notify the Customs officials at the Port and shall be liable for the payment of duty in an amount determined on the basis of its condition as imported and the rate applicable to it.

[47 FR 32517, July 28, 1982, as amended at 66 FR 28834, May 25, 2001]

§ 301.10 Importation of repair components and maintenance tools under HTSUS subheadings 9810.00.65 and 9810.00.67 for instruments previously the subject of an entry liquidated under subheading 9810.00.60, HTSUS.

(a) An institution owning an instrument that was the subject of an entry liquidated duty-free under subheading 9810.00.60, HTSUS, that wishes to enter repair components or maintenance tools for that instrument may do so without regard to the application procedures required for entry under subheading 9810.00.60, HTSUS. The institution must certify to Customs officials at the port of entry that such components are repair components for that instrument under subheading 9810.00.65, HTSUS, or that the tools are maintenance tools necessary for the repair, checking, gauging or maintenance of that instrument under subheading 9810.00.67, HTSUS.

(b) Instruments entered under subheading 9810.00.60, HTSUS, and subsequently returned to the foreign manufacturer for repair, replacement or modification are not covered by subheading 9810.00.65 or 9810.00.67, HTSUS, although they may, upon return to the United States, be eligible for a reduced duty payment under subheading 9802.00.40 or 9802.00.50, HTSUS (covering articles exported for repairs or alterations) or may be made the subject of a new application under subheading 9810.00.60, HTSUS.

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PART 302 [RESERVED]

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