

§ 191.167 Liquidation.

No deduction of 1 percent of the internal revenue taxes paid or determined shall be made in allowing entries under §5062(c), Internal Revenue Code, as amended (26 U.S.C. 5062(c)).

§ 191.168 Time limit for exportation or destruction.

Merchandise not exported or destroyed within 90 days from the date of notification of acceptance of the drawback entry shall be considered unclaimed, unless upon written request by the importer, prior to the expiration of the 90-day period, the drawback office grants an extension of not more than 90 days.

Subpart Q—Substitution of Finished Petroleum Derivatives

§ 191.171 General; drawback allowance.

(a) *General.* Section 313(p) of the Act, as amended (19 U.S.C. 1313(p)), provides for drawback on the basis of qualified articles which consist of either petroleum derivatives that are imported, duty-paid, and qualified for drawback under the unused merchandise drawback law (19 U.S.C. 1313(j)(1)), or petroleum derivatives that are manufactured or produced in the United States, and qualified for drawback under the manufacturing drawback law (19 U.S.C. 1313(a) or (b)).

(b) *Allowance of drawback.* Drawback may be granted under 19 U.S.C. 1313(p):

(1) In cases where there is no manufacture, upon exportation of the imported article, an article of the same kind and quality, or any combination thereof; or

(2) In cases where there is a manufacture or production, upon exportation of the manufactured or produced article, an article of the same kind and quality, or any combination thereof.

(c) *Merchandise processing fees.* In cases where the requirements of paragraph (b)(1) of this section have been met, merchandise processing fees will be eligible for drawback.

[T.D. 98-16, 63 FR 11006, Mar. 5, 1998, as amended by T.D. 02-16, 67 FR 16637, Apr. 8, 2002; CBP Dec. 04-33, 69 FR 60083, Oct. 7, 2004]

§ 191.172 Definitions.

The following are definitions for purposes of this subpart only:

(a) *Qualified article.* “Qualified article” means an article described in headings 2707, 2708, 2710 through 2715, 2901, 2902, 2909.19.14, or 3901 through 3914 of the Harmonized Tariff Schedule of the United States (HTSUS). In the case of an article described in headings 3901 through 3914, the definition covers the article in its primary forms as provided in Note 6 to chapter 39 of the HTSUS.

(b) *Same kind and quality article.* “Same kind and quality article” means an article which is commercially interchangeable with, or which is referred to under the same 8-digit classification of the HTSUS as, the article to which it is compared. (For example, unleaded gasoline and jet fuel (naphtha or kerosene-type), both falling under the same HTSUS classification (2710.00.15) would be considered same kind and quality articles because they fall under the same 8 digit HTSUS classification, even though they are not “commercially interchangeable”.)

(c) *Exported article.* “Exported article” means an article which has been exported and is the qualified article, an article of the same kind and quality as the qualified article, or any combination thereof.

[T.D. 98-16, 63 FR 11006, Mar. 5, 1998, as amended by T.D. 02-16, 67 FR 16637, Apr. 8, 2002]

§ 191.173 Imported duty-paid derivatives (no manufacture).

When the basis for drawback under 19 U.S.C. 1313(p) is imported duty-paid petroleum derivatives (that is, not articles manufactured under 19 U.S.C. 1313(a) or (b)), the requirements for drawback are as follows:

(a) *Imported duty-paid merchandise.* The imported duty-paid merchandise designated for drawback must be a “qualified article” as defined in §191.172(a) of this subpart;

(b) *Exported article.* The exported article on which drawback is claimed must be an “exported article” as defined in §191.172(c) of this subpart;

(c) *Exporter.* The exporter of the exported article must have either: