

armed forces of the United States and members of their immediate families.

(c) *Status of importer questioned.* If any question arises as to the status of the importer under subheadings 9806.00.20, 9806.00.45 and 9809.00.30, HTSUS, or whether articles entered thereunder are for official use or for personal or family use, but not as an accommodation to others or for sale or other commercial use, the port director shall report the available facts to the Commissioner of Customs for instructions.

(d) *Alcoholic beverages for personal or family use—(1) General rule—(i) Limitation stated.* Except in the case of exceptional circumstances set forth in paragraph (d)(2) of this section, entry of alcoholic beverages (other than malt beverages) for personal or family use but not as an accommodation to others or for sale or other commercial use under subheading 9806.00.45, HTSUS, is limited to one case each month.

(ii) *Advance entry or withdrawal.* A maximum of three cases (the initial one plus two cases in advance) may be entered or withdrawn at any one time in a given 3-month period if the port director is satisfied they are for personal or family use but not as an accommodation to others or for sale or other commercial use. Such advance entry or withdrawal shall not be deemed to broaden the one case per month limitation.

(iii) *Certification.* At the time of each entry or withdrawal, the member of the Armed Forces must certify that since his last entry or withdrawal there have expired a number of months equal to the numbers of cases last entered or withdrawn.

(2) *Exceptional circumstances.* In exceptional circumstances an additional quantity of alcoholic beverages for personal or family use but not as an accommodation to others or for sale or other commercial use, in excess of the one case per month limitation may be allowed under the following procedure:

(i) A statement signed by the member of the Armed Forces and attached to his declaration for free entry will be submitted to the port director, setting forth the reason for requesting the additional quantity;

(ii) The statement of request must be approved by the officer or person in

charge of the Armed Forces involved, or a person specifically authorized by such officer or person to approve such requests; and

(iii) The port director must be satisfied that the need for the additional quantity is justified. Questionable cases shall be referred to the Commissioner of Customs for instructions.

(3) *Retention and verification of the warehouse proprietors' records.* The warehouse proprietor shall retain all records relating to the entry and withdrawal of alcoholic beverages under subheading 9806.00.45, HTSUS, for 3 years from the date of the entry against which the withdrawal of the alcoholic beverages is charged.

(e) *Entry requirements.* The entry requirements prescribed in the Tariff Act of 1930, as amended (Title 19, United States Code), and the regulations thereunder are applicable to articles for which free entry is claimed under subheadings 9806.00.20, 9806.00.45, 9809.00.30, HTSUS. No invoices shall be required.

[T.D. 73-227, 38 FR 22548, Aug. 22, 1973, as amended by T.D. 79-159, 44 FR 31969, June 4, 1979; T.D. 89-1, 53 FR 51266, Dec. 21, 1988]

Subpart J—Noncommercial Importations of Limited Value

§ 148.101 Applicability.

Each person, including a crew-member, arriving in the United States who enters articles for his personal or household use, or as bona fide gifts not imported for sale nor for the account of another person, valued in the aggregate at not over \$1,000 fair retail value in the country of acquisition, shall be assessed a flat rate of duty on the articles, as provided in §148.102. The entry shall be made under subheading 9816.00.20 or 9816.00.40, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), and is subject to the limitations and conditions in this subpart. Except as provided in §148.105, the flat rate of duty shall be assessed in place of any rates of duty other than free rates of duty. If the dutiable amount of the article(s) is over \$1,000 fair retail value, the flat rate of duty provisions shall apply to the amount not over \$1,000 fair retail value, and the excess amount shall be valued under section

402, Tariff Act of 1930, as amended (19 U.S.C. 1401a). The article(s) shall be classified under the appropriate sub-heading number of the tariff schedule. For purposes of this subpart, “fair retail value” in the country of acquisition means the price at which the merchandise is freely offered there for sale at retail and “country of acquisition” includes America Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands of the United States.

Two examples of the application of this subpart are set forth below:

Example 1: B returned from Europe where he acquired merchandise having a fair retail value of \$1,050. Assume for purposes of this example that (1) in addition to the personal exemption of \$400, \$100 of the merchandise carries a free rate of duty, (2) allowances and exemptions have not been used within the past 30 days, and (3) all articles in excess of allowances and exemptions and duty-free articles are dutiable at rates other than the flat rate.

B presents his baggage to the Customs officer for examination and his declaration for verification. Duty is figured as follows:

	Fair retail value	Duty
(a) The \$400 personal exemption	\$400
(b) Articles which carry a free rate of duty	100
(c) The \$1,000 flat rate of duty allowance calculated at 10 percent	1,000	\$100
(d) Balance of articles subject to duty at rates other than flat rate	1,450	(¹)
Total	1,950	(¹)

¹ The articles not covered by exemptions, allowances, and duty-free rates will be valued under section 402, Tariff Act of 1930, as amended, and duty calculated at rates other than the flat rate.

Example 2: Mr. and Mrs. B return from the U.S. Virgin Islands. During the trip, they acquired merchandise having a fair retail value of \$4,900. Assume for purposes of this example that (1) in addition to the personal exemption of \$1,200 for each returning resident, \$100 of the merchandise carries a free rate of duty, (2) allowances and exemptions have not been used within the past 30 days, (3) all articles in excess of allowances and exemptions and duty-free articles are dutiable at rates other than the flat rate, and (4) Mrs. B made \$400 in purchases on the trip, none of which carries a free rate of duty.

Mr. and Mrs. B present their baggage to the Customs officer for examination and their declaration for verification. Duty is figured as follows:

	Fair retail value	Duty
(a) The \$1,200 personal exemptions for residents returning from the Virgin Islands are grouped for a total of	\$2,400
(b) Articles which carry a free rate of duty	100
(c) The \$1,000 flat rate of duty allowances calculated at 5 percent for persons arriving from the Virgin Islands are grouped for a total of	2,000	\$100
(d) Balance of articles subject to duty at rates other than the flat rates of duty	1,400	(¹)
Total	1\$4,900	(¹)

¹ The articles not covered by exemptions, allowances, and duty-free rates will be valued under section 402, Tariff Act of 1930, as amended, and duty calculated at rates other than the flat rate.

[T.D. 78-394, 43 FR 49789, Oct. 25, 1978, as amended by T.D. 86-118, 51 FR 22516, June 20, 1986; 52 FR 12149, Apr. 15, 1987; T.D. 87-89, 52 FR 24446, July 1, 1987; T.D. 89-1, 53 FR 51266, Dec. 21, 1988; T.D. 97-75, 62 FR 46442, Sept. 3, 1997]

§ 148.102 Flat rate of duty.

(a) *Generally.* The rate of duty on articles accompanying any person, including a crewmember, arriving in the United States (exclusive of duty-free articles and articles acquired in Canada, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States) shall be 10 percent of the fair retail value in the country of acquisition.

(b) *American Samoa, Guam, the Northern Mariana Islands, and the Virgin Islands.* The rate of duty on articles accompanying any person, including a crewmember, arriving in the United States directly or indirectly from American Samoa, Guam, the Commonwealth of the Northern Mariana Islands or the Virgin Islands of the United States (exclusive of duty-free articles), acquired in these locations as an incident of the person's physical presence there, shall be 5 percent of the fair retail value in the location in which acquired.

(c) *Canada.* The rate of duty on originating goods from Canada (exclusive of duty-free goods) as defined in §10.303 of this chapter, accompanying any person, including a crew member, arriving in the United States directly or indirectly from Canada shall be a flat rate of 9 percent as established by the