

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

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United States-Canada Free-Trade Agreement. The flat rate shall decrease at the rate of one percent every year commencing on January 1, 1990, until January 1, 1998, at which time a free rate of duty shall apply.

[T.D. 78-394, 43 FR 49789, Oct. 25, 1978; 43 FR 55758, Nov. 29, 1978, as amended by T.D. 89-3, 53 FR 51769, Dec. 23, 1988; T.D. 97-75, 62 FR 46442, Sept. 3, 1997]

§ 148.103 Family grouping of allowances.

(a) *Generally.* When members of a family residing in one household travel together on their return to the United States, the flat rate of duty allowance will be grouped and allowed without regard to which member of the family is the owner of the articles. A group allowance shall not include an allowance for a family member not entitled to it in his own right, nor shall a group allowance be applied to any property of that member.

(b) *Members of a family residing in one household.* "Members of a family residing in one household" shall include all persons, regardless of age, who:

- (1) Are related by blood, marriage, or adoption;
- (2) Lived together in one household at their last permanent residence; and
- (3) Intend to live in one household after their arrival in the United States.

[T.D. 78-394, 43 FR 49789, Oct. 25, 1978]

§ 148.104 Frequency of use.

(a) *30-day period.* The flat rate of duty shall not apply to a person who has used the provision within the 30-day period immediately prior to his arrival in the United States. The date of the person's last arrival on which he declared articles for which the flat rate of duty was applicable shall be considered the date that rate was last used.

(b) *Computation of time.* The 30-day period immediately prior to the person's arrival in the United States shall be computed by excluding the day of arrival and counting backward 30 days.

(c) *Remainder not applicable to subsequent journey.* A person who has received a flat rate of duty allowance of less than \$1,000 in connection with his return from one journey is not entitled

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to apply the remainder to articles acquired abroad on a subsequent journey.

[T.D. 78-394, 43 FR 49789, Oct. 25, 1978, as amended by T.D. 86-118, 51 FR 22516, June 20, 1986; T.D. 97-75, 62 FR 46443, Sept. 3, 1997]

§ 148.105 Procedure for excluding articles from flat rate of duty.

(a) *Generally.* Any person who has information that merchandise is being imported into the United States under the provisions of subheading 9816.00.20 or 9816.00.40, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), and this subpart which adversely affects the economic interest of the United States may communicate the information in writing to the Commissioner of Customs, Attention: Office of Field Operations, Washington, DC 20229.

(b) *Content of communication.* The communication to the Commissioner need not be in any particular form but shall contain the following:

- (1) The name of the individual and the person, firm, or association the individual represents, if any;
- (2) The nature of the individual's interest in the matter, if any;
- (3) A description of the merchandise, which it is alleged affects the economic interest of the United States adversely, including subheadings of the HTSUS, if known;
- (4) The country of acquisition and the ports and dates of entry of the merchandise, if known; and
- (5) A statement and supporting evidence as to the manner in which the individual believes the economic interest of the United States is being adversely affected.

(c) *Inquiry to be conducted.* Upon receipt of a communication containing the information required by paragraph (b) of this section, an inquiry will be conducted.

(d) *Negative determination.* If the inquiry results in a finding that no reasonable cause exists to believe that the application of the flat rate of duty provisions to a particular article of merchandise is adversely affecting the economic interest of the United States, the inquirer shall be advised in writing of the finding and the matter shall be closed.