

§ 148.21

cases, the estimated duties shall be demanded of the passenger as soon as possible after the discovery of the violation. Any applicable internal revenue tax shall also be demanded unless the merchandise is to be, or has been, forfeited.

[T.D. 84-18, 49 FR 1678, Jan. 13, 1984; 49 FR 3986, Feb. 1, 1984]

Subpart C—Examination of Baggage and Collection of Duties and Taxes

§ 148.21 Opening of baggage, compartments, or vehicles.

A Customs officer has the right to open and examine all baggage, compartments and vehicles brought into the United States under Sections 461, 462, 496 and 582, Tariff Act of 1930, as amended (19 U.S.C. 1461, 1462, 1496, and 1582) and 19 U.S.C. 482. To the extent practical, the owner or his agent shall be asked to open the baggage, compartment or vehicle first. If the owner or his agent is unavailable or refuses to open the baggage, compartment, or vehicle, it shall be opened by the Customs officer. If any article subject to duty, or any prohibited article is found upon opening by the Customs officer, the whole contents and the baggage or vehicle shall be subject to forfeiture, pursuant to 19 U.S.C. 1462.

[T.D. 95-86, 60 FR 54188, Oct. 20, 1995]

§ 148.22 Examination of air travelers' baggage in foreign territory.

(a) *Examination and surrender of declaration.* When places have been established in a foreign country where U.S. Customs officers have been stationed for the purpose of conducting Customs inspections and examinations (see §§101.5 and 162.8 of this chapter), persons destined to the United States on flights shall present themselves to those officers for inspection and examination of their baggage which may be passed in accordance with §148.23 prior to boarding the flight. They shall comply with all U.S. Customs laws and other civil and criminal laws of the United States relating to importation of merchandise, including baggage, to the filing of false or fraudulent statements, and to the unlawful removal of

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merchandise from Customs custody, in the same manner as if the passengers, were arriving at an airport within the Customs territory of the United States. When baggage is examined in foreign territory, the baggage declaration shall be surrendered to the Customs officer at the airport of departure for the United States prior to boarding the flight.

(b) *Subsequently acquired articles.* When a person whose baggage has been examined and passed in foreign territory in accordance with paragraph (a) of this section subsequently acquires additional articles prior to return to the United States, the Customs officer to whom the declaration was surrendered may permit the amendment of that declaration to include the additional articles.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 77-241, 42 FR 54944, Oct. 12, 1977; T.D. 89-22, 54 FR 5076, Feb. 1, 1989]

§ 148.23 Examination and clearance of baggage.

(a) *Articles free of duty.* The inspector, including inspectors on trains or ferries, who examines the baggage of any person arriving in the United States may examine and pass, without limitation as to value, the following articles in such baggage or otherwise accompanying such person:

(1) All articles which are for the personal or household use of the arriving person and are free of duty under Chapter 98, Subchapter IV, Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202), including automobiles and other articles under §148.32.

(2) Works of art classifiable under subheadings 9701.10.00 or 9701.90.00, HTSUS.

(3) Works of art classifiable under subheadings 9702.00.00 or 9703.00.00, HTSUS, upon compliance with §10.48 of this chapter.

(b) *Articles subject to duty.* The inspector who examines the baggage of any person arriving in the United States may examine, determine the dutiable value of, collect duty on, and pass articles accompanying the arriving person which are for his personal or household use but are subject to duty, including

articles imported to be disposed of by him as bona fide gifts.

(c) *Articles not for personal use—(1) Valued at not more than \$2,000 (with exceptions).* The inspector may also examine, determine the dutiable value of, collect duty on, and pass articles accompanying any person arriving in the United States properly listed on the baggage declaration which are not for the personal or household use of the declarant or which are intended for sale or are brought in on commission for another, provided the aggregate value of such articles is not more than \$2,000 (except for articles valued in excess of \$250 classified in Sections VII, VIII, XI, and XII; Chapter 94, and Chapter 99, Subchapter III and IV, HTSUS).

(2) *Valued over \$2,000 (with exceptions).* Articles in the baggage of or otherwise accompanying any person arriving in the United States which have an aggregate value over \$2,000 (except for articles valued in excess of \$250 classified in Sections VII, VIII, XI, and XII; Chapter 94 and Chapter 99, Subchapters III and IV, HTSUS) and are not intended for his personal or household use, or are intended for sale or are brought in on commission for another, may be examined and entered and cleared on a baggage declaration at the place of their arrival with a passenger if:

(i) The articles are accompanied by a proper invoice if one is required (see §141.83 of this chapter); and

(ii) It is practicable to appraise the articles at the place of arrival.

(d) *Examination of tea for personal use imported in baggage.* Tea for personal use in one or more packages weighing not more than 5 pounds each, when imported in a passenger's baggage, may be delivered without examination for purity under 21 U.S.C. 41-50 and without payment of the examination fee prescribed in 21 U.S.C. 46a.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 84-149, 49 FR 28699, July 16, 1984; T.D. 86-118, 51 FR 22516, June 20, 1986; T.D. 89-1, 53 FR 51264, Dec. 21, 1988; T.D. 89-82, 54 FR 36026, Aug. 31, 1989; T.D. 98-28, 63 FR 16417, Apr. 3, 1998]

§ 148.24 Determination of dutiable value.

(a) *Principles applied.* In determining the dutiable value of articles examined under §148.23, the Customs inspector shall apply the principles of section 402, Tariff Act of 1930, as amended (19 U.S.C. 1401a), and shall not regard the declared value or price as conclusive.

(b) *Adjustment of value declared.* An adjustment shall be made by the Customs inspector whenever the purchase price or value declared differs from the fair retail value, whether by reason of depreciation due to wear or use, circumstances of purchase, or acquisition, or for any other reason. He shall give due consideration to the condition of the articles at the time of importation, but he shall not make any allowance for wear and use in excess of 25 per centum of the declared price or value of a worn or used article. A passenger who desires to claim a larger allowance may arrange for formal entry and appraisal of his goods.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 87-89, 52 FR 24445, July 1, 1987]

§ 148.25 Reexamination and protest.

(a) *Reexamination.* Whenever the Customs officer deems it advisable any or all of a passenger's baggage may be sent to the public stores for examination or reexamination. Passengers dissatisfied with the assessment of duty on their baggage may demand a reexamination, provided the articles have not been removed from Customs custody. In either case, a receipt for the baggage to be examined or reexamined shall be given on Customs Form 6051.

(b) *Protest.* If the passenger remains dissatisfied with the assessment of duty after reexamination, he shall pay the duty assessed and may protest the decision of the port director in accordance with part 174 of this chapter.

§ 148.26 Collection of internal revenue taxes.

(a) *Cigars and cigarettes.* The internal revenue tax on taxable cigars and cigarettes in a passenger's baggage shall be paid to Customs, using the Customs