

§ 148.52

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under subheading 9804.00.65, 9804.00.70 or 9804.00.72, HTSUS (see Subpart D of this part).

(b) *Limitations.* No article accompanying a person arriving in the United States shall be exempted from duty or internal revenue tax under section 321(a)(2)(B), Tariff Act of 1930, as amended, if any article accompanying such person is subject to duty or tax by reason of the following limitations on the application of this exemption:

(1) *Value of articles.* The exemption shall be allowed only when the aggregate fair retail value of all articles not otherwise entitled to an exemption does not exceed \$200.

(2) *Articles subject to internal revenue tax.* The exemption shall not be applied to articles subject to internal revenue tax other than:

- (i) Cigarettes not in excess of 50;
- (ii) Cigars not in excess of 10;
- (iii) Alcoholic beverages not in excess of 150 milliliters; or
- (iv) Alcoholic perfumery not in excess of 150 milliliters; or

(c) *Family grouping.* Family grouping of the exemption shall not be allowed.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 78-394, 43 FR 49789, Oct. 25, 1978; T.D. 80-179, 45 FR 45580, July 7, 1980; T.D. 86-118, 51 FR 22516, June 20, 1986; T.D. 89-1, 53 FR 51265, Dec. 21, 1988; T.D. 94-51, 59 FR 30296, June 13, 1994; T.D. 97-75, 62 FR 46442, Sept. 3, 1997; T.D. 99-64, 64 FR 43267, Aug. 10, 1999]

§ 148.52 Exemption for household effects used abroad.

(a) *Exemption.* Furniture, carpets, paintings, tableware, books, libraries, and other usual household furnishings and effects actually used abroad for not less than 1 year by resident or non-residents, and not intended for any other person or for sale may be allowed entry free of duty and tax under subheading 9804.00.05, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202). Household effects used abroad not less than 1 year by a family of which the importer was a resident member for not less than 1 year during the period of use may be allowed free entry whether or not the importer owned the effects at the time of such use. The year of use need not be continuous, nor need it immediately precede the time of importation.

(b) *Proof of use.* In order to obtain free entry for household effects under this section, the use of the effects abroad for 1 year must be proven to the satisfaction of the port director. The port director, in his discretion, may require evidence of use other than the declaration provided for in paragraph (c) of this section.

(c) *Declaration.* When household effects are claimed to be free of duty a declaration of the owner on Customs Form 3299 shall be required to support the claim for free entry. If it is impracticable to produce the declaration at the time of entry, the importer may give a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter, for the production of the owner's declaration within 6 months.

(d) *Arrival of effects more than 10 years after arrival of importer.* As a general rule, household effects arriving more than 10 years after the last arrival of the importer from the country in which the effects were used shall not be admitted free of duty under this exemption unless the port director is satisfied from the importer's explanation that the effects were unavoidably detained beyond the 10-year period. However, in no case shall free entry be allowed under this provision when a period of 25 years or more has elapsed since the last arrival of the importer in the United States from the country in which the effects were used.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 84-213, 49 FR 41186, Oct. 19, 1984; T.D. 89-1, 53 FR 51265, Dec. 21, 1988]

§ 148.53 Exemption for tools of trade.

(a) *Exemption.* Professional books, implements, instruments, or tools of trade, occupation or employment, may be allowed entry free of duty and tax under the provisions of subheading 9804.00.15, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), for such articles owned and used abroad by any person emigrating to the United States, or subheading 9804.00.10 for such articles taken abroad by or for the account of any person arriving in the United States. The exemption for emigrants under subheading 9804.00.15, HTSUS shall not be applied to:

(1) Theatrical scenery, properties, or apparel;

(2) Articles for use in any manufacturing establishment;

(3) Articles for any other person; or

(4) Articles for sale.

(b) *Declaration.* A declaration of the emigrant or returning individual on Customs Form 3299 shall be required to support the claim of free entry. However, an oral declaration may be accepted from a returning individual in lieu of a written declaration for any such articles claimed to be free of duty under subheading 9804.00.10, HTSUS (19 U.S.C. 1202).

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 89-1, 53 FR 51265, Dec. 21, 1988]

§ 148.54 Exemption for effects of citizens dying abroad.

(a) *Exemption.* Articles claimed to be personal and household effects, not stock in trade, the title to which is in the estate of a citizen of the United States who died abroad may be allowed entry free of duty and tax under subheading 9804.00.85, and Chapter 98, U.S. Note 3, Harmonized Tariff Schedule of the United States (19 U.S.C. 1202).

(b) *Entry.* Such effects shall be entered in accordance with the provisions of §§143.11 through 143.16 of this chapter, or if the value of such effects does not exceed \$250, entry may be permitted under the provisions of §§143.21 through 143.28 of this chapter.

(c) *Statement of facts required.* The port director shall require in connection with the entry the written statement of a person having knowledge of the facts or shall otherwise satisfy himself as to the citizenship of the deceased owner of the effects at the time of death.

[T.D. 73-27, 38 FR 2449, Jan. 26, 1973, as amended by T.D. 78-99, 43 FR 13061, Mar. 28, 1978; T.D. 89-1, 53 FR 51265, Dec. 21, 1988]

§ 148.55 Exemption for articles bearing American trademark.

(a) *Application of exemption.* An exemption is provided for trademarked articles accompanying any person arriving in the United States which would be prohibited entry under section 526, Tariff Act of 1930, as amended (19 U.S.C. 1526), or section 42 of the Act

of July 5, 1946 (60 Stat. 440; 15 U.S.C. 1124), because the trademark has been registered with the U.S. Patent and Trademark Office and recorded with Customs. The exemption may be applied to those trademarked articles of foreign manufacture bearing a trademark owned by a citizen of, or a corporation or association created or organized within, the United States when imported for the arriving person's personal use in the quantities provided in paragraph (c) of this section. Unregistered and unrecorded trademarked articles are not subject to quantity limitation.

(b) *Limitations—(1) 30-day period.* The exemption in paragraph (a) of this section shall not be granted to any person who has taken advantage of the exemption for the same type of article 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 claimed this exemption shall be considered to be the date he last took advantage of the exemption.

(2) *Sale of exempted articles.* If an article which has been exempted is sold within one year of the date of importation, the article or its value (to be recovered from the importer), is subject to forfeiture. A sale subject to judicial order or in the liquidation of an estate is not subject to the provisions of this paragraph.

(c) *Quantities.* Generally, each person arriving in the United States may apply the exemption to one article of the type bearing a protected trademark. The Commissioner shall determine if a quantity of an article in excess of one may be entered and, with the approval of the Secretary of the Treasury, publish in the FEDERAL REGISTER a list of types of articles and the quantities of each entitled to the exemption. If the holder of a protected trademark allows importation of a quantity in excess of one of its particular trademarked article, the total of those trademarked articles authorized by the trademark holder may be entered without penalty.

[T.D. 79-159, 44 FR 31969, June 4, 1979; 44 FR 35208, June 19, 1979, as amended by T.D. 91-77, 56 FR 46115, Sept. 10, 1991]