

9817.00.50, ACTUAL USE AND QUALIFICATION

Articles that might qualify for treatment under 9817.00.50 must undergo three tests:

1. Determine if the article is or is not excluded from classification in heading 9817.00.50(EN), HTSUS, by operation of Section XXII, Chapter 98, Subchapter XVII, U.S. Legal Note 2.
2. Determine if the article is either “machinery”, “equipment” or “implement” used for “agricultural or horticultural purposes”. Relevant definitions as cited in HQ 955597 of May 31, 1994;

Machinery:

1. Machines or machine parts in general.
2. The working parts of a machine.
3. A system of related elements that operates in a definable way.

Equipment:

1. The act of equipping or state of being equipped.
2. Something with which one is equipped.

Implement:

1. A tool, utensil, or instrument for doing a task.
2. An article used to outfit or equip.

Agriculture:

The science, art, and business of cultivating the soil, producing crops, and raising livestock.

Horticulture:

The science, art, and business of cultivating fruits, vegetables, flowers, and plants.

3. The final step requires substantiation of the ‘Actual use’ of the article 9817.00.50 is an actual use provision. See HQ 083930 (May 19, 1989). The article must comply with the actual use regulations under section 10.131 through 10.139, Customs Regulations (19 CFR 10.131 through 10.139). See HQ 086883 (May 1, 1990; HQ 087076) (June 14, 1990); HQ 089936 (November 15, 1991).