

CLOTHES HANGERS & 'REUSE' DEFINED

BINDING RULINGS SUMMARY

HQ 084068, HQ 964963, HQ 961973, HQ 964948, HQ964964, & NY G86020
(revoked)

FACTS:

Consider the classification of a plastic hanger. This plastic hanger has a metal wire top hook. It may also have metal clasps for skirts or slacks. It is more durable than the typical wire hanger that you might expect from a Dry Cleaning establishment. The hangers are imported with garments for the purpose of shipping and handling the garments they support. After import and distribution, the garments are displayed in a retail establishment as is. Subsequent to importation, two scenarios directly affecting the proper classification of the hanger have been developed.

Alternative 1 When a garment is sold, the hanger is removed and reused to display another garment in the same store or same chain of stores. The hangers are usually reused many times for displaying other garments in the store.

Alternative 2 When a garment is sold, the hanger is removed and sent to a facility designed to sort hangers. Unusable hangers are sent to be recycled into plastic pellets – eventually to be remade into new hangers. Usable hangers are sorted and commingled with new hangers and sold (or resold) to garment vendors for use in packing, shipping and transportation of garments.

LAW AND ANALYSIS:

GRI 5(b), HTSUS, provides as follows: Subject to the provisions of rule 5(a) above, packing materials and packing containers entered with the goods therein shall be classified with the goods if they are of a kind normally used for packing such goods. However, this provision is not binding when such packing materials or packing containers are clearly suitable for repetitive use. Alternative 1 falls under the provisions of GRI 5(b) and may be classified with the imported goods. Previously the courts have defined 'repetitive use' asthat such "reuse" of the hangers was not sufficient to be considered reuse in the commercial or transportation sense..... The reuse of the hangers by the store was "limited to the operation of its own enterprise."

[REUSE DEFINED] If hangers do not enter the mainstream of commerce; they do not become separate items of commerce. If the function of the hangers was for shipment and presentation of the garments to the consumer, reuse of the hangers to hang other garments was not viewed by the Court as a reuse in the commercial sense. Therefore, ***If considered designed for, or capable of, reuse, the hangers are to be treated as separate articles of commerce;*** if so,

they are to be treated as a separate article for classification purposes. Alternative 2 meets this definition. The subject plastic hangers are classified in subheading 3923.90.00.

Consider the following:

If the hanger is classified with the garment, then the value of the hanger is assessed the same rate of duty at the garment. The rates of duty on garments have been as high as 32% recently.

If the hanger is classified separately – under sub-heading 3923.90 – it may qualify for GSP preference. However, the hanger then would fall under the relevant marking requirements.