

WHAT ARE LIQUIDATED DAMAGES?

How do such damages come about?

U. S. Customs is charged with enforcing the numerous laws and regulations governing imports. Certain violations of these laws or regulations are considered to harm the United States and as a result, monetary damages are due the United States. Hence the term Liquidated damages.

Liquidated damages can be assessed for many reasons:

- failure to provide all documents required by law within the time allowed by regulation
- failure to file an acceptable entry summary within 10 days of release of the shipment
- failure to redeliver articles that have been U.S. Customs released and subsequently found to be in violation of law or regulation.

There are many other situations that can give rise to liquidated damages. Some are serious, others could simply be a clerical error that is easily remedied by you or your Broker.

If you are a frequent or even an occasional importer, you will eventually receive a notice from U.S. Customs showing that liquidated damages have been assessed against you for a violation of law or regulation. The damage assessment will refer to a specific shipment(s) and will be in the amount of the total value of the imported cargo. It is important to know that despite the seriousness of a violation, the initial demand for full Customs value of the shipment **Need Not** Be paid immediately!

This action would invite you to write to the Customs service and explain any extenuating circumstances that might permit relief of the payment demanded. This is called petition for relief. You have a period of up to 60 days to do so. In damage issues of a clerical nature, an honest explanation of the circumstances will result in the mitigation of the penalty to a nominal sum, usually one hundred dollars.

In all cases contact your Customs broker immediately. Most often, he or she will handle the petition for relief on your behalf. If your broker feels that the matter is very serious, he will likely suggest that you contact an attorney at law familiar with Customs matters.

An additional note to the distress of Liquidated damages: The Internal Revenue Service does not allow a tax deduction for the payment of liquidated damages. We encourage you to maintain good communications and record-keeping, due diligence to meet your responsibility of 'Informed Compliance', and establish a partnership with us in order to facilitate your International transactions.