



ARTICLES ADMITTED TEMPORARILY FREE OF DUTY UNDER BOND (TIB) 9813.00.05 HTSUSA

Articles to be repaired, altered or processed (including processes which result in articles manufactured or produced in the United States)

LAW AND ANALYSIS:

All merchandise imported into the United States is subject to duty unless specifically exempted (*General Note 1, HTSUS*). Subheading 9813.00.05, HTSUS, provides for temporary duty-free entry, under bond, for merchandise imported into the United States for the purpose of repair, alteration or processing. This may include processing that transforms an article into one that is considered manufactured or produced in the United States. This provision requires that the imported merchandise be exported or destroyed within one year of the date of importation. (Subchapter XIII, U.S. note 1(a)). This period may be extended for one or more further periods which, when added to the initial one year, do not exceed a total of three years. Subchapter XIII, U.S. note 1(a). In order to qualify for this duty-free treatment, merchandise cannot be imported for the purpose of sale or sale on approval. Subchapter XIII, U.S. note 1(a).

Merchandise may be admitted into the United States under this 9813.00.05 only on condition that the merchandise will not be processed into an article Manufactured or produced in the United States if the article is:

- Alcohol, distilled spirits, wine, beer of the like,
- Perfume or other articles that contain ethyl alcohol, or;
- A product of wheat

If any processing of the merchandise results in an article manufactured or produced in the United States, a complete accounting will be made to the Customs Service for all articles, wastes and irrecoverable losses from such processing and all articles and valuable wastes from the processing will be exported or destroyed under Customs supervision within the bond period.

Exception: In lieu of exportation or destruction of valuable wastes resulting from the processing of the merchandise, duties may be tendered on such wastes at rates of duties in effect for the wastes at the time of importation.

Certain binding rulings provide illumination as to what may be considered as qualifying for treatment under 9813.00.05.

Under Ruling HQ 224211: Certain speaker parts were imported through the port of San Juan and assembled with domestic parts into a complete speaker unit. After assembly, the speaker unit will be exported to Japan, Canada and South Africa. Customs held that this type of assembly would appear to be a "processing" within the meaning of subheading 9813.00.05, HTSUS. Further, Customs referred to rulings HQ 221572 and HQ 219823 that were consistent to their holding that component parts imported for the purpose of assembly with other parts into a finished article constitute a "processing."

Under Ruling HQ 224283: Flat-rolled alloyed steel coil imported for the purpose of performing a slitting operation. After which the coils will be recoiled and exported to Canada* where they will be used as steel cores in transformers. Customs has held that this type of operation would appear to be a processing within the meaning of subheading 9813.00.05, HTSUS.

Under Ruling HQ 226589: Clock springs and steering wheel frames were to be imported under a Temporary Importation Bond (TIB). The frames will be foamed subsequent to importation. The clock spring, as part of an automobile airbag unit was simply to be imported and repackaged. Customs has held that with respect to the clock springs, they are just being repackaged with other items before being exported. Customs has consistently held that such operations are **not** considered to be repairs, alterations, or processing within the meaning of subheading 9813.00.05. In other examples, Customs held that the repacking of foreign language tape cassettes with foreign language books in special book boxes containing books and tapes did not meet the requirements of 9813.00.05. The language "repaired, altered or processed" means "more than mere repacking of the imported merchandise itself and more than a change in the form or number of the imported containers".

With respect to the frames, we are of the opinion that the foaming they undergo is an alteration or processing under subheading 9813.00.05, HTSUS. Over the years, Customs has liberally interpreted this provision to include processes that would not otherwise qualify as a manufacture or production for drawback under 19 U.S.C. 1313(a) or (b). For example, in a ruling of February 17, 1977 (File: 207358), Customs determined that aircraft engine and gear box bearings underwent an alteration or process under the predecessor of the subheading when, in a "clean room atmosphere" they were cleaned, dried, dipcoated in a preservative and vacuum sealed. In an information letter of September 25, 1986 (File: 218958). Customs determined that glass windows which were imported and coated so as to provide a screening for the deflection of laser light, and subsequently exported for final assembly into prismatic binoculars, were subject to a processing within the meaning of subheading 9813.00.05, HTSUS.

****TIB entries involving the exportation of the goods to Mexico or Canada should be analyzed very carefully. Duties may have to be paid on the TIB articles.***