

TEMPORARY IMPORTATION (TIB)

Definition

A TIB is a temporary importation of merchandise under bond:

- Without payment of duty
- Not imported for sale or sale on approval
- With intent to export or destroy the merchandise within a certain period of time not to exceed 3 years from the date of importation.

The general requirements and specific rules for certain types of goods are found in the legal notes of HS, chapter 98, subchapter XIII. The regulations concerning procedures are located in the customs regulations, parts 10.31 through 10.40.

Not for Sale or Sale on Approval

Must have intent at the time of import to export or destroy the articles (transfer of title while the merchandise is en route to the U.S. has no bearing on the prohibition). There may be sales in the U.S. for exportation of the articles produced from the merchandise. However, a sale in the U.S. for further processing prior to exportation is not a sale for exportation. For example, a pipe that is imported and then sold to another company to add a flange and export the product is not considered a sale for exportation.

Sale for Domestic Use or Consumption

An importation of articles for sale for domestic consumption negates TIB provisions.

Time Period for Exportation of Goods

Articles may be admitted under TIB provisions for exportation within one year from the date of importation, with one or more extensions granted, if appropriate, not to exceed a total of three years from the date of import.

Except: Articles under 9813.00.75 (six months with no extensions) and 9813.00.50 (subject to seizure restrictions).

Exportation and Destruction

Defined as “the severance of goods from the mass of things belonging to this country with the intention of uniting them to the mass of things belonging to some foreign country”. Shipping merchandise abroad with the intention of returning it to the U.S. in order to circumvent lawful restrictions or secure a benefit is not exportation. Articles imported under these conditions, if of foreign origin would be considered dutiable. Entering the goods into a warehouse under a warehouse entry bond does not constitute exportation. The obligation to export always rests with the importer of record, i.e., the party who filed the original bond.

The bond will be canceled only when **all** the articles on the TIB are exported or destroyed. A single submission should be made of the required documentation when this has transpired.

Documentation for Exportation

- Airway bill with export invoice and cargo manifest
- Signed on-board bill of lading with export invoice
- Inspector's certificate of lading
- Record of vessel's clearance or departure of vehicle
- Foreign lading certificate with export invoice
- Foreign customs entry with invoice

Evidence of Destruction

Destroyed means that the articles are no longer articles of commerce. Apart from articles entered under 9813.00.30, or articles destroyed by accident or casualty, destruction shall be under customs' supervision. This means that customs must have the opportunity to observe the destruction, and does not require on-site observation by Customs.

Bond Requirements

Bond shall be given equal to double the duties that would accrue (unless the district director deems a higher amount) if the merchandise is entered under an ordinary consumption entry, except for three provisions: **9813.00.20, 9813.00.25 & 9813.00.50**. The bond amount for these is **110 percent** of the estimated duties determined at the time of entry. This takes into account all taxes and special duties, including IRC, AD, CVD, & Marking duties.

- MPF is included in the computation if it would have been payable had the entry been an ordinary consumption entry.
- HMF, if applicable, is paid at the time of filing of the entry summary package, and is not included in any bond computations.

Marking Requirements

Articles entered under a TIB that are found not to be legally marked may be released to the importer without being marked if exported within the terms of the bond, and will satisfy the marking statute regarding exportation in lieu of marking.

TIB Extensions

Extensions may only be granted for a period of time not to exceed three years from the date of importation. These may be granted at the port where the entry was filed provided:

- The merchandise has not been exported or destroyed before the application for extension is received.
- Liquidation damages have not been assessed before the application is received.

These may be filed either in writing on a CF3173 or electronically through ABI. Should a request be denied, the requester will be notified.

Clerical Errors - Mistake of Fact

Articles, which have been entered erroneously under another provision, may be changed to a TIB provision provided:

- The articles have not been released from customs' custody or
- They have been released from customs' custody, but the importer is able to establish that the original error was made on the basis of a clerical error, mistake of fact or inadvertence, as provided for in section 520(c)(1) tariff act of 1930.

Environmental Protection Agency

Vehicles that are entered under the TIB provisions need not conform to emission or safety requirements, but may require EPA and DOT declarations. Therefore, proper documentation (EPA 3520-1 and DOT HS-7) must be submitted at the time entry is made, and written approvals must be obtained from both agencies in advance and presented to Customs along with these forms.

Internal Revenue

For articles subject to taxation, payment of internal revenue taxes is still required for those entered under the TIB provisions. This should be paid at the time of the filing of the entry summary.

Quota/Visa

TIB entries are considered consumption entries for purposes of administering quotas. Merchandise subject to a quota that has been filled can NOT be released to the importer under a TIB.

Articles Exported to a Foreign Trade Zone

Admission of TIB merchandise into a FTZ will satisfy the requirement to be exported in order to cancel the bond charges, as long as the merchandise is in a "zone restricted" status.

Effect of NAFTA

An article that is imported under subheading 9813.00.05, which is exported to Canada on or after January 1, 1996, or to Mexico on or after January 1, 2001, will be subject to applicable U.S. Customs duties. The U.S. duties owed may be waived or reduced by an amount that does not exceed the total customs duties owed on the exported article to Canada or Mexico respectively.

This requirement does not apply to an article that will become the property of the U.S. government. The requirement also would not apply to certain sugars, citrus products and certain textile articles exported to Canada.

Further Information

Port directors of Customs generally administer the TIB entry, bonding, and export provisions contained in sections 10.31 to 10.40 of the Customs Regulations. Accordingly, for further information regarding TIB entry, bonding, and export particulars, a prospective importer should contact the Port Director where the intended importation will take place.

If there is a disagreement between the importer and Port Director as to the applicability of one of the TIB provisions to a proposed entry, the importer may request internal advice through the port director pursuant to Part 177 of the Customs Regulations.

However, with respect to Subheading 9813.00.40, which relates to the temporary admission of foreign railroad equipment for use in transportation otherwise than in international traffic when necessary to meet an emergency, an affirmative finding of necessity by Customs Headquarters is required before such temporary admission may be authorized. Accordingly, regarding a temporary free entry under this subheading, a prospective importer should write to: Office of Regulations and Rulings, Entry Rulings Branch, U.S. Customs Headquarters, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

THE FOURTEEN WAYS A TIB CAN BE USED

- 1** Articles to be repaired, altered or processed (including processes which result in an article's being manufactured or produced in the United States). This means to cause to be different in some respects; to make some change in. This normally involves the article being in a different condition when exported, than when imported. Articles imported for mere repackaging are not eligible under this provision. Articles must be imported with the intent to repair all the articles. If imported with the intention of inspecting the workmanship and then only repairing the items that need repair, does not qualify for this provision. When the processing of merchandise results in the manufacture of another article, a complete accounting of all articles, wastes, and irrecoverable losses must be made to customs. Duty may be tendered on valuable wastes in lieu of exportation or destruction. The test to be applied in regard to waste is whether or not it has commercial value. *Subheading 9813.00.05.*

- 2 Models of women's wearing apparel imported by manufacturers for use solely as models in their own establishments. *Subheading 9813.00.10.*
- 3 Articles imported by illustrators and photographers for use solely as models in their own establishments, in the illustrating of catalogues, pamphlets or advertising matter. *Subheading 9813.00.15.*
- 4 Samples solely for use in taking orders for merchandise. The intent is to promote international trade, with the purpose of creating a demand for that product. Photographs are ineligible under this provision. Samples may be shown over TV, used in fashion shows, or displayed for advertising purposes, so long as orders are solicited in connection with their use. *Subheading 9813.00.20.*
- 5 Articles Solely for examination with a view to reproduction, or for such examination and reproduction (except photoengraved printing plates for examination and reproduction); and motion picture advertising films. *Subheading 9813.00.25.*
- 6 Articles intended solely for testing, experimental, or review purposes, including specifications, photographs and similar articles for use in connection with experiments or for study. Testing does not have to be highly specialized, as long as it is designed to yield information about the imported article that was not known previously. The imported article need not be the subject of the testing or review - it is only necessary that the imported article be used in connection with the test, etc. Under this provision, the bond can be canceled upon the submission to the Port director of a certificate by the importer that the imported articles were destroyed during the course of the testing, etc. (section 10.39 (a) of the customs regulations). For example, experimental pharmaceuticals consumed by patients participating in a test of their effectiveness would be considered destruction. *Subheading 9813.00.30.*
- 7 Automobiles, motorcycles, bicycles, airplanes, airships, balloons, boats, racing shells, and similar vehicles and craft, and the usual equipment of the foregoing; all the foregoing which are brought temporarily into the United States by nonresidents for the purpose of taking part in races or other specific contests. *Subheading 9813.00.35.*
- 8 Locomotives and other railroad equipment brought temporarily into the United States for use in clearing obstructions, fighting fires or making emergency repairs on railroads within the United States, or for use in transportation otherwise than in international traffic when the Secretary of the Treasury finds that the temporary use of foreign railroad equipment is necessary to meet an emergency. *Subheading 9813.00.40.*

- 9** Containers for compressed gasses, filled or empty, and containers or other articles in use for covering or holding merchandise (including personal or household effects) during transportation and suitable for reuse for that purpose. *Subheading 9813.00.45.*
- 10** Professional equipment, tools of trade, repair components for equipment or tools admitted under this heading, and camping equipment; all the foregoing imported by or for nonresidents sojourning temporarily in the United States and for the use of nonresidents. *Subheading 9813.00.50.*
- 11** Articles of special design for temporary use exclusively in connection with the manufacture or production of articles for export. *Subheading 9813.00.55.*
- 12** Animals and poultry brought into the United States for the purpose of breeding, exhibition, or competition for prized, and the usual equipment therefor. *Subheading 9813.00.60.*
- 13** Works of the free fine arts, engravings, photographic pictures and philosophical and scientific apparatus brought into the United States by professional artists, lecturers or scientists arriving from abroad for use by them for exhibition and in illustration, promotion and encouragement of art, science or industry in the United States. *Subheading 9813.00.70.*
- 14** Automobiles, automobile chassis, automobile bodies, cutaway portions of any of the foregoing, finished, unfinished or cutaway, when intended solely for show purposes. *Subheading 9813.00.75.*