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John Clancy,

Manager, Air Traffic Division, Western-Pacific Region.

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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 148

[T.D. 01-61]

RIN 1515-AC90

Change in Flat Rate of Duty on Articles Imported for Personal or Household Use or as Bona Fide Gifts

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to reflect a provision of the Tariff Suspension and Trade Act of 2000 which sets forth a staged reduction of the flat rate of duty on articles imported for personal or household use or as bona fide gifts.

EFFECTIVE DATE: September 4, 2001.

FOR FURTHER INFORMATION CONTACT:

Ralph L. Hackney, Passenger Programs, Office of Field Operations; telephone (202) 927-2931.

SUPPLEMENTARY INFORMATION:

Background

Persons entering the United States with noncommercial importations of limited value, *i.e.*, articles for personal or household use or as bona fide gifts not imported for sale nor for the account of another person and valued in the aggregate at not over \$ 1,000 fair retail value in the country of acquisition, are assessed a flat rate of duty on the articles, provided the person claiming the tariff benefit(s) has not received such benefit(s) within the 30 days immediately preceding the present arrival. Depending on how and from where the articles are imported, the entry may be made under either or both subheadings 9816.00.20 and 9816.00.40 of the Harmonized Tariff Schedule of the United States (HTSUS) (19 U.S.C. 1202).

A particular flat rate of duty under HTSUS subheading 9816.00.20 is applicable to articles (exclusive of duty-free articles and articles acquired in American Samoa, Guam or the Virgin Islands of the United States) that accompany a person arriving in the United States. A different particular flat rate of duty is applicable under HTSUS

subheading 9816.00.40 to articles imported by or for the account of a person (whether or not accompanying the person) who arrives directly or indirectly from American Samoa, Guam or the Virgin Islands of the United States if the articles were acquired in those insular possessions as an incident of the person's physical presence.

While a person can use both subheadings for entering goods during one arrival in the United States, it is noted that the person may enter goods under HTSUS subheading 9816.00.40 only if the imported goods are acquired in the insular possessions as an incident of the traveler's physical presence there.

Prior to January 1, 2000, the flat rates of duty were 10 percent of the fair retail value for articles entered under HTSUS subheading 9816.00.20 and 5 percent of the fair retail value for articles entered under HTSUS subheading 9816.00.40.

On November 9, 2000, the President signed into law the Tariff Suspension and Trade Act of 2000 (Pub.L. 106-476, 114 Stat. 2101, 19 U.S.C. 1200 note). Section 1455 of this Act amended the tariff provisions at HTSUS subheadings 9816.00.20 and 9816.00.40 to provide for staged reductions of the flat-duty rates. Section 1455 amended HTSUS subheading 9816.00.20 to provide that effective January 1, 2000, the 10 percent flat-duty rate is reduced to 5 percent; that effective January 1, 2001, the 5 percent flat-duty rate is reduced to 4 percent; and that effective January 1, 2002, the 4 percent flat-duty rate is reduced to 3 percent. Section 1455 amended HTSUS subheading 9816.00.40 to provide that effective January 1, 2000, the 5 percent flat-duty rate is reduced to 3 percent; that effective January 1, 2001, the 3 percent flat-duty rate is reduced to 2 percent; and that effective January 1, 2002, the 2 percent flat-duty rate is reduced to 1.5 percent.

The flat rates of duty of HTSUS subheadings 9816.00.20 and 9816.00.40 are reflected and explained in §§ 148.101 and 148.102, Customs Regulations (19 CFR 148.101 and 148.102). These regulations now provide out-dated flat duty percentage rates. Accordingly, these regulations need to be revised to reflect these staged reductions of the flat-duty rates.

It is noted that these regulatory provisions pertain not only to the three insular possessions expressly provided for in the tariff provisions discussed above—American Samoa, Guam, and the Virgin Islands of the United States; they also pertain to the Commonwealth of the Northern Mariana Islands. This is because, pursuant to section 603(c) of the Covenant to Establish a

Commonwealth of the Northern Mariana Islands in Political Union With the United States of America (Pub.L. 94-241, 90 Stat. 263, 270), goods imported from the Commonwealth of the Northern Mariana Islands are entitled to the same tariff treatment as imports from Guam. See, § 7.2(a) of the Customs Regulations (19 CFR 7.2(a)).

In this document, Customs is revising §§ 148.101 and 148.102 to conform the Customs Regulations to section 1455 of the Tariff Suspension and Trade Act of 2000.

Section 148.102(a) is amended to provide that the rate of duty on articles accompanying any person, including a crewmember, arriving in the United States (exclusive of duty-free articles and articles acquired in American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States) shall be 4 percent, effective January 1, 2001, and 3 percent, effective January 1, 2002, of the fair retail value in the country of acquisition.

Section 148.102(b) is amended to provide that the rate of duty on articles accompanying any person, including a crewmember, arriving in the United States directly or indirectly from American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States (exclusive of duty-free articles), acquired in these locations as an incident of the person's physical presence there, shall be 2 percent, effective January 1, 2001, and 1.5 percent, effective January 1, 2002, of the fair retail value in the location in which acquired.

The parenthetical reference to Canada is removed from § 148.102(a); and § 148.102(c) is removed. These changes are made because the U.S.-Canada Free-Trade Agreement Implementation Act has been suspended. All originating goods from Canada are now duty-free pursuant to the North American Free Trade Agreement.

In addition, § 148.101 is amended by revising the two examples of the application of the flat rate of duty to reflect the staged reductions.

Inapplicability of Public Notice and Comment Requirement and Delayed Effective Date Requirement

Because this rule conforms the regulations to reflect new statutory requirements that confer a benefit in the form of lower duty rates, it has been determined, pursuant to 5 U.S.C. 553(b)(B), that notice and public procedure are unnecessary and contrary to the public interest. For the same reasons, a delayed effective date is not

required, pursuant to 5 U.S.C. 553(d)(1) and (d)(3).

The Regulatory Flexibility Act and Executive Order 12866

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. This document does not meet the criteria for a “significant regulatory action” as specified in E.O. 12866.

List of Subjects for 19 CFR Part 148

Customs duties and inspection, Declarations, Reporting and

recordkeeping requirements, Trade agreements (North American Free Trade Agreement).

Amendments to the Regulations

For the reasons stated in the preamble, part 148 of the Customs Regulations (19 CFR part 148) is amended as set forth below:

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

1. The general authority citation for part 148 continues to read as follows:

Authority: 19 U.S.C. 66, 1496, 1498, 1624. The provisions of this part, except for subpart C, are also issued under 19 U.S.C. 1202 (General Note 22, Harmonized Tariff Schedule of the United States);

* * * * *

2. In § 148.101, the reference in the first sentence of Example 1 to “\$1,050” is removed and the reference “\$1,950” is added in its place; and the tables in Examples 1 and 2 are revised, respectively, to read as follows:

§ 148.101 Applicability.

* * * * *

Example 1: * * *

	Fair retail value	Duty
(a) The \$400 personal exemption	\$400	
(b) Articles which carry a free rate of duty	100	
(c) The \$1,000 flat rate of duty allowance calculated at:	1,000	
4 percent (effective 01/01/01 through 12/31/01)		\$40
3 percent (effective from 01/01/02)		30
(d) Balance of articles subject to duty at rates other than flat rate	¹ 450	(¹)
Total	¹ 1,950	(¹)

¹ The articles not covered by exemptions, allowances, and duty-free rates will be valued under section 402, Tariff Act of 1930, as amended, and duty calculated at rates other than the flat rate.

Example 2: * * *

	Fair retail value	Duty
(a) The \$1,200 personal exemptions for residents returning from the U.S. Virgin Islands are grouped for a total of ..	\$2,400	
(b) Articles which carry a free rate of duty	100	
(c) The \$1,000 flat rate of duty allowance calculated at:	2,000	
2 percent (effective 01/01/01 through 12/31/01)		\$40
1.5 percent (effective from 01/01/02)		30
(d) Balance of articles subject to duty at rates other than flat rate	¹ 400	(¹)
Total	¹ 4,900	(¹)

¹ The articles not covered by exemptions, allowances, and duty-free rates will be valued under section 402, Tariff Act of 1930, as amended, and duty calculated at rates other than the flat rate.

3. Section 148.102 is revised to read as follows:

§ 148.102 Flat rate of duty.

(a) *Generally.* The rate of duty on articles accompanying any person, including a crewmember, arriving in the United States (exclusive of duty-free articles and articles acquired in American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States) shall be 4 percent, effective January 1, 2001, and 3 percent, effective January 1, 2002, of the fair retail value in the country of acquisition.

(b) *American Samoa, Guam, the Northern Mariana Islands, and the Virgin Islands.* The rate of duty on articles accompanying any person, including a crewmember, arriving in the

United States directly or indirectly from American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands of the United States (exclusive of duty-free articles), acquired in these locations as an incident of the person’s physical presence there, shall be 2 percent, effective January 1, 2001, and 1.5 percent, effective January 1, 2002, of the fair retail value in the location in which acquired.

Charles W. Winwood,
Acting Commissioner of Customs.

Approved: August 29, 2001.
Timothy E. Skud,
Acting Deputy Assistant Secretary of the Treasury.
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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–121]

RIN 2115–AA97

Safety Zone; Algoma Shanty Days 2001, Algoma Harbor, WI

AGENCY: Coast Guard, DOT.
ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in Algoma Harbor for the Algoma Shanty Days 2001 fireworks display. This safety zone is necessary to protect spectators and vessels from the hazards associated with the storage, preparation, and launching of fireworks. This safety zone