

Unrealistic Recordkeeping Requirements

The proposed requirement would also place difficult recordkeeping obligations on foreign suppliers and importers who do not have direct knowledge of product components or parts. It would be extremely difficult to effectively monitor invoicing practices of thousands of different foreign vendors to ensure that trademark information is accurately listed on invoices. Additionally, many imported products incorporate parts and components which are themselves trademarked merchandise. Obtaining information as to the trademark status of parts and components would require considerable effort from both vendors and importers, and in certain instances would be unavailable in any event.

Most businesses (particularly those in the areas of high technology and communications) have very rapidly changing product specifications, often changing in-box components bearing trademarks during a production run. The logistics of managing exactly which trademarks are included in which box on which shipment would add enormous complexity and cost to the supply chain.

No New Enforcement Tools

Furthermore, it was stated that the proposed regulation would do nothing to enhance Customs ability to enforce ACPA. Requiring trademark information to be printed on each invoice would not address the principal problem, which is mis-declaration by counterfeiters. Listing trademarks on an invoice does not help a Customs inspector determine whether or not the merchandise bears an infringing trademark. Generally, the only method of determining this is through actual inspection of the merchandise; in fact, without such inspections, substantiating the veracity of the information contained in these commercial invoices is extremely difficult.

Trademarked Merchandise Will Be Identified for Criminals and Counterfeiters Who Will Not Comply With New Requirements

The fact that a shipment consists of branded apparel is not necessarily apparent from commercial and transportation documents and the identity of the trademarks is not always apparent from the name of the seller or consignee. This present circumstance makes it difficult for criminals to identify shipments of interest. The proposed entry documentation requirements would eliminate this

margin of safety and make it easier for this class of individual to target shipments.

Increased Penalties

The proposal creates the likelihood that importers of legitimate product could be penalized for inadvertent omissions of some protected trademarks from the invoice. The regulatory proposal would create an affirmative obligation on the part of exporters and importers to list all trademarks appearing on the merchandise to be imported into the United States, and the omission of information on any trademarked goods would impose liability, under 19 U.S.C. 1592(a) for any "material omission".

Conclusion

CBP has determined that the proposed rulemaking should be withdrawn. After consideration of the comments and further review, CBP agrees with the majority of commenters that the proposed approach would not be an effective or efficient way to combat counterfeiting. Since section 12 of the ACPA does not mandate revision of the Customs Regulations, but rather provides authority for CBP to require such additional information as the agency determines "may be necessary" to determine whether imported merchandise bears infringing trademarks, CBP does not believe amendment of the Customs Regulations is required; Customs already has access to information from other sources which effectively serves to identify imported merchandise bearing violative trademarks. Accordingly, CBP is withdrawing the proposal published in the **Federal Register** (64 FR 49423) on September 13, 1999. If, in the future, a more effective and efficient method of data collection is developed to aid in determining whether imported merchandise bears an infringing trademark, CBP will consider implementation of such measures at that time.

Robert C. Bonner,

Commissioner, Customs and Border Protection.

Approved: August 18, 2003.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 14a

[REG-122917-02]

RIN 1545-BA75

Statutory Stock Options; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed rulemaking relating to statutory stock options.

DATES: The public hearing originally scheduled for Tuesday, September 2, 2003, at 10 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Guy R. Traynor of the Legal Processing Division, Associate Chief Counsel, at (202) 622-3693 (not a toll-free number).

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on June 9, 2003 (68 FR 34344), announced that a public hearing was scheduled for September 2, 2003 at 10 a.m., in the auditorium of the Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. The subject of the Public hearing is proposed regulations under sections 421, 422, 423, 424, 425 and 6039, of the Internal Revenue Code. The public comment period for these proposed regulations expired on August 12, 2003.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of topics to be addressed. As of August 18, 2003, no one has requested to speak. Therefore, the public hearing scheduled for September 2, 2003 is cancelled.

LaNita Van Dyke,

Acting Chief, Legal Publishing Division, Associate Chief Counsel (Procedure & Administration).

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