UNITED CARGO MANAGEMENT

Customs Duty Information

What Is A Customs Duty?

Customs Duty is a tariff or tax imposed on goods when transported across international borders. The purpose of Customs Duty is to protect each country's economy, residents, jobs, environment, etc., by controlling the flow of goods, especially restrictive and prohibited goods, into and out of the country.

Dutiable refers to articles on which Customs Duty may have to be paid. Each article has a specific duty rate, which is determined by a number of factors, including where you acquired the article, where it was made, and what it is made of. Also, anything you bring back that you did not have when you left the United States must be "declared." For example, you would declare alterations made in a foreign country to a suit you already owned, and any gifts you acquired outside the United States. American Goods Returned (AGR) do not have to be declared, but you must be prepared to prove to U.S. Customs and Border Protection the articles are AGR or pay Customs duty.

The Customs Duty Rate is a percentage. This percentage is determined by the total purchased value of the article(s) paid at a foreign country and not based on factors such as quality, size, or weight. The Harmonized Tariff System (HTS) provides duty rates for virtually every existing item. CBP uses the Harmonized Tariff Schedule of the United States Annotated (HTSUS), which is a reference manual that the provides the applicable tariff rates and statistical categories for all merchandise imported into the U.S.

Duty-Free Shop articles sold in a Customs duty-free shop are free only for the country in which that shop is located. Therefore, if your acquired articles exceed your personal exemption/allowance, the articles you purchased in Customs duty-free shop, whether in the United States or abroad, will be subject to Customs duty upon entering your destination country. Articles purchased in a American Customs duty-free shop are also subject to U.S. Customs duty if you bring them into the United States. For example, if you buy alcoholic beverages in a Customs duty-free shop in New York before entering Canada and then bring them back into the United States, they will be subject to Customs duty and Internal Revenue Service tax (IRT).

Determining Customs Duty

The **flat duty** rate will apply to articles that are dutiable but that cannot be included in your personal exemption, even if you have not exceeded the exemption. For example, alcoholic beverages. If you return from Europe with $200 worth of purchases, including two liters of liquor, one liter will be duty-free under your returning resident personal allowance/exemption. The other will be dutiable at 3 percent, plus any Internal Revenue Tax (IRT) that is due.
A joint declaration is a Customs declaration that can be made by family members who live in the same household and return to the United States together. These travelers can combine their purchases to take advantage of a combined flat duty rate, no matter which family member owns a given item. The combined value of merchandise subject to a flat duty rate for a family of four traveling together would be $4,000. Purchase totals must be rounded to the nearest dollar amount.

Tobacco Products

Returning resident travelers may import tobacco products only in quantities not exceeding the amounts specified in the personal exemptions for which the traveler qualifies (not more than 200 cigarettes and 100 cigars if arriving from other than a beneficiary country and insular possession). Any quantities of tobacco products not permitted by a personal exemption are subject to detention, seizure, penalties, abandonment, and destruction. Tobacco products are typically purchased in duty-free stores, on sea carriers operating internationally or in foreign stores. These products are usually marked "Tax Exempt. For Use Outside the United States," or "U.S. Tax Exempt For Use Outside the United States."

For example, a returning resident is eligible for the $800 duty-free personal exemption every 31 days, having remained for no less than 48 hours beyond the territorial limits of the United States except U.S. Virgin Islands, in a contiguous country which maintains free zone or free port, has remained beyond the territorial limits of the United States not to exceed 24 hours. This exemption includes not more than 200 cigarettes and 100 cigars:

- If the resident declares **400 previously exported cigarettes and proves American Goods Returning (AGR)**, the resident would be permitted or allowed to bring back his AGR exempt from Customs duty.
- If the resident declares 400 cigarettes, of which 200 are proven AGR or previously exported and 200 not AGR or not previously exported, the resident would be permitted to bring back his 200 previously exported cigarettes tax and Internal Revenue Tax (IRT) free under his exemption.
- The tobacco exemption is available to each adult 21 years of age or over.

Cuba:

In December 2014, President Obama announced his intention to re-establish diplomatic relations with Cuba. The President did not lift the embargo against Cuba. Absent a democratic or transitional government in Cuba, lifting the embargo requires a legislative statutory change. Since the announcement, however, the Department of the Treasury's Office of Foreign Assets Control (OFAC) has amended the Cuba Assets Control Regulations (CACR), effective January 16, 2015, to authorize travel within certain categories to and from Cuba and to allow certain imports from and exports to Cuba.

All travelers, including those from Cuba, must comply with all applicable laws and regulations. This includes the Harmonized Tariff Schedule of the United States ("HTSUS") (2016) limitations on personal exemptions and rules of duty extended to non-residents and returning U.S. residents.

Persons subject to U.S. jurisdiction are authorized to engage in all transactions, including payments necessary to import certain goods and services produced by independent Cuban entrepreneurs as determined by the State Department and set forth in the State Department's Section 515.582 list located at http://www.state.gov/e/eb/tfs/spi/. On October 17, 2016, the Office of Foreign Asset Control relaxed restrictions so authorized travelers, arriving direct from Cuba, are now able to bring Cuban merchandise for personal use back to the United States and qualify for the U.S. Resident exemption (HTSUS 9804.00.65, which allows up to $800 total in goods, and adults 21 and older may include 1 liter of alcohol, 200 cigarettes, and 100 cigars). This exemption also applies to travelers, arriving from any country in the world, with declared Cuban merchandise. Declared amounts in excess of the exemption are subject to a flat 4% rate of duty, and any applicable IRS taxes, pursuant to HTSUS 9816.00.20 and 19 CFR 148.101, which impose a duty rate of 4% of the fair retail value on goods from a Column 2 country.

Regarding goods: The Department of State will, in accordance with the State Department's Section 515.582, issue a list of prohibited goods. Placement on the list means that any listed good falls within certain Sections and Chapters of the HTSUS which do not qualify for this exception.
Regarding entrepreneurs: The Cuban entity must be a private business, such as a self-employed entrepreneur or other private entity, not owned or controlled by the Government of Cuba. Travelers engaging in these transactions are required to obtain evidence that demonstrates the goods purchased were obtained from a Cuban entrepreneur, as described above, and should be prepared to furnish evidence of such to U.S. Government authorities upon request. Evidence may include a copy of the entrepreneur's license and/or an invoice and/or purchase order demonstrating the goods were purchased from a specific Cuban entrepreneur. Whether a traveler presents adequate evidence that a good qualifies from importation and that it was bought from a licensed independent Cuban entrepreneur shall be determined on a case-by-case basis by the inspecting CBP officer.
Imports under Section 515.582 (i.e., imports from licensed independent entrepreneurs not on the Department of State's prohibited list) must comply with all current U.S. Customs and Border Protection (CBP) formal and informal entry requirements, as applicable. This means that, while there is no value cap on the amount of goods that may be imported under this provision, the applicable duties in the HTSUS must be considered.

In particular, HTSUS 9804.00.65 allows for the duty-free importation of personal-use articles from a Column 2 country when the fair retail value of such goods is under $800. *Also see* 19 C.F.R. 148.33. HTSUS 9816.00.20 establishes a duty rate of 4% of the fair retail value for personal-use articles under $1,000 imported from a Column 2 country. Thus, any articles imported under this section for personal use with a value of under $800 can be imported duty free, and any articles imported for personal use with a value between $800 and $1800, will be subject to a flat 4% duty rate. Any articles valued over $1800, regardless of whether for personal use, will be subject to entry and should be classified, appraised, and assessed duty appropriately under the specific HTSUS Column 2 rates. *Also see* 19 C.F.R. 148.101 and 148.102. Any commercial importation, i.e., not for personal use, is subject to entry requirements and payment of applicable duties, fees, and taxes.

While these revised regulations may facilitate certain travel and trade with Cuba, all other laws and regulations applicable to international travel and the importation/exportation of goods remain in full effect. This means that all United States agency requirements applicable to a particular importation must be met and fully complied with, such as the regulations of the Food and Drug Administration, the Consumer Product Safety Commission, and the Animal and Plant Health Inspection Service.

Alcoholic Beverages

One American liter (33.8 fl. oz.) of alcoholic beverages may be included in your returning resident personal exemption if:

- You are at least 21 years old.
- It is intended exclusively for your personal use and not for sale.
- It does not violate the laws of the state in which you arrive.
  Federal and state regulations allow you to bring back one liter of an alcoholic beverage for personal use duty-free. However, states may allow you to bring back more than one liter, but you will have to pay any applicable Customs duty and IRT.

While federal regulations do not specify a limit on the amount of alcohol you may bring back beyond the personal exemption amount, unusual quantities may raise suspicions that you are importing the alcohol for other purposes, such as for resale. CBP officers enforce the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) laws, rules, and regulations and are authorized to make on-the-spot determinations that an importation is for commercial purposes. If such determination is made, it may require you to obtain a permit and file a formal entry to import the alcohol before the alcohol is released. If you intend to bring back a substantial quantity of alcohol for your personal use, you should contact the U.S. Port of Entry (POE) through which you will be re-entering and make prior arrangements for the importation.

Also, state laws might limit the amount of alcohol you can bring in without a license. If you arrive in a state that has limitations on the amount of alcohol you may bring in without a license, that state's law will be enforced by CBP, even though it may be more restrictive than federal regulations. We recommend that you check with the state government about their limitations on quantities allowed for personal importation and additional state taxes that may apply. Ideally, this information should be obtained before traveling.

In brief, for both alcohol and cigarettes, the quantities eligible for duty-free treatment may be included in your $800 or $1,600 returning resident personal exemption, just as any other purchase should be. But unlike other kinds of merchandise, amounts beyond those discussed here as being duty-free are taxed, even if you have not exceeded, or even met, your personal exemption. For example, your exemption is $800 and you bring back three liters of wine and nothing else, two of those liters will be dutiable and IR taxed. Federal law prohibits business-to-private consumer shipping of alcoholic beverages by mail within the United States.

How to Pay Customs Duty

If you owe Customs duty, you must pay it before the conclusion of your CBP processing. You may pay it in any of the following ways:

- U.S. currency only.
- Personal check in the exact amount, drawn on a U.S. bank, made payable to U.S. Customs and Border Protection. You must present identification, such as a passport or U.S. driver's license. CBP does not accept checks bearing second-party endorsement.
- Government check, money order or traveler's check if the amount does not exceed the duty owed by more than $50.
  In some locations/POEs, you may pay duty with either MasterCard or VISA credit cards.

Increased Duty Rates - **Items from Certain Countries**

Under what is known as its "301" authority, the United States may impose a much higher than normal duty rate on products from certain countries. Currently, the United States has imposed a 100 percent rate of duty on certain products of Austria, Belgium, Denmark, Finland, France, The Federal Republic of Germany, Greece, Ireland, Italy, Luxembourg, the Netherlands, Portugal, Spain, Sweden and the Ukraine. If you should bring more of any of these products back with you than fall within your exemption or flat rate of duty, (see below) you will pay as much in duty as you paid for the product or products.

While most of the products listed are not the type of goods that travelers would purchase in sufficient quantities to exceed their exemption, diamonds from the Ukraine are subject to the 100 percent duty and might easily exceed the exemption amount.

For information on countries that may become subject to a higher than normal duty rate, check the Department of Commerce Web site.

Countries With Free or Reduced Customs Duty Rates

The United States gives Customs duty preferences-that is, conditionally free or subject to reduced rates-to certain designated beneficiary developing countries under a trade program called the Generalized System of Preferences (GSP). Some products that would otherwise be dutiable are not when they are wholly the growth, product, or manufacture of a beneficiary GSP country. Visit the Office of United States Trade Representative website for additional GSP information.
Similarly:

- Many products from **Caribbean and Andean countries** are exempt from duty under the Caribbean Basin Initiative (CBI), Caribbean Basin Trade Partnership Act, Andean Trade Preference Act and the Andean Trade Promotion and Drug Eradication Act.

- Many products from certain **sub-Saharan African countries** are exempt from duty under the African Growth and Opportunity Act.
- Most products from **Israel, Jordan, Chile and Singapore** may also enter the United States either free of duty or at a reduced rate under the U.S. free trade agreements with those countries.
- The North American Free Trade Agreement (NAFTA) went into effect in 1994. If you are returning from **Canada or Mexico**, your goods are eligible for free or reduced duty rates if they were grown, manufactured, or produced in Canada or Mexico, as defined by the Act.
  Additional information on these special trade programs can be found on the CBP Web site.

Household Effects & Personal Effects - Customs Duty Guidance

Household effects conditionally included are duty-free. These include such items as furniture, carpets, paintings, tableware, stereos, linens, and similar household furnishings; tools of the trade, professional books, implements, and instruments.

You may import household effects you acquired abroad duty-free if:

- You used them abroad for no less than one year.
- They are not intended for any other person or for sale.
  For Customs purposes, clothing, jewelry, photography equipment, portable radios, and vehicles are considered personal effects and cannot be brought in duty-free as household effects. However, duty is usually waived on personal effects more than one year of age. All vehicles are dutiable.

Mailing and Shipping Goods - Customs Duty Guidance

Unaccompanied purchases are goods you bought on a trip that are being mailed or shipped to you in the United States. In other words, you are not carrying the goods with you when you return. If your unaccompanied purchases are from an insular possession (IP) or a Caribbean Basin Initiative (CBI) country and are being imported within 30 days and sent directly from those locations to the United States, you may enter them as follows:

- Up to $1,600 in goods will be duty-free under your personal exemption if the merchandise is from an IP.
- Up to $800 in goods will be duty-free if it is from a CBI or Andean country.
- Any additional amount, up to $1,000, in goods will be dutiable at a flat rate (3%).
  To take advantage of the Customs duty-free exemption for unaccompanied tourist purchases (mailing/shipping) from an IP or CBI country:

Step 1. At place and time of purchase, ask your merchant to hold your item until you send him or her a copy of CBP Form 255 (Declaration of Unaccompanied Articles), which must be affixed to the package when it is shipped.

Step 2. (a) On your declaration form (CBP Form 6059B), list everything you acquired on your trip that is accompanying you. You must also complete a separate Declaration of Unaccompanied Articles form (CBP Form 255) for each package or container that will be sent to you after you arrive in the United States. This form may be available where you make your purchase. If not, you may find the form on the CBP website.

Step 3. When you return to the United States, the CBP officer will: (a) collect Customs duty and any tax due on the dutiable goods you have brought with you; (b) verify your list of unaccompanied articles with your sales receipts; (c) validate your CBP Form 255 to determine if your purchases are duty-free under your personal exemption ($1,600 or $800) or if the purchases are subject to a flat rate of duty.

Step 4. Two copies of the three-part CBP Form 255 will be returned to you. Send the yellow copy of the CBP Form 255 to the foreign shopkeeper or vendor holding your purchase, and keep the other copy for your records.

Step 5. When the merchant gets your CBP Form 255, he or she must place it in an envelope and attach the envelope securely to the outside wrapping of the package or container. The merchant must also mark each package "Unaccompanied Purchase." **Please remember that each package or container must have its own CBP Form 255 attached**, the most important step to follow in order to gain the benefits allowed under this procedure.

Step 6. If your package has been mailed, the U.S. Postal Service will deliver it after it clears Customs. If you owe duty, the Postal Service will collect the duty along with a postal handling fee. If a freight service transports your package, they will notify you of its arrival and you must go to their office holding the shipment and complete the CBP entry procedure. If you owe duty or tax, you will need to pay it at that time in order to secure the release of the goods. You could also hire a customs customhouse broker to do this for you. However, be aware that customhouse brokers are private businesses and are not CBP employees, and they charge fees for their services.

If freight or express packages from your trip landed in the U.S. before you return and you have not made arrangements to pick them up, CBP will authorize their placement into general order bonded warehouse or public storage after 15 days (days for perishable, flammable, explosives). This storage and all other related charges (transportation, demurrage, handling) will be at your risk and expense. If the goods are not claimed within six months, they will be sold at auction.

Per U.S. Postal Service regulations, packages sent by mail and not claimed within 30 days from the date of U.S. arrival will be returned to the sender unless the amount of duty is being protested.