

Primer: Duty Drawback

Background

Duty drawback is a refund of 99% of the duties paid on goods imported into the United States that are subsequently exported. A drawback claim must be filed within three years of export, or it is considered abandoned. The drawback claimant can be an importer, manufacturer, or exporter, provided the proper authorization and documentation is filed with Customs and Border Protection (CBP). There are three categories of drawback as discussed below.

Manufacturing Drawback

Drawback is available when imported merchandise or an eligible substitute is used to manufacture an article that is either exported or destroyed within 5 years of import. There are two types of manufacturing drawback: direct identification and substitution. Under direct identification drawback, the importer must trace and document the duty-paid imported material through the manufacture and export process.

In substitution manufacturing drawback, any merchandise, whether imported or domestic, of the same kind and quality as the imported merchandise may be substituted for the imported merchandise, and drawback is granted on the export or destruction of items made from the imported merchandise, the substitute merchandise, or any combination thereof. The imported merchandise and the substituted merchandise must be used in manufacture within 3 years of the receipt of the imported merchandise. Articles are of the “same kind and quality” if the imported merchandise and substituted merchandise are capable of being used interchangeably in the manufacture or production of the exported articles with no substantial change in the manufacturing or production process.

Unused Merchandise Drawback

Like manufacturing drawback, unused merchandise drawback is available with direct identification and substitution. Under direct identification unused merchandise drawback, when material is imported and subsequently exported unused, duty may be recovered. It is necessary to trace the duty-paid imported material through to export. Under substitution unused merchandise drawback, when unused material that is commercially interchangeable with the imported material is exported, the duty may be recovered.

Performing any operation or combination of operations not amounting to manufacture or production for drawback purposes is not a “use.” A processing operation does not preclude unused merchandise drawback if it is not a manufacture for drawback purposes.

Rejected Merchandise Drawback

Rejected merchandise drawback is available when imported merchandise not conforming to sample or specifications, shipped without consent, or determined to be defective at the time of import is returned to CBP within 3 years of the date of import and is exported or destroyed. Evidence of the foreign shipper and importer acknowledging that the merchandise is defective is sufficient to establish such fact.

At least 5 working days before the intended return to CBP custody of merchandise to be exported or destroyed under rejected merchandise drawback, the claimant, exporter, or destroyer must file notice of its intent with CBP. Within 2 working days of CBP’s receipt of the notice, CBP will notify the party of its decision to examine the merchandise or waive the examination.