

## 6.7 Defective Goods Returned to the United States

Any further clarification of Canadian Customs regulations outlined in this Section may be obtained if needed from:

Director  
Field Liaison Division  
Customs and Excise,  
Department of National Revenue,  
Ottawa, Ontario. K1A 0K2

In the case of a Canadian firm having to return defective goods to its American supplier, regulations provide for a refund of customs duty and taxes paid on the original importation of the goods, and duty-free entry of such goods to the United States.

Canadian Department of National Revenue Memorandum D16-2, titled "Remission of Duty Sales and Excise Taxes on Goods that are Not the Goods Ordered", makes provision in Section 3 for remission of duty paid as follows:

*"(3) Remission is hereby granted on the duty and taxes paid on goods that are unsatisfactory,*  
a) *through an error on the part of the manufacturer, exporter or shipper; or*  
b) *through damage received before release from Customs in Canada."*

Applications for refund of duty and taxes must be made within two years of the date of entry (Section 114 Customs Act). The goods to be returned or destroyed shall be delivered to a Collector within 24 months from the date on which duty and taxes were paid.

Memorandum D16-2 provides full procedural details for claiming refunds in such cases. Claims should be made on Canadian Customs Form B2 and filed with the Collector of Customs at the original port of entry.

Where damaged or broken goods are received they must be reported within thirty (30) days from the date of entry to the Collector of Customs at the port where clearance was effected. (Section 61 Customs Act.)

Where goods are short received, they must be reported within 90 days from date of entry to the Collector of Customs at the port where clearance was effected. (Section 112 Customs Act.) DNR Memorandum D16-4 titled "Refund of Duty, Deficiency in Quantity of Duty Paid Goods", explains the policy in this area.

Where inferior quality goods are received and not exported from or destroyed in Canada DNR Memorandum D16-5, titled "Refund of Duty on Inferior Quality Goods not Exported or Destroyed" outlines the Department policy and procedures for filing a refund claim.

Having received a refund from the Canadian Government of duty previously paid, the goods being returned to the United States may then enter the United States duty-free under the provisions of paragraph 1615(a) of the U.S. Tariff Act of 1930, as amended.

Para. 1615(a) states that:

*"Articles the growth, produce, or manufacture of the United States, when returned after having been exported, without having been advanced in value or improved in condition by any process of manufacture or other means" will enter duty-free.*

If, however, some components of the goods in question were imported into the U.S. originally, and at the export of the final goods, duty draw-back was received, a duty may be levied on the defective goods returned to the U.S. up to but not greater than the amount of the U.S. drawback originally received.

Complete procedural details are outlined in the U.S. Customs Regulations dealing with "Domestic Products Exported and Returned".

The procedure requires:

- a) A statement by the Canadian firm that the goods being returned have not been advanced in value.
- b) Completion by the U.S. consignee of U.S. Customs Form 3311.
- c) Presentation of completed U.S. Form 4467 which will indicate the amount of drawback that was allowed at the time of the original exportation.

An alternative to this method of obtaining duty-free re-entry of defective U.S. material to the U.S. is provided by Public Law 85-414. This law amends the Tariff Act of 1930 sub-division (1) section 308, to permit:

*"Temporary free importation under bond, for exportation, of articles to be repaired, altered or otherwise processed under certain conditions and for other purposes."*

This duty-free provision does not include importation of alcohol, ethyl alcohol or wheat, in any of their various forms.

All waste by-products and irrecoverable losses which result from repair, alteration or further processing will be reported to U.S. Customs officials. Any such articles or waste products of value must be exported or destroyed under U.S. Customs supervision within the period of the bond.

Procedures for posting bond and obtaining temporary entry are outlined in sections of U.S. Customs Regulations dealing with "Temporary Importations Under Bond".

If on re-exporting the repaired commodity or its replacement to Canada, it can be determined that some of its components are eligible for duty draw-back by being of Canadian manufacture, claims for such drawback will be allowed.

## 6.8 Canadian Federal Sales Tax

Federal Sales Tax does not apply to goods exported from Canada to the United States provided the goods have not been used in Canada. This applies to goods for both civilian and military use, and is provided for in the Excise Tax Act, which statute imposes the sales tax.