
❖ SPC&B Update ❖

A Newsletter for Clients of Sharretts, Paley, Carter & Blauvelt, P.C.

September 28, 2010

CBP Withdraws Proposal to Change First Sale Valuation



On January 24, 2008, Customs & Border Protection (CBP) published a *Federal Register* notice of a proposal to change its practice of basing transaction value on the price paid by the buyer in the first or earlier sale (*i.e.*, normally the sale between the manufacturer and the middleman) rather than the later sale (between the middleman and the buyer) in series of sales transactions. After receiving strong opposition from the importing community, coupled with legislation requiring postponement of any change in practice until at least January 1, 2011, and an investigation by the International Trade Commission, CBP decided to withdraw its proposal. Publication of the official withdrawal notice will occur in the next day or two in the *Federal Register*.

As a result, importers can continue to take advantage of the duty break afforded by first sale valuation of middleman transactions after January 1, 2011, provided that they comply with CBP requirements. In this regard, CBP requires that the importer establish that there were at least two sales, at arm's length prices, of merchandise clearly destined for exportation to the United States at all times.

A number of importers already have programs in place for first sale valuation. Companies that have not yet set up such programs should consider doing so at this time in order to avoid paying duty on their middlemen's mark-up.

As always, we stand ready to assist our clients in implementing the appropriate procedures to comply with CBP requirements for first sale valuation.

If you are interested in learning more about setting up a first sale program, please contact Gail T. Cumins or Alli Baron at gcumins@spcblaw.com and abaron@spcblaw.com respectively, or via telephone at (212) 425-0055.

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