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# ❖ SPC&B Update ❖

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

September 20, 2010

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## *ITC Commences Investigation on Festive Article Provisions*



As discussed in our *Update* of July 19, 2010, U.S. Customs & Border Protection (CBP) requested that the U.S. International Trade Commission (ITC) consider the insertion of new language in Chapter 98 that will provide for duty free entry of certain utilitarian articles that are precluded from classification in Chapter 95 due to new Chapter Note 95(1)(v). The ITC has commenced an investigation of the matter and has slightly modified the language in one of the provisions, which would now be as follows:

- 9817.95.01 Utilitarian articles (including but not limited to Seder plates, blessing cups, menorahs or kinaras) of a kind used in the home in the performance of specific religious or cultural ritual celebrations for religious or cultural holidays, or religious festive occasions (provided for in subheading 3924.10, 3926.90, 6307.90, 6911.10, 6912.00, 7013.22, 7013.28, 7013.41, 7013.49, 9405.20, 9405.40 or 9405.50)
- 9817.95.05 Utilitarian articles, each incorporating a symbol and/or motif that is closely associated with Christmas, Easter, Halloween, Thanksgiving, or similar festive occasion, if the foregoing articles are used or displayed principally during that festive occasion and not typically at any other time, under the terms of U.S. Note 9 to this subchapter

Note 9 would expand the definition of the festive articles that qualify for subheading 9817.95.05 to include tableware, kitchenware (except baking pans, cookie cutters, cookie stamps and presses) and toilet articles of chapter 39, 69 or 70; carpets and other textile floor coverings of chapter 57; apparel and accessories of chapter 61 or 62; and made-up textile articles of chapter 63. In order to qualify for these provisions, the utilitarian festive articles must contain a design which would only be worn or used in connection with a particular holiday. Thus, products reflecting a Halloween Jack-o-Lantern would generally be covered, whereas a more generic design of black a cat would not.

The issue that remains unclear is whether the new provisions will be applied retroactively to entries made prior to their insertion, as proposed by CBP. The ITC advises that comments must be submitted by October 22, 2010. If you are interested in filing comments, please contact Gail T. Cumins or Donna L. Shira at [gcumins@spcblaw.com](mailto:gcumins@spcblaw.com) and [dshira@spcblaw.com](mailto:dshira@spcblaw.com) respectively, or via telephone at (212) 425-0055.

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