
❖ SPC&B Update ❖

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

March 8, 2011

Recent CBP Rulings Identify a Variety of Costs Excludable from Transaction Value as Charges Incident to the International Shipment of Merchandise



Although dutiable value normally reflects the price paid by the buyer to the seller for the imported merchandise, the value statute specifically provides for the exclusion from such value of:

any costs, charges, or expenses incurred for transportation, insurance, and related services incident to the international shipment of the merchandise from the country of exportation to the place of importation in the United States.

U.S. Customs and Border Protection (CBP) has recently issued several rulings which identify specific types of costs that it considers to be charges excludable from the “price actually paid or payable” under FOB port of export terms of sale because they are incident to the international shipment of merchandise to the U.S. Such charges include:

- 10+2 management fee: to assist an importer in providing the required information to CBP
- Carrier agent booking fee: fee charged by the carrier’s booking agent for booking services
- Carrier bill of lading: fee charged by the carrier for issuing the bill of lading
- Container Freight Station fee: receiving fee for receiving, unloading, storing for 7 days, and packing cargo into containers
- Customs clearance: fee for origin export Customs clearance services and formalities
- Container Yard monitoring fee: fee for handling the cargo, vendor management, receiving vendor booking, coordinating carrier booking, coordinating equipment,

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handling documentation, performing systems update

- Documentation fee for issuing the Freight Cargo Receipt or the House Bill of Lading
- Drayage/haulage/trucking in the country of export
- Fee charged by the carrier for equipment management
- Fee for handling Less than Container Load cargo
- Port construction fee: charge from the carrier for port construction
- Port security charge: cost to build, maintain, and manage port security facilities
- Supply chain security fee: Service charge by broker/freight forwarder/supply chain management services company in relation to the CBP 24-hour carrier rule
- Terminal handling charge: fee charged to importer by the carrier for entering the terminal
- Wharfage charge: port usage fee paid to the Port Authority

In accordance with its longstanding position, CBP stated that the importer of record may deduct the **actual costs** for such charges from the price actually paid or payable, if they are included in the price, provided that they are **supported by documentary evidence** of the actual costs. Examples of documents that may be used to substantiate the actual costs include commercial documents to and from the service provider such as an invoice or written contract separately listing freight/insurance costs, a freight/insurance bill, a through bill of lading or proof of payment of the freight/insurance charges (*e.g.*, letters of credit, checks, bank statements).

Anyone with questions as to whether costs their company is incurring may be excludable from transaction value as charges incident to the international shipment of merchandise should contact Gail Cumins at gcumins@spcblaw.com, Peter Baskin at pjbaskin@spcblaw.com, or Kenneth Paley at kpaley@spcblaw.com, or call us at 212-425-0055.
