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BLAINE, INC.

Duty Free Claims on Boats

Powerboats and sailboats are classified under tariff heading 8903. Goods under this heading are subject to duty at a rate of 1.5%. For boats being imported into the U.S., there are two potential options for making a duty-free claim.

1. TARIFF HEADING 9801

Tariff heading 9801 allows for duty free treatment of all products, regardless of country of origin, that were exported from the U.S. and now being returned without having been advanced in value or improved in condition while abroad:

Products of the United States when returned after having been exported, or any other products when returned within 3 years after having been exported, without having been advanced in value or improved in condition by any process of manufacture or other means while abroad

- Boat cannot be “advanced in value or improved in condition” while abroad
- Boat must be returned to the U.S. within 3 years after it was exported from the U.S.
- Importer must provide required documentation

Requirements to Qualify for 9801

Not Advanced In Value or Improved in Condition While Abroad

The boat must be returned *without having been advanced in value or improved in condition* by any process of manufacture or other means while abroad. Anything other than routine maintenance would be considered “advanced in value or improved in condition” and the boat would not be eligible for duty free entry under this provision.

Must Return Within 3 Years After Export from U.S.

Foreign manufactured boats must be returned within 3 years of the date of export from the U.S. There is no time limit for U.S. built boats.

Required Documents

The following documents must be submitted with the entry:

- **Foreign Shipper Declaration** that the boat was not advanced in value or improved in condition while outside the U.S. (*19 CFR 10.1(a)(1)*)
- **Importer’s Declaration of Goods Returned** asserting that the Foreign Shipper’s Declaration is correct (*19 CFR 10.1(a)(2)*)



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- **Proof of Export** For both U.S. and foreign built boats, one of the following documents will be deemed sufficient proof of export from the U.S. provided that the information contained therein proves an export:
 1. Copy of the entry into the foreign country
 2. U.S. export invoice or bill of lading/airway bill
 3. Electronic Export Information or Automated Export System filing exemption

2. USMCA CLAIM – US-Mexico-Canada Free Trade Agreement Claim for U.S., Canadian or Mexican-built boats

- Boat must qualify as an “originating good” under Article 4.1 USMCA
- Importer must have a USMCA Certification of Origin on file (*Article 5.2.1*)

To Determine if the Boat Qualifies:

The rules of origin for boats are the same under USMCA as they were under NAFTA.

Specific Rule of Origin for Boats Under 8903 (*Annex 4-B Rules of Origin*):

- 89.03 A change to heading 89.03 from any other heading, provided there is a regional value content of not less than:
- a) 60 percent where the transaction value method is used; or
 - b) 50 percent where the net cost method is used

Under this rule, boats are subject to a “Regional Value Content” rule which means between 50-60% of the value must be attributed to US, Canada and/or Mexico parts, material and labor.

To Determine the RVC:

The USMCA provides for two RVC calculation methods

- The Transaction Value Method:
 - $RVC = (TV - VNM) / TV \times 100$
 - The RVC must be $\geq 60\%$
- The Net Cost Method:
 - $RVC = (NC - VNM) / NX \times 100$
 - The RVC must be $\geq 50\%$



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VNM is the value of non-originating materials including materials of undetermined origin used by the producer in the product of the good.

Net Cost means total cost minus sales promotion, marketing and after-sales service costs, royalties, shipping and packing costs, and non-allowable interest costs that are included in the total cost; (*USMCA Article 4.1*)

- The Net Cost method is generally reserved for new boats and a statement from the actual manufacturer would be required to qualify under this provision.

Transaction Value means the customs value as determined in accordance with the Customs Valuation Agreement, that is, the price actually paid or payable for a good or material with respect to a transaction... (*USMCA Article 4.1*)

The Certification of Origin

Once it is determined that the boat qualifies as originating, a certification of origin may be completed by the importer, exporter or producer of the boat on the basis of:

- The certifier of the certification of origin having information, including documents that demonstrate that the good is originating; or
- Reasonable reliance on the producer's written representation, such as in a certification of origin, that the good is originating

An importer is required to have a valid certification of origin in its possession at the time the USMCA duty free claim is made.

Recordkeeping Requirements and Verification (*USMCA Article 5.8*)

The importer of record is responsible for exercising reasonable care concerning the accuracy of the certification of origin and all documentation submitted to CBP.

Any importer who claims duty preference under USMCA will be required to maintain records that support the origin of the good including the certificate of origin for a period of five years after the date of importation.

U.S. Customs may conduct a verification of the claim to determine whether the boat qualifies as originating. The importer must make those records available to Customs upon request. If records are unavailable and/or the importer is unable to verify the originating status, Customs can deny the claim and assess duty retroactively.