

See Effective and Termination Dates of 2003 Amendment note below.

Subsec. (d). Pub. L. 108-77, §§107(c), 203(b)(2)(C), temporarily substituted “except that—” and pars. (1) and (2) for “except that in the case of a withdrawal for exportation to a NAFTA country, as defined in section 3301(4) of this title, if any of the imported metal-bearing materials are goods subject to NAFTA drawback, as defined in section 3333(a) of this title, charges against the bond shall be paid before the 61st day after the date of exportation; but upon the presentation, before such 61st day, of satisfactory evidence of the amount of any customs duties paid to the NAFTA country on the product, the bond shall be credited (subject to section 1508(b)(2)(B) of this title) in an amount not to exceed the lesser of—

“(1) the total amount of customs duties paid or owed on the materials on importation into the United States, or

“(2) the total amount of customs duties paid to the NAFTA country on the product.”

See Effective and Termination Dates of 2003 Amendment note below.

1993—Subsec. (b). Pub. L. 103-182, §203(b)(2)(B), inserted concluding provisions following par. (5).

Subsec. (b)(1). Pub. L. 103-182, §203(b)(2)(A), struck out “(other than exportation to Canada on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, except to the extent that the metal-bearing materials were of Canadian origin as determined in accordance with section 202 of such Act of 1988)” after “upon the exportation” and inserted provisions excepting goods withdrawn for exportation to a NAFTA country.

Subsec. (b)(4). Pub. L. 103-182, §203(b)(2)(A), struck out “(other than exportation to Canada on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, except to the extent that the metal-bearing materials were of Canadian origin as determined in accordance with section 202 of such Act of 1988)” after “warehouse for exportation” and inserted provisions excepting goods withdrawn for exportation to a NAFTA country.

Subsec. (d). Pub. L. 103-182, §203(b)(2)(C), struck out “(other than exportation to Canada on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, except to the extent that the product is a drawback eligible good under section 204(a) of such Act of 1988)” after “Upon the exportation” and inserted before concluding period provisions excepting goods withdrawn for exportation to a NAFTA country, including pars. (1) and (2), as well as sentence relating to conditions arising should Canada cease to be a NAFTA country.

1988—Subsec. (b)(1), (4). Pub. L. 100-449, §204(c)(2)(A), inserted “(other than exportation to Canada on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, except to the extent that the metal-bearing materials were of Canadian origin as determined in accordance with section 202 of such Act of 1988)” after “exportation”.

Subsec. (d). Pub. L. 100-449, §204(c)(2)(B), inserted “(other than exportation to Canada on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, except to the extent that the product is a drawback eligible good under section 204(a) of such Act of 1988)” after “exportation”.

Subsec. (f)(1). Pub. L. 100-418, §1214(h)(1)(A), substituted “chapter 26 of the Harmonized Tariff Schedule of the United States” for “schedule 6, part 1, of the

Tariff Schedules of the United States” and “chapters 71 through 83 of the Harmonized Tariff Schedule of the United States” for “schedule 6, part 2, of such schedules” and struck out the quotation marks surrounding “metal waste and scrap” and “unwrought metal”.

Subsec. (f)(2)(A). Pub. L. 100-418, §1214(h)(1)(B), substituted “chapters 71 through 83 of the Harmonized Tariff Schedule of the United States” for “part 2 of schedule 6” and “chapter 26 of the Harmonized Tariff Schedule of the United States” for “part 1 of schedule 6” and struck out single quotation marks surrounding “unwrought metal”.

Subsec. (f)(3). Pub. L. 100-418, §1214(h)(1)(C), substituted “of chapter 26 of the Harmonized Tariff Schedule of the United States” for “as defined in part 1 of schedule 6”.

1962—Pub. L. 87-456 amended section generally, and among other changes, substituted “metal-bearing minerals” for “ores or crude metals”, authorized adjustment of the bond charge to reflect changes in the applicable rate of duty occurring while the imported materials are still covered by the bond, permitted two or more warehouses to be included under one general bond, prohibited allowances for wastage of copper, lead, and zinc, and defined “metal-bearing materials”, “smelting or refining”, and “product of smelting or refining”.

#### EFFECTIVE AND TERMINATION DATES OF 2003 AMENDMENT

Amendment by Pub. L. 108-77 effective on the date the United States-Chile Free Trade Agreement enters into force (Jan. 1, 2004), and to cease to be effective on the date the Agreement ceases to be in force, see section 107(a), (c) of Pub. L. 108-77, set out in a note under section 3805 of this title.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-182 applicable (1) with respect to exports from the United States to Canada on Jan. 1, 1996, if Canada is a NAFTA country on that date and after such date for so long as Canada continues to be a NAFTA country and (2) with respect to exports from the United States to Mexico on Jan. 1, 2001, if Mexico is a NAFTA country on that date and after such date for so long as Mexico continues to be a NAFTA country, see section 213(c) of Pub. L. 103-182, set out as an Effective Date note under section 3331 of this title.

#### EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENTS

Amendment by Pub. L. 100-449 effective on date the United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100-449, set out in a note under section 2112 of this title.

Amendment by Pub. L. 100-418 effective Jan. 1, 1989, and applicable with respect to articles entered on or after such date, see section 1217(b)(1) of Pub. L. 100-418, set out as an Effective Date note under section 3001 of this title.

#### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-456 effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after Aug. 31, 1963, see section 501(a) of Pub. L. 87-456.

### § 1313. Drawback and refunds

#### (a) Articles made from imported merchandise

Upon the exportation or destruction under customs supervision of articles manufactured or produced in the United States with the use of imported merchandise, provided that those articles have not been used prior to such exportation or destruction, the full amount of the du-

ties paid upon the merchandise so used shall be refunded as drawback, less 1 per centum of such duties, except that such duties shall not be so refunded upon the exportation or destruction of flour or by-products produced from imported wheat. Where two or more products result from the manipulation of imported merchandise, the drawback shall be distributed to the several products in accordance with their relative values at the time of separation.

**(b) Substitution for drawback purposes**

If imported duty-paid merchandise and any other merchandise (whether imported or domestic) of the same kind and quality are used in the manufacture or production of articles within a period not to exceed three years from the receipt of such imported merchandise by the manufacturer or producer of such articles, there shall be allowed upon the exportation, or destruction under customs supervision, of any such articles, notwithstanding the fact that none of the imported merchandise may actually have been used in the manufacture or production of the exported or destroyed articles, an amount of drawback equal to that which would have been allowable had the merchandise used therein been imported, but only if those articles have not been used prior to such exportation or destruction; but the total amount of drawback allowed upon the exportation or destruction under customs supervision of such articles, together with the total amount of drawback allowed in respect of such imported merchandise under any other provision of law, shall not exceed 99 per centum of the duty paid on such imported merchandise.

**(c) Merchandise not conforming to sample or specifications**

**(1) Conditions for drawback**

Upon the exportation or destruction under the supervision of the Customs Service of articles or merchandise—

- (A) upon which the duties have been paid,
- (B) which has been entered or withdrawn for consumption,
- (C) which is—
  - (i) not conforming to sample or specifications, shipped without the consent of the consignee, or determined to be defective as of the time of importation, or
  - (ii) ultimately sold at retail by the importer, or the person who received the merchandise from the importer under a certificate of delivery, and for any reason returned to and accepted by the importer, or the person who received the merchandise from the importer under a certificate of delivery, and
- (D) which, within 3 years after the date of importation or withdrawal, as applicable, has been exported or destroyed under the supervision of the Customs Service,

the full amount of the duties paid upon such merchandise, less 1 percent, shall be refunded as drawback.

**(2) Designation of import entries**

For purposes of paragraph (1)(C)(ii), drawback may be claimed by designating an entry

of merchandise that was imported within 1 year before the date of exportation or destruction of the merchandise described in paragraph (1)(A) and (B) under the supervision of the Customs Service. The merchandise designated for drawback must be identified in the import documentation with the same eight-digit classification number and specific product identifier (such as part number, SKU, or product code) as the returned merchandise.

**(3) When drawback certificates not required**

For purposes of this subsection, drawback certificates are not required if the drawback claimant and the importer are the same party, or if the drawback claimant is a drawback successor to the importer as defined in subsection (s)(3) of this section.

**(d) Flavoring extracts; medicinal or toilet preparations; bottled distilled spirits and wines**

Upon the exportation of flavoring extracts, medicinal or toilet preparations (including perfumery) manufactured or produced in the United States in part from domestic alcohol on which an internal-revenue tax has been paid, there shall be allowed a drawback equal in amount to the tax found to have been paid on the alcohol so used.

Upon the exportation of bottled distilled spirits and wines manufactured or produced in the United States on which an internal-revenue tax has been paid or determined, there shall be allowed, under regulations to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, a drawback equal in amount to the tax found to have been paid or determined on such bottled distilled spirits and wines. In the case of distilled spirits, the preceding sentence shall not apply unless the claim for drawback is filed by the bottler or packager of the spirits and unless such spirits have been stamped or restamped, and marked, especially for export, under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.

**(e) Imported salt for curing fish**

Imported salt in bond may be used in curing fish taken by vessels licensed to engage in the fisheries, and in curing fish on the shores of the navigable waters of the United States, whether such fish are taken by licensed or unlicensed vessels, and upon proof that the salt has been used for either of such purposes, the duties on the same shall be remitted.

**(f) Exportation of meats cured with imported salt**

Upon the exportation of meats, whether packed or smoked, which have been cured in the United States with imported salt, there shall be refunded, upon satisfactory proof that such meats have been cured with imported salt, the duties paid on the salt so used in curing such exported meats, in amounts not less than \$100.

**(g) Materials for construction and equipment of vessels built for foreigners**

The provisions of this section shall apply to materials imported and used in the construction and equipment of vessels built for foreign ac-

count and ownership, or for the government of any foreign country, notwithstanding that such vessels may not within the strict meaning of the term be articles exported.

**(h) Jet aircraft engines**

Upon the exportation of jet aircraft engines manufactured or produced abroad that have been overhauled, repaired, rebuilt, or reconditioned in the United States with the use of imported merchandise, including parts, there shall be refunded, upon satisfactory proof that such imported merchandise has been so used, the duties which have been paid thereon, in amounts not less than \$100.

**(i) Time limitation on exportation**

Unless otherwise provided for in this section, no drawback shall be allowed under the provisions of this section unless the completed article is exported, or destroyed under the supervision of the Customs Service, within five years after importation of the imported merchandise.

**(j) Unused merchandise drawback**

(1) If imported merchandise, on which was paid any duty, tax, or fee imposed under Federal law upon entry or importation—

(A) is, before the close of the 3-year period beginning on the date of importation—

- (i) exported, or
- (ii) destroyed under customs supervision; and

(B) is not used within the United States before such exportation or destruction;

then upon such exportation or destruction 99 percent of the amount of each duty, tax, or fee so paid shall be refunded as drawback. The exporter (or destroyer) has the right to claim drawback under this paragraph, but may endorse such right to the importer or any intermediate party.

(2) Subject to paragraph (4), if there is, with respect to imported merchandise on which was paid any duty, tax, or fee imposed under Federal law upon entry or importation, any other merchandise (whether imported or domestic), that—

(A) is commercially interchangeable with such imported merchandise;

(B) is, before the close of the 3-year period beginning on the date of importation of the imported merchandise, either exported or destroyed under customs supervision; and

(C) before such exportation or destruction—

(i) is not used within the United States, and

(ii) is in the possession of, including ownership while in bailment, in leased facilities, in transit to, or in any other manner under the operational control of, the party claiming drawback under this paragraph, if that party—

(I) is the importer of the imported merchandise, or

(II) received from the person who imported and paid any duty due on the imported merchandise a certificate of delivery transferring to the party the imported merchandise, commercially interchangeable merchandise, or any combination of imported and commercially interchange-

able merchandise (and any such transferred merchandise, regardless of its origin, will be treated as the imported merchandise and any retained merchandise will be treated as domestic merchandise);

then, notwithstanding any other provision of law, upon the exportation or destruction of such other merchandise the amount of each such duty, tax, and fee paid regarding the imported merchandise shall be refunded as drawback under this subsection, but in no case may the total drawback on the imported merchandise, whether available under this paragraph or any other provision of law or any combination thereof, exceed 99 percent of that duty, tax, or fee. For purposes of subparagraph (A) of this paragraph, wine of the same color having a price variation not to exceed 50 percent between the imported wine and the exported wine shall be deemed to be commercially interchangeable.

(3) The performing of any operation or combination of operations (including, but not limited to, testing, cleaning, repacking, inspecting, sorting, refurbishing, freezing, blending, repairing, reworking, cutting, slitting, adjusting, replacing components, relabeling, disassembling, and unpacking), not amounting to manufacture or production for drawback purposes under the preceding provisions of this section on—

(A) the imported merchandise itself in cases to which paragraph (1) applies, or

(B) the commercially interchangeable merchandise in cases to which paragraph (2) applies,

shall not be treated as a use of that merchandise for purposes of applying paragraph (1)(B) or (2)(C).

(4)(A) Effective upon the entry into force of the North American Free Trade Agreement, the exportation to a NAFTA country, as defined in section 2(4) of the North American Free Trade Agreement Implementation Act [19 U.S.C. 3301(4)], of merchandise that is fungible with and substituted for imported merchandise, other than merchandise described in paragraphs (1) through (8) of section 203(a) of that Act [19 U.S.C. 3333(a)], shall not constitute an exportation for purposes of paragraph (2).

(B) Beginning on January 1, 2015, the exportation to Chile of merchandise that is fungible with and substituted for imported merchandise, other than merchandise described in paragraphs (1) through (5) of section 203(a) of the United States-Chile Free Trade Agreement Implementation Act, shall not constitute an exportation for purposes of paragraph (2). The preceding sentence shall not be construed to permit the substitution of unused drawback under paragraph (2) of this subsection with respect to merchandise described in paragraph (2) of section 203(a) of the United States-Chile Free Trade Agreement Implementation Act.

**(k) Use of domestic merchandise acquired in exchange for imported merchandise of same kind and quality**

(1) For purposes of subsections (a) and (b) of this section, the use of any domestic merchandise acquired in exchange for imported merchandise of the same kind and quality shall be treat-

ed as the use of such imported merchandise if no certificate of delivery is issued with respect to such imported merchandise.

(2) For purposes of subsections (a) and (b) of this section, the use of any domestic merchandise acquired in exchange for a drawback product of the same kind and quality shall be treated as the use of such drawback product if no certificate of delivery or certificate of manufacture and delivery pertaining to such drawback product is issued, other than that which documents the product's manufacture and delivery. As used in this paragraph, the term “drawback product” means any domestically produced product, manufactured with imported merchandise or any other merchandise (whether imported or domestic) of the same kind and quality, that is subject to drawback.

**(l) Regulations**

Allowance of the privileges provided for in this section shall be subject to compliance with such rules and regulations as the Secretary of the Treasury shall prescribe, which may include, but need not be limited to, the authority for the electronic submission of drawback entries and the designation of the person to whom any refund or payment of drawback shall be made.

**(m) Source of payment**

Any drawback of duties that may be authorized under the provisions of this chapter shall be paid from the customs receipts of Puerto Rico, if the duties were originally paid into the Treasury of Puerto Rico.

**(n) Refunds, waivers, or reductions under certain free trade agreements**

(1) For purposes of this subsection and subsection (o) of this section—

(A) the term “NAFTA Act” means the North American Free Trade Agreement Implementation Act [19 U.S.C. 3301 et seq.];

(B) the terms “NAFTA country” and “good subject to NAFTA drawback” have the same respective meanings that are given such terms in sections 2(4) and 203(a) of the NAFTA Act [19 U.S.C. 3301(4), 3333(a)];

(C) a refund, waiver, or reduction of duty under paragraph (2) of this subsection or paragraph (1) of subsection (o) of this section is subject to section 1508(b)(2)(B) of this title; and

(D) the term “good subject to Chile FTA drawback” has the meaning given that term in section 203(a) of the United States-Chile Free Trade Agreement Implementation Act.

(2) For purposes of subsections (a), (b), (f), (h), (p), and (q) of this section, if an article that is exported to a NAFTA country is a good subject to NAFTA drawback, no customs duties on the good may be refunded, waived, or reduced in an amount that exceeds the lesser of—

(A) the total amount of customs duties paid or owed on the good on importation into the United States, or

(B) the total amount of customs duties paid on the good to the NAFTA country.

(3) If Canada ceases to be a NAFTA country and the suspension of the operation of the United States-Canada Free-Trade Agreement

thereafter terminates, then for purposes of subsections (a), (b), (f), (h), (j)(2), and (q) of this section, the shipment to Canada during the period such Agreement is in operation of an article made from or substituted for, as appropriate, a drawback eligible good under section 204(a) of the United States-Canada Free-Trade Implementation Act of 1988 does not constitute an exportation.

(4)(A) For purposes of subsections (a), (b), (f), (h), (j)(2), (p), and (q) of this section, if an article that is exported to Chile is a good subject to Chile FTA drawback, no customs duties on the good may be refunded, waived, or reduced, except as provided in subparagraph (B).

(B) The customs duties referred to in subparagraph (A) may be refunded, waived, or reduced by—

(i) 100 percent during the 8-year period beginning on January 1, 2004;

(ii) 75 percent during the 1-year period beginning on January 1, 2012;

(iii) 50 percent during the 1-year period beginning on January 1, 2013; and

(iv) 25 percent during the 1-year period beginning on January 1, 2014.

**(o) Special rules for certain vessels and imported materials**

(1) For purposes of subsection (g) of this section, if—

(A) a vessel is built for the account and ownership of a resident of a NAFTA country or the government of a NAFTA country, and

(B) imported materials that are used in the construction and equipment of the vessel are goods subject to NAFTA drawback,

the amount of customs duties refunded, waived, or reduced on such materials may not exceed the lesser of the total amount of customs duties paid or owed on the materials on importation into the United States or the total amount of customs duties paid on the vessel to the NAFTA country.

(2) If Canada ceases to be a NAFTA country and the suspension of the operation of the United States-Canada Free-Trade Agreement thereafter terminates, then for purposes of subsection (g) of this section, vessels built for Canadian account and ownership, or for the Government of Canada, may not be considered to be built for any foreign account and ownership, or for the government of any foreign country, except to the extent that the materials in such vessels are drawback eligible goods under section 204(a) of the United States-Canada Free-Trade Implementation Act of 1988.

(3) For purposes of subsection (g) of this section, if—

(A) a vessel is built for the account and ownership of a resident of Chile or the Government of Chile, and

(B) imported materials that are used in the construction and equipment of the vessel are goods subject to Chile FTA drawback, as defined in section 203(a) of the United States-Chile Free Trade Agreement Implementation Act,

no customs duties on such materials may be refunded, waived, or reduced, except as provided in paragraph (4).

(4) The customs duties referred to in paragraph (3) may be refunded, waived or reduced by—

- (A) 100 percent during the 8-year period beginning on January 1, 2004;
- (B) 75 percent during the 1-year period beginning on January 1, 2012;
- (C) 50 percent during the 1-year period beginning on January 1, 2013; and
- (D) 25 percent during the 1-year period beginning on January 1, 2014.

**(p) Substitution of finished petroleum derivatives**

**(1) In general**

Notwithstanding any other provision of this section, if—

- (A) an article (hereafter referred to in this subsection as the “exported article”) of the same kind and quality as a qualified article is exported;
- (B) the requirements set forth in paragraph (2) are met; and
- (C) a drawback claim is filed regarding the exported article;

drawback shall be allowed as described in paragraph (4).

**(2) Requirements**

The requirements referred to in paragraph (1) are as follows:

- (A) The exporter of the exported article—
  - (i) manufactured or produced a qualified article in a quantity equal to or greater than the quantity of the exported article,
  - (ii) purchased or exchanged, directly or indirectly, a qualified article from a manufacturer or producer described in subsection (a) or (b) of this section in a quantity equal to or greater than the quantity of the exported article,
  - (iii) imported a qualified article in a quantity equal to or greater than the quantity of the exported article, or
  - (iv) purchased or exchanged, directly or indirectly, a qualified article from an importer in a quantity equal to or greater than the quantity of the exported article.
- (B) In the case of the requirement described in subparagraph (A)(ii), the manufacturer or producer produced the qualified article in a quantity equal to or greater than the quantity of the exported article.
- (C) In the case of the requirement of subparagraph (A)(i) or (A)(ii), the exported article is exported during the period that the qualified article described in subparagraph (A)(i) or (A)(ii) (whichever is applicable) is manufactured or produced, or within 180 days after the close of such period.
- (D) In the case of the requirement of subparagraph (A)(i) or (A)(ii), the specific petroleum refinery or production facility which made the qualified article concerned is identified.
- (E) In the case of the requirement of subparagraph (A)(iii) or (A)(iv), the exported article is exported within 180 days after the date of entry of an imported qualified article described in subparagraph (A)(iii) or (A)(iv) (whichever is applicable).

(F) Except as otherwise specifically provided in this subsection, the drawback claimant complies with all requirements of this section, including providing certificates which establish the drawback eligibility of articles for which drawback is claimed.

(G) The manufacturer, producer, importer, transferor, exporter, and drawback claimant of the qualified article and the exported article maintain all records required by regulation.

**(3) “Qualified article” defined, etc.**

For purposes of this subsection—

(A) The term “qualified article” means an article—

(i) described in—

(I) headings 2707, 2708, 2709.00, 2710, 2711, 2712, 2713, 2714, 2715, 2901, and 2902, and subheadings 2903.21.00, 2909.19.14, 2917.36, 2917.39.04, 2917.39.15, 2926.10.00, 3811.21.00, and 3811.90.00 of the Harmonized Tariff Schedule of the United States, or

(II) headings 3901 through 3914 of such Schedule (as such headings apply to the primary forms provided under Note 6 to chapter 39 of the Harmonized Tariff Schedule of the United States), and

(ii) which is—

(I) manufactured or produced as described in subsection (a) or (b) of this section from crude petroleum or a petroleum derivative,

(II) imported duty-paid, or

(III) an article of the same kind and quality as described in subparagraph (B), or any combination thereof, that is transferred, as so certified in a certificate of delivery or certificate of manufacture and delivery in a quantity not greater than the quantity of articles purchased or exchanged.

The transferred merchandise described in subclause (III), regardless of its origin, so designated on the certificate of delivery or certificate of manufacture and delivery shall be the qualified article for purposes of this section. A party who issues a certificate of delivery, or certificate of manufacture and delivery, shall also certify to the Commissioner of Customs that it has not, and will not, issue such certificates for a quantity greater than the amount eligible for drawback and that appropriate records will be maintained to demonstrate that fact.

(B) An article, including an imported, manufactured, substituted, or exported article, is of the same kind and quality as the qualified article for which it is substituted under this subsection if it is a product that is commercially interchangeable with or referred to under the same eight-digit classification of the Harmonized Tariff Schedule of the United States as the qualified article. If an article is referred to under the same eight-digit classification of the Harmonized Tariff Schedule of the United States as the qualified article on January 1, 2000, then whether or not the article has been reclassi-

fied under another eight-digit classification after January 1, 2000, the article shall be deemed to be an article that is referred to under the same eight-digit classification of such Schedule as the qualified article for purposes of the preceding sentence.

(C) The term “drawback claimant” means the exporter of the exported article or the refiner, producer, or importer of either the qualified article or the exported article. Any person eligible to file a drawback claim under this subparagraph may designate another person to file such claim.

**(4) Limitation on drawback**

The amount of drawback payable under this subsection shall not exceed the amount of drawback that would be attributable to the article—

(A) manufactured or produced under subsection (a) or (b) of this section by the manufacturer or producer described in clause (i) or (ii) of paragraph (2)(A), or

(B) imported under clause (iii) or (iv) of paragraph (2)(A) had the claim qualified for drawback under subsection (j) of this section.

**(5) Special rules for ethyl alcohol**

For purposes of this subsection, any duty paid under subheading 9901.00.50 of the Harmonized Tariff Schedule of the United States on imports of ethyl alcohol or a mixture of ethyl alcohol may not be refunded if the exported article upon which a drawback claim is based does not contain ethyl alcohol or a mixture of ethyl alcohol.

**(q) Packaging material**

**(1) Packaging material under subsections (c) and (j)**

Packaging material, whether imported and duty paid, and claimed for drawback under either subsection (c) or (j)(1) of this section, or imported and duty paid, or substituted, and claimed for drawback under subsection (j)(2) of this section, shall be eligible for drawback, upon exportation, of 99 percent of any duty, tax, or fee imposed under Federal law on such imported material.

**(2) Packaging material under subsections (a) and (b)**

Packaging material that is manufactured or produced under subsection (a) or (b) of this section shall be eligible for drawback, upon exportation, of 99 percent of any duty, tax, or fee imposed under Federal law on the imported or substituted merchandise used to manufacture or produce such material.

**(3) Contents**

Packaging material described in paragraphs (1) and (2) shall be eligible for drawback whether or not they contain articles or merchandise, and whether or not any articles or merchandise they contain are eligible for drawback.

**(4) Employing packaging material for its intended purpose prior to exportation**

The use of any packaging material for its intended purpose prior to exportation shall not

be treated as a use of such material prior to exportation for purposes of applying subsection (a), (b), or (c) of this section, or paragraph (1)(B) or (2)(C)(i) of subsection (j) of this section.

**(r) Filing drawback claims**

(1) A drawback entry and all documents necessary to complete a drawback claim, including those issued by the Customs Service, shall be filed or applied for, as applicable, within 3 years after the date of exportation or destruction of the articles on which drawback is claimed, except that any landing certificate required by regulation shall be filed within the time limit prescribed in such regulation. Claims not completed within the 3-year period shall be considered abandoned. No extension will be granted unless it is established that the Customs Service was responsible for the untimely filing.

(2) A drawback entry for refund filed pursuant to any subsection of this section shall be deemed filed pursuant to any other subsection of this section should it be determined that drawback is not allowable under the entry as originally filed but is allowable under such other subsection.

(3)(A) The Customs Service may, notwithstanding the limitation set forth in paragraph (1), extend the time for filing a drawback claim for a period not to exceed 18 months, if—

(i) the claimant establishes to the satisfaction of the Customs Service that the claimant was unable to file the drawback claim because of an event declared by the President to be a major disaster on or after January 1, 1994; and

(ii) the claimant files a request for such extension with the Customs Service—

(I) within 1 year from the last day of the 3-year period referred to in paragraph (1), or

(II) within 1 year after October 11, 1996,

whichever is later.

(B) If an extension is granted with respect to a request filed under this paragraph, the periods of time for retaining records set forth in subsection (t) of this section and section 1508(c)(3) of this title shall be extended for an additional 18 months or, in a case to which subparagraph (A)(ii) applies, for a period not to exceed 1 year from the date the claim is filed.

(C) For purposes of this paragraph, the term “major disaster” has the meaning given that term in section 5122(2) of title 42.

**(s) Designation of merchandise by successor**

(1) For purposes of subsection (b) of this section, a drawback successor may designate imported merchandise used by the predecessor before the date of succession as the basis for drawback on articles manufactured by the drawback successor after the date of succession.

(2) For purposes of subsection (j)(2) of this section, a drawback successor may designate—

(A) imported merchandise which the predecessor, before the date of succession, imported; or

(B) imported merchandise, commercially interchangeable merchandise, or any combination of imported and commercially interchangeable merchandise for which the predecessor received, before the date of succession,

from the person who imported and paid any duty due on the imported merchandise a certificate of delivery transferring to the predecessor such merchandise;

as the basis for drawback on merchandise possessed by the drawback successor after the date of succession.

(3) For purposes of this subsection, the term “drawback successor” means an entity to which another entity (in this subsection referred to as the “predecessor”) has transferred by written agreement, merger, or corporate resolution—

(A) all or substantially all of the rights, privileges, immunities, powers, duties, and liabilities of the predecessor; or

(B) the assets and other business interests of a division, plant, or other business unit of such predecessor, but only if in such transfer the value of the transferred realty, personalty, and intangibles (other than drawback rights, inchoate or otherwise) exceeds the value of all transferred drawback rights, inchoate or otherwise.

(4) No drawback shall be paid under this subsection until either the predecessor or the drawback successor (who shall also certify that it has the predecessor’s records) certifies that—

(A) the transferred merchandise was not and will not be claimed by the predecessor, and

(B) the predecessor did not and will not issue any certificate to any other person that would enable that person to claim drawback.

#### (t) Drawback certificates

Any person who issues a certificate which would enable another person to claim drawback shall be subject to the recordkeeping provisions of this chapter, with the retention period beginning on the date that such certificate is issued.

#### (u) Eligibility of entered or withdrawn merchandise

Imported merchandise that has not been regularly entered or withdrawn for consumption shall not satisfy any requirement for use, exportation, or destruction under this section.

#### (v) Multiple drawback claims

Merchandise that is exported or destroyed to satisfy any claim for drawback shall not be the basis of any other claim for drawback; except that appropriate credit and deductions for claims covering components or ingredients of such merchandise shall be made in computing drawback payments.

#### (w) Limited applicability for certain agricultural products

##### (1) In general

No drawback shall be available with respect to an agricultural product subject to the over-quota rate of duty established under a tariff-rate quota, except pursuant to subsection (j)(1) of this section.

##### (2) Application to tobacco

Notwithstanding paragraph (1), drawback shall also be available pursuant to subsection (a) of this section with respect to any tobacco subject to the over-quota rate of duty established under a tariff-rate quota.

#### (x) Drawbacks for recovered materials

For purposes of subsections (a), (b), and (c) of this section, the term “destruction” includes a process by which materials are recovered from imported merchandise or from an article manufactured from imported merchandise. In determining the amount of duties to be refunded as drawback to a claimant under this subsection, the value of recovered materials (including the value of any tax benefit or royalty payment) that accrues to the drawback claimant shall be deducted from the value of the imported merchandise that is destroyed, or from the value of the merchandise used, or designated as used, in the manufacture of the article.

#### (y) Articles shipped to the United States insular possessions

Articles described in subsection (j)(1) of this section shall be eligible for drawback under this section if duty was paid on the merchandise upon importation into the United States and the person claiming the drawback demonstrates that the merchandise has entered the customs territory of the United States Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Guam, Canton Island, Enderbury Island, Johnston Island, or Palmyra Island.

(June 17, 1930, ch. 497, title III, §313, 46 Stat. 693; May 17, 1932, ch. 190, 47 Stat. 158; June 26, 1936, ch. 830, title IV, §§402, 403, 49 Stat. 1960; Aug. 8, 1951, ch. 297, 65 Stat. 175; Aug. 8, 1953, ch. 397, §12, 67 Stat. 515; Aug. 6, 1956, ch. 1021, §2, 70 Stat. 1076; Pub. L. 85–673, §1, Aug. 18, 1958, 72 Stat. 624; Pub. L. 90–630, §2(b), Oct. 22, 1968, 82 Stat. 1328; Pub. L. 91–692, §3(a), Jan. 12, 1971, 84 Stat. 2076; Pub. L. 96–609, title II, §201(a), Dec. 28, 1980, 94 Stat. 3560; Pub. L. 98–573, title II, §202, Oct. 30, 1984, 98 Stat. 2973; Pub. L. 99–514, title XVIII, §1888(2), Oct. 22, 1986, 100 Stat. 2924; Pub. L. 100–449, title II, §204(c)(3), Sept. 28, 1988, 102 Stat. 1862; Pub. L. 101–382, title I, §134(a)(1), (2), title III, §484A(a), Aug. 20, 1990, 104 Stat. 649, 707; Pub. L. 103–182, title II, §203(b)(3), (c), title VI, §632(a), Dec. 8, 1993, 107 Stat. 2089, 2092, 2192; Pub. L. 103–465, title IV, §§404(e)(5)(A), 422(d), Dec. 8, 1994, 108 Stat. 4961, 4965; Pub. L. 104–295, §§7, 10, 21(e)(4), Oct. 11, 1996, 110 Stat. 3518, 3519, 3530; Pub. L. 106–36, title II, §§2404(a), 2419(a), 2420(a)–(d), June 25, 1999, 113 Stat. 169, 178, 179; Pub. L. 106–476, title I, §§1422(a)(1), (b), 1462(a), Nov. 9, 2000, 114 Stat. 2156, 2172; Pub. L. 108–77, title II, §203(b)(3), Sept. 3, 2003, 117 Stat. 927; Pub. L. 108–429, title I, §§1556, 1557(a), 1563(a)–(d), title II, §2004(d)(6), Dec. 3, 2004, 118 Stat. 2579, 2583–2585, 2592; Pub. L. 110–234, title XV, §§15334(a), 15421(a), May 22, 2008, 122 Stat. 1517, 1547; Pub. L. 110–246, §4(a), title XV, §§15334(a), 15421(a), June 18, 2008, 122 Stat. 1664, 2279, 2309.)

#### AMENDMENT OF SECTION

*For termination of amendment by section 107(c) of Pub. L. 108–77, see Effective and Termination Dates of 2003 Amendment note below.*

#### REFERENCES IN TEXT

Section 203(a) of the United States-Chile Free Trade Agreement Implementation Act, referred to in subsecs. (j)(4)(B), (n)(1)(D), and (o)(3)(B), is section 203(a) of Pub. L. 108–77, which is set out in a note under section 3805 of this title.

The North American Free Trade Agreement Implementation Act, referred to in subsec. (n)(1)(A), is Pub. L. 103-182, Dec. 8, 1993, 107 Stat. 2057, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 3301 of this title and Tables.

Section 204 of the United States-Canada Free-Trade Agreement Implementation Act of 1988, referred to in subsecs. (n)(3) and (o)(2), is section 204 of Pub. L. 100-449, which is set out in a note under section 2112 of this title.

The Harmonized Tariff Schedule of the United States, referred to in subsec. (p)(3)(A)(i), (B), (5), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

#### CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

#### PRIOR PROVISIONS

Provisions similar to those in this section were contained in act Oct. 3, 1913, ch. 16, §IV, O, 38 Stat. 200, which was superseded by act Sept. 21, 1922, ch. 356, title III, §313, 42 Stat. 940, and repealed by section 321 thereof. Section 313 of the 1922 act was superseded by section 313 of act June 17, 1930, comprising this section, and repealed by section 651(a)(1) of the 1930 act.

Earlier provisions relating to this subject were made by the Tariff Acts of Oct. 1, 1890, ch. 1244, §25, 26 Stat. 617; Aug. 27, 1894, ch. 349, §22, 28 Stat. 551; July 24, 1897, ch. 11, §30, 30 Stat. 211; and Aug. 5, 1909, ch. 6, §25, 36 Stat. 90, which superseded provisions of a similar nature contained in R.S. §§3019, 3020, 3026, as amended by act Mar. 10, 1880, ch. 37, 21 Stat. 67, and said sections 3019, 3020, and 3026, were also repealed by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

The provisions of section IV, O, of the act of 1913, similar to subdivision (g) of this section concerning materials used in the construction and equipment of vessels built for foreign account, superseded a similar provision of act June 26, 1884, ch. 121, §17, 23 Stat. 57.

The provisions of subsec. (e) of this section concerning imported salt used in curing fish superseded somewhat similar provisions in R.S. §3022, which was repealed by act Sept. 21, 1922, ch. 356, title IV, §642, 42 Stat. 989.

Section 642 of the act of Sept. 21, 1922, also repealed sections 3015 to 3026, inclusive, 3028 to 3047, inclusive, and 3049 to 3057, inclusive of the Revised Statutes, which were concerned with the subject of drawback.

R.S. §3048, which was not repealed, read as follows: "So much money as may be necessary for the payment of debentures or drawbacks and allowances which may be authorized and payable, is hereby appropriated for that purpose out of any money in the Treasury, to be expended under the direction of the Secretary of that Department, according to the laws authorizing debentures or drawbacks and allowances. The collectors of the customs shall be the disbursing agents to pay such debentures, drawbacks, and allowances. All debenture certificates issued according to law shall be received in payment of duties at the customhouse where the same have been issued, the laws regulating drawbacks having been complied with."

Permanent appropriations to pay debentures and other charges arising from duties, drawbacks, bounties, and allowances were also contained in R.S. §3689, incorporated in section 711 of former Title 31, Money and Finance, prior to repeal effective July 1, 1935, by act June 26, 1934, ch. 756, §§1, 2, 48 Stat. 1225.

#### AMENDMENTS

2008—Subsec. (j)(2). Pub. L. 110-246, §15421(a), inserted at end of concluding provisions "For purposes of subparagraph (A) of this paragraph, wine of the same color having a price variation not to exceed 50 percent be-

tween the imported wine and the exported wine shall be deemed to be commercially interchangeable."

Subsec. (p)(5). Pub. L. 110-246, §15334(a), added par. (5).  
2004—Subsec. (c). Pub. L. 108-429, §1563(a), amended heading and text of subsec. (c) generally. Prior to amendment, text read as follows: "Upon the exportation, or destruction under the supervision of the Customs Service, of merchandise—

"(1) not conforming to sample or specifications, shipped without the consent of the consignee, or determined to be defective as of the time of importation;

"(2) upon which the duties have been paid;

"(3) which has been entered or withdrawn for consumption; and

"(4) which, within 3 years after release from the custody of the Customs Service, has been returned to the custody of the Customs Service for exportation or destruction under the supervision of the Customs Service;

the full amount of the duties paid upon such merchandise, less 1 percent, shall be refunded as drawback."

Subsec. (i). Pub. L. 108-429, §1563(b), substituted "Unless otherwise provided for in this section, no" for "No" and inserted "or destroyed under the supervision of the Customs Service," after "exported".

Subsec. (j)(1). Pub. L. 108-429, §1557(a)(1), substituted "upon entry or" for "because of its" in introductory provisions.

Subsec. (j)(2). Pub. L. 108-429, §1557(a)(2), in introductory provisions, substituted "upon entry or" for "because of its" and, in concluding provisions, substituted "then, notwithstanding any other provision of law, upon" for "then upon" and "shall be refunded as drawback under this subsection" for "shall be refunded as drawback".

Subsec. (k). Pub. L. 108-429, §1563(c), designated existing provisions as par. (1) and added par. (2).

Subsec. (n)(1)(B). Pub. L. 108-429, §2004(d)(6), inserted semicolon at end.

Subsec. (q). Pub. L. 108-429, §1563(d), amended heading and text of subsec. (q) generally. Prior to amendment, text related to drawback eligibility of packaging material for articles or merchandise exported or destroyed under subsection (a), (b), (c), or (j) of this section and additional eligibility for packaging material produced in the United States.

Subsec. (y). Pub. L. 108-429, §1556, added subsec. (y).

2003—Subsec. (j)(4). Pub. L. 108-77, §§107(c), 203(b)(3)(A), temporarily designated existing provisions as subpar. (A) and added subpar. (B). See Effective and Termination Dates of 2003 Amendment note below.

Subsec. (n). Pub. L. 108-77, §§107(c), 203(b)(3)(B)(i), temporarily inserted heading. See Effective and Termination Dates of 2003 Amendment note below.

Subsec. (n)(1). Pub. L. 108-77, §§107(c), 203(b)(3)(B)(ii), temporarily added subpar. (D). See Effective and Termination Dates of 2003 Amendment note below.

Subsec. (n)(4). Pub. L. 108-77, §§107(c), 203(b)(3)(B)(iii), temporarily added par. (4). See Effective and Termination Dates of 2003 Amendment note below.

Subsec. (o). Pub. L. 108-77, §§107(c), 203(b)(3)(C)(i), temporarily inserted heading. See Effective and Termination Dates of 2003 Amendment note below.

Subsec. (o)(3). (4). Pub. L. 108-77, §§107(c), 203(b)(3)(C)(ii), temporarily added pars. (3) and (4). See Effective and Termination Dates of 2003 Amendment note below.

2000—Subsec. (p)(3)(A)(i)(I). Pub. L. 106-476, §1422(a)(1), inserted "2709.00," after "2708," and substituted "and 2902, and subheadings 2903.21.00, 2909.19.14, 2917.36, 2917.39.04, 2917.39.15, 2926.10.00, 3811.21.00, and 3811.90.00" for "2902, and 2909.19.14".

Subsec. (p)(3)(B). Pub. L. 106-476, §1422(b), inserted at end "If an article is referred to under the same eight-digit classification of the Harmonized Tariff Schedule of the United States as the qualified article on January 1, 2000, then whether or not the article has been reclassified under another eight-digit classification after January 1, 2000, the article shall be deemed to be an ar-

title that is referred to under the same eight-digit classification of such Schedule as the qualified article for purposes of the preceding sentence.”

Subsec. (x). Pub. L. 106-476, §1462(a), added subsec. (x).  
1999—Subsec. (p)(1). Pub. L. 106-36, §2420(a), substituted concluding provisions for former concluding provisions which read as follows: “the amount of the duties paid on, or attributable to, such qualified article shall be refunded as drawback to the drawback claimant”.

Subsec. (p)(2)(A)(i) to (iii). Pub. L. 106-36, §2420(b)(1)(A), substituted “a qualified article” for “the qualified article”.

Subsec. (p)(2)(A)(iv). Pub. L. 106-36, §2420(b)(1)(B), substituted “a qualified article” for “an imported qualified article”.

Subsec. (p)(2)(G). Pub. L. 106-36, §2420(b)(2), inserted “transferor,” after “importer.”

Subsec. (p)(3)(A)(i)(I). Pub. L. 106-36, §2419(a), substituted “2902, and 2909.19.14” for “and 2902”.

Subsec. (p)(3)(A)(i)(II). Pub. L. 106-36, §2420(c)(1)(A), substituted “the primary forms provided under Note 6 to chapter 39 of the Harmonized Tariff Schedule of the United States” for “liquids, pastes, powders, granules, and flakes”.

Subsec. (p)(3)(A)(ii). Pub. L. 106-36, §2420(c)(1)(B), added subcl. (III) and concluding provisions.

Subsec. (p)(3)(B). Pub. L. 106-36, §2420(c)(2), substituted “article, including an imported, manufactured, substituted, or exported article,” for “exported article”.

Subsec. (p)(3)(C). Pub. L. 106-36, §2420(c)(3), substituted “either the qualified article or the exported article.” for “such article.”

Subsec. (p)(4)(B). Pub. L. 106-36, §2420(d), inserted “had the claim qualified for drawback under subsection (j) of this section” before period at end.

Subsec. (q). Pub. L. 106-36, §2404(a), designated existing provisions as par. (1), inserted heading, realigned margins, and added par. (2).

1996—Subsec. (j)(2). Pub. L. 104-295, §21(e)(4)(A), realigned margins.

Subsec. (r)(3). Pub. L. 104-295, §7, added par. (3).

Subsec. (s)(2)(B). Pub. L. 104-295, §10, substituted “predecessor” for “successor” in two places.

Subsec. (t). Pub. L. 104-295, §21(e)(4)(B), made technical amendment to reference in original act which appears as reference to this chapter.

1994—Subsec. (w). Pub. L. 103-465, §422(d), designated existing provisions as par. (1), inserted heading, and added par. (2).

Pub. L. 103-465, §404(e)(5)(A), added subsec. (w).

1993—Subsec. (a). Pub. L. 103-182, §632(a)(1), inserted “or destruction under customs supervision” after “Upon the exportation”, “provided that those articles have not been used prior to such exportation or destruction,” after “use of imported merchandise,” and “or destruction” after “refunded upon the exportation”, and substituted “by-products produced from imported wheat” for “by-products produced from wheat imported after ninety days after June 17, 1930”.

Subsec. (b). Pub. L. 103-182, §632(a)(2), substituted “any other merchandise (whether imported or domestic)” for “duty-free or domestic merchandise”, inserted “, or destruction under customs supervision,” after “there shall be allowed upon the exportation”, substituted “production of the exported or destroyed articles” for “production of the exported articles”, inserted “, but only if those articles have not been used prior to such exportation or destruction” after “merchandise used therein been imported” and “or destruction under customs supervision” after “but the total amount of drawback allowed upon the exportation”.

Subsec. (c). Pub. L. 103-182, §632(a)(3), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “Upon the exportation of merchandise not conforming to sample or specifications or shipped without the consent of the consignee upon which the duties have been paid and which have been entered or withdrawn for consumption and, within ninety days after

release from customs custody, unless the Secretary authorizes in writing a longer time, returned to customs custody for exportation, the full amount of the duties paid upon such merchandise shall be refunded as drawback, less 1 per centum of such duties.”

Subsec. (j). Pub. L. 103-182, §203(c)(1), (2), substituted “Subject to paragraph (4), if” for “If” in par. (2) and added par. (4). See Construction of 1993 Amendment note below.

Pub. L. 103-182, §632(a)(4), amended subsec. (j) generally, substituting present provisions for provisions which authorized drawbacks for imported merchandise which, upon either exportation or destruction, was in the same condition as when imported.

Subsec. (l). Pub. L. 103-182, §632(a)(5), substituted “the authority for the electronic submission of drawback entries” for “the fixing of a time limit within which drawback entries or entries for refund under any of the provisions of this section or section 1309(b) of this title shall be filed and completed.”

Subsecs. (n), (o). Pub. L. 103-182, §203(b)(3), amended subsecs. (n) and (o) generally, substituting present provisions for provisions which related to, in subsec. (n), drawback-eligible goods under United States-Canada Free-Trade Agreement Implementation Act of 1988 and, in subsec. (o), vessels built for Canadian account or for Government of Canada.

Subsec. (p). Pub. L. 103-182, §632(a)(6), amended subsec. (p) generally, substituting present provisions for provisions relating to substitution of crude petroleum or petroleum derivatives.

Subsecs. (q) to (v). Pub. L. 103-182, §632(a)(7), added subsecs. (q) to (v).

1990—Subsec. (n). Pub. L. 101-382, §134(a)(1), inserted “, except an article” before “made from” and substituted comma for “of 1988” before “does not”.

Subsec. (o). Pub. L. 101-382, §134(a)(2), inserted at end “This subsection shall apply to vessels delivered to Canadian account or owner, or to the Government of Canada, on and after January 1, 1994 (or, if later, the date proclaimed by the President under section 204(b)(2)(B) of the United States-Canada Free-Trade Agreement Implementation Act of 1988).”

Subsec. (p). Pub. L. 101-382, §484A(a), added subsec. (p).

1988—Subsecs. (n), (o). Pub. L. 100-449 added subsecs. (n) and (o).

1986—Subsec. (j)(2), (3). Pub. L. 99-514, §1888(2)(A), redesignated par. (3) as (2) and redesignated par. (4) relating to imported packaging material as (3).

Subsec. (j)(4). Pub. L. 99-514, §1888(2), redesignated par. (4) relating to imported packaging material as (3) and amended par. (4) relating to the performing of incidental operations generally. Prior to amendment, such par. (4) read as follows: “The performing of incidental operations (including, but not limited to, testing, cleaning, repacking, and inspecting) on the imported merchandise itself, not amounting to manufacture or production for drawback purposes under the preceding provisions of this section, shall not be treated as a use of that merchandise for purposes of applying paragraph (1)(B).”

1984—Subsec. (j)(2) to (4). Pub. L. 98-573, §202(1), redesignated par. (2), relating to the performing of incidental operations, as (4), and inserted after par. (1) new pars. (3) and (4).

Subsecs. (k) to (m). Pub. L. 98-573, §202(2), (3), added subsec. (k) and redesignated former subsecs. (k) and (l) as (l) and (m), respectively.

1980—Subsecs. (j) to (l). Pub. L. 96-609, §201(a), added subsec. (j) and redesignated former subsecs. (j) and (k) as (k) and (l), respectively.

1971—Subsecs. (h) to (k). Pub. L. 91-692 added subsec. (h) and redesignated former subsecs. (h) to (j) as (i) to (k), respectively.

1968—Subsec. (d). Pub. L. 90-630 permitted, under Treasury regulations, the drawback of tax with regard to distilled spirits exported as ships’ stores where the stamping, restamping, or marking is done after the spirits have been removed from the original bottling plant.

1958—Subsec. (b). Pub. L. 85-673 substituted “merchandise” for “sugar, or metal, or ore containing metal, or flaxseed or linseed, or flaxseed or linseed oil, or printing papers coated or uncoated,” after “duty-paid” and “allowable had the”.

1956—Subsec. (b). Act Aug. 6, 1956, inserted “or printing papers, coated or uncoated,” after “linseed oil,” wherever appearing.

1953—Subsec. (b). Act Aug. 8, 1953, §12(a), extended from one year to three years the period during which substitution for drawback purposes may be made.

Subsec. (c). Act Aug. 8, 1953, §12(b), extended the period during which the merchandise can be returned to customs custody for exportation from thirty days to ninety days or such longer period as the Secretary of the Treasury may allow; and provided for the refunding of duties in cases where the merchandise upon which the duties have been paid was sent to the consignee without his consent.

Subsec. (h). Act Aug. 8, 1953, §12(c), substituted reference to “this section” for “this section or of section 152a of this title (relating to drawback on shipments to the Philippine Islands);” struck out another reference to the Philippine Islands; and substituted “five years” for “three years”.

Subsec. (i). Act Aug. 8, 1953, §12(c), broadened the authority of the Secretary of the Treasury to make such regulations for the administration of the drawback provisions as may be necessary.

1951—Subsec. (b). Act Aug. 8, 1951, extended the provisions of such subsection to flaxseed and linseed, and flaxseed and linseed oil, and omitted “(or shipment to the Philippine Islands)” before “of any such articles”.

1936—Subsec. (d). Act June 26, 1936, inserted second par.

#### CHANGE OF NAME

“Puerto Rico” substituted in subsec. (j) for “Porto Rico” pursuant to act May 17, 1932, which is classified to section 731a of Title 48, Territories and Insular Possessions.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Pub. L. 110-234, title XV, §15334(b), May 22, 2008, 122 Stat. 1517, and Pub. L. 110-246, §4(a), title XV, §15334(b), June 18, 2008, 122 Stat. 1664, 2279, provided that: “The amendment made by this section [amending this section] applies with respect to—

“(1) imports of ethyl alcohol or a mixture of ethyl alcohol entered for consumption, or withdrawn from warehouse for consumption, on or after October 1, 2008; and

“(2) imports of ethyl alcohol or a mixture of ethyl alcohol entered for consumption, or withdrawn from warehouse for consumption, before October 1, 2008, if a duty drawback claim is filed with respect to such imports on or after October 1, 2010.”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.]

Pub. L. 110-234, title XV, §15421(b), May 22, 2008, 122 Stat. 1547, and Pub. L. 110-246, §4(a), title XV, §15421(b), June 18, 2008, 122 Stat. 1664, 2309, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to claims filed for drawback under section 313(j)(2) of the Tariff Act of 1930 [19 U.S.C. 1313(j)(2)] on or after the date of the enactment of this Act [June 18, 2008].”

[Pub. L. 110-234 and Pub. L. 110-246 enacted identical provisions. Pub. L. 110-234 was repealed by section 4(a) of Pub. L. 110-246, set out as a note under section 8701 of Title 7, Agriculture.]

#### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-429, title I, §1557(b), Dec. 3, 2004, 118 Stat. 2579, provided that: “The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Dec. 3, 2004], and shall apply to any drawback claim filed on or after that date and to any drawback entry filed before that date if the liquidation of the entry is not final on that date.”

Pub. L. 108-429, title I, §1563(g)(1), Dec. 3, 2004, 118 Stat. 2587, provided that: “The amendments made by subsections (a), (b), (c), (d), and (f) [amending this section and section 1593a of this title] shall take effect on the date of the enactment of this Act [Dec. 3, 2004], and shall apply to—

“(A) any drawback entry filed on and after such date of enactment; and

“(B) any drawback entry filed before such date of enactment if the liquidation of the entry is not final on such date of enactment.”

Pub. L. 108-429, title I, §1571, Dec. 3, 2004, 118 Stat. 2587, provided that: “Except as otherwise provided in this title [amending this section and sections 1401, 1466, 1504, 1593a, 1629, 2463, and 2703 of this title, enacting provisions set out as notes under this section and sections 1401, 1466, 1504, 1629, and 2463 of this title, and repealing provisions set out as a note under section 1629 of this title], the amendments made by this title shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act [Dec. 3, 2004].”

#### EFFECTIVE AND TERMINATION DATES OF 2003 AMENDMENT

Amendment by Pub. L. 108-77 effective on the date the United States-Chile Free Trade Agreement enters into force (Jan. 1, 2004), and to cease to be effective on the date the Agreement ceases to be in force, see section 107(a), (c) of Pub. L. 108-77, set out in a note under section 3805 of this title.

#### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-476, title I, §1422(a)(2), Nov. 9, 2000, 114 Stat. 2156, provided that: “The amendments made by paragraph (1) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 9, 2000], and shall apply to—

“(A) any drawback claim filed on or after such date of enactment; and

“(B) any drawback entry filed before such date of enactment if the liquidation of the entry is not final on such date of enactment.”

Pub. L. 106-476, title I, §1462(b), Nov. 9, 2000, 114 Stat. 2173, provided that: “The amendment made by this section [amending this section] shall apply to drawback claims filed on or after the date of the enactment of this Act [Nov. 9, 2000].”

Amendment by title I of Pub. L. 106-476, except as otherwise provided, applicable with respect to goods entered, or withdrawn from warehouse, for consumption, on or after the 15th day after Nov. 9, 2000, see section 1471 of Pub. L. 106-476, set out as a note under section 58c of this title.

#### EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-36, title II, §2404(b), June 25, 1999, 113 Stat. 169, provided that: “The amendment made by this section [amending this section] applies with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act [June 25, 1999].”

Pub. L. 106-36, title II, §2419(b), June 25, 1999, 113 Stat. 178, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [June 25, 1999], and shall apply to drawback claims filed on and after such date.”

Pub. L. 106-36, title II, §2420(e), June 25, 1999, 113 Stat. 179, provided that: “The amendments made by this sec-

tion [amending this section] shall take effect as if included in the amendment made by section 632(a)(6) of the North American Free Trade Agreement Implementation Act [Pub. L. 103-182, amending this section]. For purposes of section 632(b) of that Act [set out as a note below], the 3-year requirement set forth in section 313(r) of the Tariff Act of 1930 [19 U.S.C. 1313(r)] shall not apply to any drawback claim filed within 6 months after the date of the enactment of this Act [June 25, 1999] for which that 3-year period would have expired.”

#### EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-465, title IV, §404(e)(5)(B), Dec. 8, 1994, 108 Stat. 4961, provided that: “The amendment made by subparagraph (A) [amending this section] shall take effect on the earlier of the date of entry into force of the WTO Agreement with respect to the United States [Jan. 1, 1995] or January 1, 1995.”

Pub. L. 103-465, title IV, §422(e), Dec. 8, 1994, 108 Stat. 4965, provided that: “This section [amending this section and sections 1314i and 1445 of Title 7, Agriculture, and enacting provisions set out as a note under section 1445 of Title 7] and the amendments made by this section shall be effective beginning on the effective date of the Presidential proclamation, authorized under section 421 [set out as a note under section 2135 of this title], establishing a tariff-rate quota pursuant to Article XXVIII of the GATT 1947 or the GATT 1994 with respect to tobacco.”

[Proc. No. 6821, Sept. 12, 1995, 60 F.R. 47663, effective Sept. 13, 1995, established tariff-rate quotas on certain tobacco.]

#### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 203(b)(3) of Pub. L. 103-182 applicable (1) with respect to exports from the United States to Canada on Jan. 1, 1996, if Canada is a NAFTA country on that date and after such date for so long as Canada continues to be a NAFTA country and (2) with respect to exports from the United States to Mexico on Jan. 1, 2001, if Mexico is a NAFTA country on that date and after such date for so long as Mexico continues to be a NAFTA country, see section 213(c) of Pub. L. 103-182, set out as an Effective Date note under section 3331 of this title.

Amendment by section 203(c) of Pub. L. 103-182 effective on the date the North American Free Trade Agreement enters into force with respect to the United States [Jan. 1, 1994], see section 213(b) of Pub. L. 103-182, set out as an Effective Date note under section 3331 of this title.

Section 632(b) of Pub. L. 103-182 provided that: “Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the amendment made by paragraph (6) of subsection (a) [amending this section] shall apply to—

“(1) claims filed or liquidated on or after January 1, 1988, and

“(2) claims that are unliquidated, under protest, or in litigation on the date of the enactment of this Act [Dec. 8, 1993].”

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 484A(a) of Pub. L. 101-382 applicable to claims filed or liquidated on or after Jan. 1, 1988, and claims that are unliquidated, under protest, or in litigation on Aug. 20, 1990, see section 484A(c) of Pub. L. 101-382, set out as a note under section 1309 of this title.

#### EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100-449 effective on date the United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100-449, set out in a note under section 2112 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-573 effective on 15th day after Oct. 30, 1984, see section 214(a), (b) of Pub. L. 98-573, set out as a note under section 1304 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Section 201(b) of Pub. L. 96-609 provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date of the enactment of this Act [Dec. 28, 1980].”

#### EFFECTIVE DATE OF 1971 AMENDMENT

Section 3(b) of Pub. L. 91-692 provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to articles exported on or after the date of the enactment of this Act [Jan. 12, 1971].”

#### EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by Pub. L. 90-630, see section 4 of Pub. L. 90-630, set out as a note under section 5008 of Title 26, Internal Revenue Code.

#### EFFECTIVE DATE OF 1958 AMENDMENT

Section 2 of Pub. L. 85-673 provided that: “The amendment made by the first section of this Act [amending this section] shall be effective with respect to articles exported on or after the 30th day after the date of the enactment of this Act [Aug. 18, 1958].”

#### EFFECTIVE DATE OF 1953 AMENDMENT; SAVINGS PROVISION

Amendment by act Aug. 8, 1953, effective on and after thirtieth day following Aug. 8, 1953, and savings provision, see notes set out under section 1304 of this title.

#### CONSTRUCTION OF 1993 AMENDMENT

Amendment by section 203(c) of Pub. L. 103-182 to be made after amendment by section 632(a) of Pub. L. 103-182 is executed, see section 212 of Pub. L. 103-182, set out as a note under section 58c of this title.

#### TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Functions of all officers of Department of the Treasury and functions of all agencies and employees of such Department transferred, with certain exceptions, to Secretary of the Treasury, with power vested in him to authorize their performance or performance of any of his functions, by any of such officers, agencies, and employees, by Reorg. Plan No. 26 of 1950, §§1, 2, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, 1281, set out in the Appendix to Title 5, Government Organization and Employees. Commissioner of Internal Revenue, referred to in this section, is an officer of Department of the Treasury.

#### PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1801-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a

note under section 401 of Title 26, Internal Revenue Code.

**§ 1313a. Appropriations for refunds, drawbacks, bounties, etc.**

There are appropriated such amounts as hereafter may be necessary for refund or payment of custom collections or receipts, and payment of debentures or drawbacks, bounties, and allowances, as authorized by law.

(June 30, 1949, ch. 286, title I, 63 Stat. 360.)

CODIFICATION

Section was not enacted as part of the Tariff Act of 1930 which comprises this chapter.

**§ 1314. Repealed. June 25, 1938, ch. 679, § 35, 52 Stat. 1092, eff. July 25, 1938**

Section, act June 17, 1930, ch. 497, title III, §314, 46 Stat. 695, related to reimportation of tax-free exports.

**§ 1315. Effective date of rates of duty**

**(a) Articles entered or withdrawn from warehouse for consumption**

Except as otherwise specially provided for, the rate or rates of duty imposed by or pursuant to this chapter or any other law on any article entered for consumption or withdrawn from warehouse for consumption shall be the rate or rates in effect when the documents comprising the entry for consumption or withdrawal from warehouse for consumption and any estimated or liquidated duties then required to be paid have been deposited with the Customs Service by written, electronic or such other means as the Secretary by regulation shall prescribe, except that—

(1) any article released under an informal mail entry shall be subject to duty at the rate or rates in effect when the preparation of the entry is completed;

(2) any article which is not subject to a quantitative or tariff-rate quota and which is covered by an entry for immediate transportation made at the port of original importation under section 1552 of this title, if entered for consumption at the port designated by the consignee, or his agent, in such transportation entry without having been taken into the custody of the appropriate customs officer under section 1490 of this title, shall be subject to the rate or rates in effect when the transportation entry was accepted at the port of original importation; and

(3) any article for which duties may, under section 1505 of this title, be paid at a time later than the time of making entry shall be subject to the rate or rates in effect at the time of entry.

**(b) Articles removed from intended place of release**

Any article which has been entered for consumption but which, before release from custody of the Customs Service, is removed from the port or other place of intended release because of inaccessibility, overcarriage, strike, act of God, or unforeseen contingency, shall be subject to duty at the rate or rates in effect when the entry for consumption and any required duties

were deposited in accordance with subsection (a) of this section, but only if the article is returned to such port or place within ninety days after the date of removal and the identity of the article as that covered by the entry is established in accordance with regulations prescribed by the Secretary of the Treasury.

**(c) Quantity of merchandise at time of importation**

Insofar as duties are based upon the quantity of any merchandise, such duties shall, except as provided in chapter 98 of the Harmonized Tariff Schedule of the United States and section 1562 of this title (relating respectively to certain beverages and to manipulating warehouses), be levied and collected upon the quantity of such merchandise at the time of its importation.

**(d) Effective date of administrative rulings resulting in higher rates**

No administrative ruling resulting in the imposition of a higher rate of duty or charge than the Secretary of the Treasury shall find to have been applicable to imported merchandise under an established and uniform practice shall be effective with respect to articles entered for consumption or withdrawn from warehouse for consumption prior to the expiration of thirty days after the date of publication in the Federal Register of notice of such ruling; but this provision shall not apply with respect to the imposition of antidumping duties, or the imposition of countervailing duties under section 1303 of this title (as in effect on the day before the effective date of title II of the Uruguay Round Agreements Act) or section 1671 of this title. This subsection shall not apply with respect to increases in rates of duty resulting from the enactment of the Harmonized Tariff Schedule of the United States to replace the Tariff Schedules of the United States.

(June 17, 1930, ch. 497, title III, §315, 46 Stat. 695; June 25, 1938, ch. 679, §6, 52 Stat. 1081; Aug. 8, 1953, ch. 397, §3(a), 67 Stat. 508; Pub. L. 91-271, title III, §301(b), June 2, 1970, 84 Stat. 287; Pub. L. 93-618, title III, §331(c), Jan. 3, 1975, 88 Stat. 2053; Pub. L. 95-410, title I, §101, title II, §204, Oct. 3, 1978, 92 Stat. 888, 900; Pub. L. 96-39, title XI, §1106(e), July 26, 1979, 93 Stat. 312; Pub. L. 100-418, title I, §1213(c), Aug. 23, 1988, 102 Stat. 1155; Pub. L. 103-182, title VI, §633, Dec. 8, 1993, 107 Stat. 2198; Pub. L. 103-465, title II, §261(d)(1)(B)(i), Dec. 8, 1994, 108 Stat. 4909.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States and the Tariff Schedules of the United States, referred to in subsecs. (c) and (d), are not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

For the effective date of title II of the Uruguay Round Agreements Act [Pub. L. 103-465], referred to in subsec. (d), as Jan. 1, 1995, see section 291 of Pub. L. 103-465, set out as an Effective Date of 1994 Amendment note under section 1671 of this title.

AMENDMENTS

1994—Subsec. (d). Pub. L. 103-465 inserted “(as in effect on the day before the effective date of title II of the Uruguay Round Agreements Act) or section 1671 of this title” after “section 1303 of this title”.

1993—Subsec. (a). Pub. L. 103-182, §633(1), substituted “Customs Service by written, electronic or such other