

*What Every Member of the
Trade Community Should Know About:*

Articles of Wax, Artificial Stone and Jewelry



AN INFORMED COMPLIANCE PUBLICATION

APRIL 2010

U.S. CUSTOMS and BORDER PROTECTION

NOTICE:

This publication is intended to provide guidance and information to the trade community. It reflects the position on or interpretation of the applicable laws or regulations by U.S. Customs and Border Protection (CBP) as of the date of publication, which is shown on the front cover. It does not in any way replace or supersede those laws or regulations. Only the latest official version of the laws or regulations is authoritative.

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PREFACE

On December 8, 1993, Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), also known as the Customs Modernization or “Mod” Act, became effective. These provisions amended many sections of the Tariff Act of 1930 and related laws.

Two new concepts that emerge from the Mod Act are “informed compliance” and “shared responsibility,” which are premised on the idea that in order to maximize voluntary compliance with laws and regulations of U.S. Customs and Border Protection, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the Mod Act imposes a greater obligation on CBP to provide the public with improved information concerning the trade community’s rights and responsibilities under customs regulations and related laws. In addition, both the trade and U.S. Customs and Border Protection share responsibility for carrying out these requirements. For example, under Section 484 of the Tariff Act, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and determine the value of imported merchandise and to provide any other information necessary to enable U.S. Customs and Border Protection to properly assess duties, collect accurate statistics, and determine whether other applicable legal requirements, if any, have been met. CBP is then responsible for fixing the final classification and value of the merchandise. An importer of record’s failure to exercise reasonable care could delay release of the merchandise and, in some cases, could result in the imposition of penalties.

Regulations and Rulings (RR) of the Office of International Trade has been given a major role in meeting the informed compliance responsibilities of U.S. Customs and Border Protection. In order to provide information to the public, CBP has issued a series of informed compliance publications on new or revised requirements, regulations or procedures, and a variety of classification and valuation issues.

This publication, prepared by the National Commodity Specialist Division of Regulations and Rulings is entitled “Articles of Wax, Artificial Stone and Jewelry”. It provides guidance regarding the classification of these items. We sincerely hope that this material, together with seminars and increased access to rulings of U.S. Customs and Border Protection, will help the trade community to improve voluntary compliance with customs laws and to understand the relevant administrative processes.

The material in this publication is provided for general information purposes only. Because many complicated factors can be involved in customs issues, an importer may wish to obtain a ruling under Regulations of U.S. Customs and Border Protection, 19 C.F.R. Part 177, or to obtain advice from an expert who specializes in customs matters, for example, a licensed customs broker, attorney or consultant.

Comments and suggestions are welcomed and should be addressed to U.S. Customs and Border Protection, Office of International Trade, Executive Director, Regulations and Rulings, 799 9th Street N.W. 7th floor, Washington, D.C. 20229-1177.

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HEADING 9602

Heading 9602 of the Harmonized Tariff Schedule of the United States ("HTSUS") provides for worked vegetable or mineral carving material and articles of these materials; molded or carved articles of wax, of stearin, of natural gums or resins, of molded pastes, and other molded or carved articles, not elsewhere specified or included; worked, unhardened gelatin (except gelatin of heading 3503) and articles of unhardened gelatin.

By definition, this provision does not include articles of cement, of concrete or articles of artificial stone of heading 6810; articles of jewelry and parts thereof of precious metal or of metal clad with precious metal of heading 7113 or imitation jewelry of heading 7117.

Articles of imitation jewelry are specifically excluded under the Explanatory Notes ("ENs"). ENs 96.01 and 96.02 noted.

Merchandise classified in heading 9602 generally consists of vegetable or mineral carvings such as small ornaments (*e.g.*, statuettes); small boxes and caskets; and molded and carved articles of wax such as artificial honeycombs, molded shapes for electroplating, imitation wax flowers and fruit other than those of heading 6702, wax busts, heads, figures and statuettes, etc.

This merchandise may be composed partly of precious metal or metal clad with precious metal, or of natural or cultured pearls or precious or semi-precious stones (natural, synthetic or reconstructed), only when these components are minor constituents (*e.g.*, monograms, initials, ferrules, rims, etc.). When the precious or semiprecious metal, pearls or precious or semi-precious stones constitute more than minor constituents, the merchandise must be classified in Chapter 71, not heading 9602.

HEADING 6810

Worked building stone is classifiable in heading 6802 assuming the stone is natural. However, **artificial stone is classifiable in heading 6810.** (In addition to artificial stone, heading 6810 also covers articles of concrete and articles of cement.) **Artificial stone is formed when pieces of natural stone or crushed or powdered natural stone (*e.g.*, limestone, marble, etc.) is agglomerated (bound) with plastics, cement, lime or other binders.** See the ENs to headings 6810 and 6802. In artificial (agglomerated) stone, the binding material and the stone run through the body of the item.

In certain plastics products, stone material may merely serve as filler. This type of article (which should not be confused with agglomerated stone) is classifiable as plastics in Chapter 39 even though the plastics material and stone material may be blended together through the body of the product.

While agglomerated **stone** is covered by Heading 6810, when a material other than stone is blended with another substance, heading 6810 will not apply. For example, if a synthetic chemical or a mineral substance other than stone is blended with plastics material, we must make a determination regarding the component which imparts the essential character to this product. Often this component will be the plastics material (based on the larger percentage of plastics present in the product) and the merchandise will be classified in Chapter 39. Heading 6810 will not apply if there is no stone in the product. Plastics products classifiable in Chapter 39 should not be entered in heading 6810.

The stone material within an artificial stone item classifiable in heading 6810 would be in the form of pieces, powder, granules or chippings of stones covered by Chapter 25 of the HTSUS (marble, limestone, granite, etc.). **Clearly an article of precious or semiprecious stone would be precluded from classification in Chapter 68.** Notes 1(a) to Chapter 71 and 1(d) to Chapter 68 indicate that Chapter 71 takes precedence over Chapter 68, and an article of precious or semiprecious stone would be covered by Chapter 71. The Annex to the Chapter 71 Explanatory Notes lists the items regarded as precious or semiprecious stones.

Articles of precious or semiprecious stone should not be entered in heading 6802 (which covers worked building stone and articles thereof), heading 6810 (which covers articles of artificial stone, as well as articles of cement or concrete), heading 6815 (which covers other worked mineral substances) or any other provision of Chapter 68.

Articles of worked vegetable or mineral carving material, molded or other carved articles of wax and other molded or carved articles covered by heading 9602 should not be confused with the articles of artificial stone classifiable in heading 6810. Items of agglomerated stone classifiable in heading 6810 should not be entered in heading 9602; items classifiable in heading 9602 should not be entered in heading 6810.

The classification of floor and wall tiles of agglomerated stone is dependent on the precise type of binding material used in the products. **Subheading 6810.19.12 provides for floor and wall tiles of stone agglomerated with binders other than cement (e.g., plastics). Floor and wall tiles of stone agglomerated with cement are classifiable in subheading 6810.19.14.**

CHAPTER 71

For the purposes of heading 7113, the expression “articles of jewelry” means:

- (a) any small objects of personal adornment, for example, rings, bracelets, necklaces, brooches, earrings, watch chains, fobs, pendants, tie pins, cuff links, dress studs, religious or other medals and insignia.

- (b) articles of personal use of a kind normally carried in the pocket in the handbag or on the person such as cigarette cases, powder boxes, chain purses or pill boxes.

For the purposes of heading 7117, the expression “imitation jewelry” means articles of (a) above but not including any articles incorporating natural or cultured pearls, precious or semiprecious stones or precious metal or metal clad with precious metal. Precious metal includes gold, silver or platinum. Heading 7117 includes imitation jewelry of any material other than precious metal or precious or semiprecious stones such as base metal, plastic, wood, etc.

See Note (9) to Chapter 71.

THE IMPORTER’S RESPONSIBILITIES

Since the enactment of the Customs Modernization Act in December 1993, the legal burden of correctly classifying merchandise has shifted from U.S. Customs to the importer. It is the importer’s responsibility to determine the precise composition of the merchandise prior to importation and entry. He or she should obtain this information from the foreign supplier.

The importer must not confuse the articles of vegetable or mineral carving material described in heading 9602 with the articles of agglomerated stone covered by heading 6810. Articles of precious or semiprecious stone are classifiable in Chapter 71 and should never be entered in Chapter 68 or heading 9602.

Invoices must provide a precise description of the product’s composition. The precise geological name of any stone product (including any article of precious or semiprecious stone) should be indicated as well as the exact manner in which the product was worked. If a product is agglomerated with a binding material, the invoice should indicate this fact and identify the binding material.

If a product consists of worked vegetable or mineral carving material, wax, stearin, etc., the invoice should provide an exact description of the article’s composition.

If a product has already been imported and the importer has questions regarding the classification, he should seek advice from the commodity specialist team at the port of entry. **Prior to the importation of the merchandise, the importer may request a ruling on the classification of the product from the National Commodity Specialist Division in New York. A ruling request should include information on the precise composition of the merchandise and the exact manner in which it is worked, as well as a sample of the product.**

Ruling requests may be sent to U.S. Customs and Border Protection, Customs Information Exchange (C.I.E.), One Penn Plaza, 10th Floor, New York, NY 10119, Attention: Binding Rulings Section.

ADDITIONAL INFORMATION

The Internet

The home page of U.S. Customs and Border Protection on the Internet's World Wide Web, provides the trade community with current, relevant information regarding CBP operations and items of special interest. The site posts information -- which includes proposed regulations, news releases, publications and notices, etc. -- that can be searched, read on-line, printed or downloaded to your personal computer. The web site was established as a trade-friendly mechanism to assist the importing and exporting community. The web site also links to the home pages of many other agencies whose importing or exporting regulations that U.S. Customs and Border Protection helps to enforce. The web site also contains a wealth of information of interest to a broader public than the trade community. For instance, the "Know Before You Go" publication and traveler awareness campaign is designed to help educate international travelers.

The web address of U.S. Customs and Border Protection is <http://www.cbp.gov>

Customs Regulations

The current edition of Customs and Border Protection Regulations of the United States is a loose-leaf, subscription publication available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; telephone (202) 512-1800. A bound edition of Title 19, Code of Federal Regulations is also available for sale from the same address. All proposed and final regulations are published in the Federal Register, which is published daily by the Office of the Federal Register, National Archives and Records Administration, and distributed by the Superintendent of Documents. Information about on-line access to the Federal Register may be obtained by calling (202) 512-1530 between 7 a.m. and 5 p.m. Eastern time. These notices are also published in the weekly Customs Bulletin described below.

Customs Bulletin

The Customs Bulletin and Decisions ("Customs Bulletin") is a weekly publication that contains decisions, rulings, regulatory proposals, notices and other information of interest to the trade community. It also contains decisions issued by the U.S. Court of International Trade, as well as customs-related decisions of the U.S. Court of Appeals for the Federal Circuit. Each year, the Government Printing Office publishes bound volumes of the Customs Bulletin. Subscriptions may be purchased from the Superintendent of Documents at the address and phone number listed above.

Importing into the United States

This publication provides an overview of the importing process and contains general information about import requirements. The current edition of *Importing Into the United States* contains much new and revised material brought about pursuant to the Customs Modernization Act ("Mod Act"). The Mod Act has fundamentally altered the relationship between importers and U.S. Customs and Border Protection by shifting to the importer the legal responsibility for declaring the value, classification, and rate of duty applicable to entered merchandise.

The current edition contains a section entitled "Informed Compliance." A key component of informed compliance is the shared responsibility between U.S. Customs and Border Protection and the import community, wherein CBP communicates its requirements to the importer, and the importer, in turn, uses reasonable care to assure that CBP is provided accurate and timely data pertaining to his or her importation.

Single copies may be obtained from local offices of U.S. Customs and Border Protection, or from the Office of Public Affairs, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Washington, DC 20229. An on-line version is available at the CBP web site. *Importing into the United States* is also available for sale, in single copies or bulk orders, from the Superintendent of Documents by calling (202) 512-1800, or by mail from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054.

Informed Compliance Publications

U.S. Customs and Border Protection has prepared a number of Informed Compliance publications in the "*What Every Member of the Trade Community Should Know About:...*" series. Check the Internet web site <http://www.cbp.gov> for current publications.

Value Publications

Customs Valuation under the Trade Agreements Act of 1979 is a 96-page book containing a detailed narrative description of the customs valuation system, the customs valuation title of the Trade Agreements Act (§402 of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (19 U.S.C. §1401a)), the Statement of Administrative Action which was sent to the U.S. Congress in conjunction with the TAA, regulations (19 C.F.R. §§152.000-152.108) implementing the valuation system (a few sections of the regulations have been amended subsequent to the publication of the book) and questions and answers concerning the valuation system.

Customs Valuation Encyclopedia (with updates) is comprised of relevant statutory provisions, CBP Regulations implementing the statute, portions of the Customs Valuation Code, judicial precedent, and administrative rulings involving application of valuation law. A copy may be purchased for a nominal charge from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054. This publication is also available on the Internet web site of U.S. Customs and Border Protection.

The information provided in this publication is for general information purposes only. Recognizing that many complicated factors may be involved in customs issues, an importer may wish to obtain a ruling under CBP Regulations, 19 C.F.R. Part 177, or obtain advice from an expert (such as a licensed Customs Broker, attorney or consultant) who specializes in customs matters. Reliance solely on the general information in this pamphlet may not be considered reasonable care.

Additional information may also be obtained from U.S. Customs and Border Protection ports of entry. Please consult your telephone directory for an office near you. The listing will be found under U.S. Government, Department of Homeland Security.

“Your Comments are Important”

The Small Business and Regulatory Enforcement Ombudsman and 10 regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement activities and rate each agency’s responsiveness to small business. If you wish to comment on the enforcement actions of U.S. Customs and Border Protection, call 1-888-REG-FAIR (1-888-734-3247).

REPORT SMUGGLING 1-800-BE-ALERT OR 1-800-NO-DROGA



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