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**CBP Rules and then Revokes: What Next?**

This posting is prompted by the revocation of four rulings on the classification of cooler bags that will take effect on September 8, 2015. The basis of their classification under one or the other of two competing tariff items (4202.92.08 dutiable at 7% vs. 4202.92.10 dutiable at 3.4%) will be on the total outer surface. Value can be a consideration. Where CBP sees a "close call," classification will be based on the last of the classifications that *could* apply. Will that rationale extend to other products?

**The CBP Rulings Process**

Importers have long relied on the CBP rulings process to get a definitive decision from CBP on a variety of issues from classification, to value to origin, to the point where there are more than 185,000 rulings on the CBP rulings data base "*CROSS*."

A CBP official once told an audience in the 1990s that CBP expects that the trade will be familiar with and will follow all of the rulings that CBP has issued. (*Do you mean to say you're NOT?*)

There are regulations governing the request for, issuance of and effect of CBP rulings, AND there are requirements that must be met if CBP re-thinks its position and wishes to revoke an already issued ruling.

(My firm has recently encountered instances where CBP has NOT followed the mandatory ruling revocation procedures, and our objections to such actions have been successful in the U.S. Court of International Trade and at the protest level.)

Rulings are binding on both CBP and the party requesting them unless and until they are revoked following the statutory process or by the courts. Others who find themselves in circumstances identical to those discussed in a ruling may also rely on the pronouncements by CBP in the ruling.

After an administrative process that requires CBP to invite public comment on a proposed ruling revocation, CBP will publish a decision to proceed with the revocation or to abandon the proposal. Should the decision be to proceed, the effective date is 60 days after the decision to revoke is issued.

## **What about the Cooler Bag Rulings Revocation??**

The ruling revocation on the classification of cooler bags will cover ANY rulings on the "subject merchandise" (viz., cooler bags), but CBP says that it also will apply *to any treatment previously accorded by CBP to substantially identical transactions*.

Many importers and their licensed Customs brokers have relied on a general belief that the most attractive feature of a fashion item or accessory will dictate classification, even if the surface on which the "attraction" appears comprised less than 51% of the total surface of the item. The cooler bag rulings revocation appears to discard that notion, in favor of a simpler rule: classification by the greater outer surface component. Consideration could be given to the value of the various surface components, and if those considerations don't tip the scales, classification will be according to the component that appears last in the tariff.

Some classifications already are determined by total outer surface, so they shouldn't be affected by the CBP action on the cooler bag rulings.

What about hand bags of leather and textile composition, and other items in Chapter 42 of the Harmonized Tariff constructed of multiple materials?

*Noted Prognosticator Chicken Little* might take the changed classification of cooler bags as a harbinger of other ruling revocations on other fashion items. "If the sky really were to fall, how much advance warning would be acceptable?" Ms. Little asks.

**In the Customs Bulletin of July 29, 2015, CBP published ELEVEN notices to revoke or modify previously issued rulings. Ms. Little, you are on the money!!**

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