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LIQUIDATION OF ENTRIES

Many importers mistakenly believe that once their entry documents are submitted to Customs and “estimated duties” are paid, the importer’s obligations and liability for Customs duties have been satisfied. This is not the case. When Customs “accepts” entry documents and releases the goods to the importer, this means nothing more than the documents appear to be in order (the totals add up and necessary documents are attached) and that the proper amount of duties apparently has been deposited. It is important to note that the money paid to Customs at time of entry is referred to as a “deposit of estimated duties.”

The final accounting for import duties occurs at “liquidation” of an entry. At liquidation, Customs finally assesses duties based upon its then current knowledge of the value of the imported merchandise and the rate of duty provided for in the HTSUS (Harmonized Tariff Schedules of the United States). Decisions made at liquidation commonly are influenced by changes that have occurred since the time of entry. These changes can be the result of Customs rulings pertaining to similar merchandise or a similar transaction, court decisions, or a change of practice on Customs’ part.

It is important to note that liquidation can occur months or even years after goods are released by Customs. Therefore, an importer does not know its final liability for duties until the act of liquidation has occurred. Generally, however, entries are liquidated within 314 days after merchandise has been imported into the United States. An importer’s Customs broker can provide the importer with the date of liquidation and the particulars of Customs assessment of duties and fees.

The law also provides that an entry will be liquidated “automatically” one year after the date of entry if the entry has not already been liquidated by that date and if the liquidation of the entry has not been extended or suspended. Where such automatic liquidation occurs, Customs is deemed to have accepted the rate of duty and value stated by the importer at the time of entry. When entries are automatically liquidated one year from the date of entry, no notice is given to the importer.

Entries will not be automatically liquidated one year from the date of entry when Customs notifies an importer in writing that liquidation is being extended and explains why. Customs will send a notice “extending” the liquidation of an entry when it needs more information or has not decided the final rate or value of the goods. Also, an importer may request that automatic liquidation of an entry be delayed. An importer may want to make such a request if it is claiming a lower duty rate or value and is discussing the issue with Customs or is waiting for a formal Customs ruling. The extension is valid only for one year, after which time the entry is automatically liquidated unless it is again extended. Customs may extend the liquidation only 3 times.

The liquidation of an entry also may be delayed by court order or by law. This commonly occurs when merchandise is subject to antidumping and/or countervailing duties and the final antidumping duty (the “margin”) has not yet been determined. In this case, liquidation is suspended until the final dumping duties are determined.

A considerable amount of litigation in the U.S. Court of International Trade (CIT) has resulted from Customs’ failure to issue written notice to importers that it intends to extend the liquidation of certain entries or has failed to state the reason for extending the liquidation of entries. In many of these cases, the CIT held that the assessment of increased duties by Customs was improper. Therefore, it is important for an importer to monitor all extensions of liquidation received from Customs and to retain all such notices in its recordkeeping system.

The liquidation of an entry also is important because it begins to run the statute of limitations that governs an importer’s right to contest Customs’ action. If an importer disagrees with action taken by Customs at liquidation, a protest must be filed within 180 days of the date of the liquidation of the entry. A protest is a formal document that properly challenges the duty assessment or area of disagreement with Customs. In almost all instances, if a protest is not filed within the above mentioned time limit, refunds of excess Customs duties cannot be obtained. This is the case even in instances when Customs is wrong and later admits that it is wrong. The same 180-day statute of limitations applies to U.S. Customs and Border Protection. Therefore, on the 181st day after an entry has been liquidated, the action taken at liquidation becomes final and binding upon Customs.

NOTE RE NAFTA AND OTHER FREE TRADE AGREEMENT ENTRIES. Certain protests involving eligibility for preferential duty rates under NAFTA and other (but not all) free trade agreements, may be filed up to one year after the date of importation of the goods. Therefore, an importer should closely monitor the liquidation status of all entries. The information necessary to monitor the liquidation status of entries (entry number, date of entry, and date of liquidation, if liquidated) should be maintained in a “Liquidation Log.” A sample format is shown below. The Liquidation Log should be reviewed by a responsible company officer on a regular basis. Note: This is not a task that should be delegated to an employee who does not appreciate the significance of the Liquidation Log.

The “usual” length of time between date of entry and date of liquidation is 314 days. When entries are not liquidated within this “usual” time frame, this fact should be noted as it could mean that Customs has a special interest in this entry. Thus, when liquidations stop occurring within the usual time frame, it may be that the import specialist is questioning the classification or value of the merchandise or has asked that Special Customs Agents gather evidence of possible Customs law violations.

When Customs stops liquidating entries, it is a serious matter and could signal that Customs is contemplating assessing increased duties or penalties. Therefore, the liquidation monitoring system is an essential element of an importer’s process and internal controls.

Sample Format for Customs Entry Liquidation Log - Recommended Fields

<u>Entry No.</u>	<u>Date of Entry</u>	<u>Liq. Date</u>	<u>Invoice No.</u>	<u>Protest/PEA</u>	<u>Remarks</u>
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- The Entry Number and Date of Entry are obtained from the Entry Summary (CF 7501) provided by your Customs broker. The date of entry is the date the Customs Service releases the goods to the importer.
- In the past, Customs provided importers with the Liquidation Date of its entries by mailing the importer a Notice of Entries Liquidated. However, Customs no longer provides this information to the importer. The best way for the importer to get this information is from its Customs broker. The notice available to the broker indicates the amount of duties deposited at time of entry and the amount of duties ultimately found to be due by Customs at the liquidation (final assessment of duties) of the entry. If duties are increased at liquidation, an Increased Duty Bill will be issued to the importer. Receipt of an Increased Duty Bill should be noted in the Entry Liquidation Log and the cause of the duty increase should be investigated to determine if a protest or Post Entry Amendment (PEA) should be filed.

Note: If Customs requires that entry be made at a duty rate or value higher than what an importer believes to be correct, the amount of duties deposited at time of entry will be the same as the amount of duties found to be due at liquidation. These are called "No Change" liquidations. Therefore, when a “No Change” liquidation occurs, an increased duty bill will not be issued. If the importer disagrees with the amount of duties initially deposited, a notation should be made in the Protest/PEA column that a protest or PEA should be filed. This notation should be made at the time the basic information is placed in the Entry Liquidation Log. Otherwise, if the entry is liquidated with “No Change,” the importer will not receive an increased duty bill to alert it that the assessment made by Customs should be challenged.

- The Automatic Liquidation Date is one year from the Date of Entry. An entry is normally liquidated 314 days after the Date of Entry. If, for some reason, Customs does not liquidate an entry on the 314th day after the Date of Entry, the entry is automatically liquidated one year from the Date of Entry at the duty rate and value asserted by the importer on the Entry Summary.

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- The Reference Number field will enable the importer to cross reference the Customs entry number to its purchase order number or other document number so that the Entry can be related to its own recordkeeping system. Remember, Customs works only with the entry number, date of entry, and date of liquidation (if liquidated). An importer must be able to find all relevant Customs documents by working with these data.
- The Protest/PEA column will be used to note whether a protest or Post Entry Amendment should be filed.

IMPORTANT Since Customs no longer provides courtesy notices of liquidation, the importer should have its Customs broker(s) routinely provide it with liquidation dates. Customs also will provide a complete history of a company's importations, including liquidation status in its Importer Trade Activity Report (ITRAC). ITRAC data includes information as to the tariff classifications used by the company, country of origin of imported goods, value of goods by tariff classification, etc. This report is quite useful.