



The American Companies

"NEWS-UPDATE"

August 27, 2008

FIRST SALE RULE FOR IMPORTATIONS

As previously advised in our February newsletter, on January 24, 2008 Customs published a notice in the Federal Register proposing to change the method of valuation for multi-tiered transactions (if the foreign seller of the goods purchases the goods from another party and then resells those goods to the US Purchaser, often the reseller acts as a middleman between the actual manufacturer and the US purchaser).

In the case where the sale between the foreign manufacturer and the middleman "caused the imported goods to be exported to the United States" then that sale can be used as the reported value for Customs purposes, rather than the selling price between the foreign middleman and the US purchaser. This could reduce the amount of duties to be paid.

In the recent Farm Bill, Congress included a provision instructing Customs to require effective August 20, 2008, for a one-year period a declaration from the importer whether the transaction value of imported merchandise was determined on the basis of a first or earlier sale. Transaction value is defined as the "total price paid or payable for imported merchandise when sold for exportation to the United States. Originally the public was informed this action was to be delayed but on 8/20/08 Customs issued a bulletin advising this would take effect immediately [CSMS# 08-000163 - FIRST SALE DECLARATION SYSTEM REQUIREMENTS](#)

The First sale declaration will be required on each Customs Entry at the line item level when the declared transaction value of the imported merchandise is determined on the basis of the price paid by the buyer in a sale occurring earlier than the last sale prior to the introduction of the merchandise into the US. Currently Customs has delayed the enforcement of this provision for 30 days (until September 20, 2008) to allow for programming, but will require entries to be amended during this 30 day time period, they will be advising at a later date how to amend entries as needed.

Please understand that importers using the "first Sale" rule need to be ready to declare and have well documented evidence of the basis for "first sale" valuation. This could also open a review or investigation of past imports, which may have also been entered based on usage of the rule. Customs will most likely be increasing the use of form 28 (Requests for Information) requiring substantial documentation to support the claim.

If you believe your goods are entitled to First Sale valuation, please advise us so we can discuss a methodology to determine if your goods would be eligible. In all cases, we will require written direction.

Please feel free to contact your American Companies representative in the event you would like any further information on this very important issue.

The American Companies

250 Moonachie Road (HQ Office - Full Service)
Moonachie, NJ 07074 (201-478-4600)

400 Oceangate, Suite 1106 (Full Service)
Long Beach, CA 90802 (562-435-2327)

881 Route 83 (Full Service)
Bensenville, IL 60106 (630-860-0782)

Domestic USA Ground Operations
Domestic USA Air Operations
Asheville NC 828-974-3001

3PL Locations
Fairview, NJ
Santa Fe Springs, CA