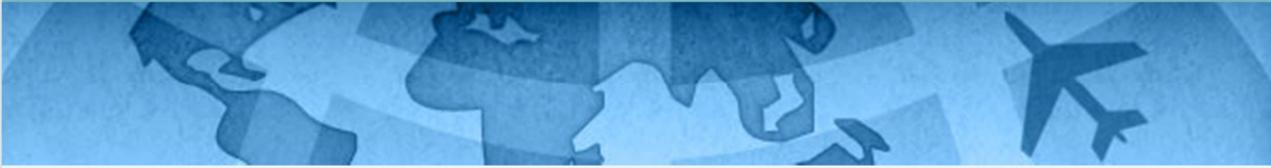


SPC&B Update

December 12, 2016

How To Mitigate Potential Duty Increases



Now Is the Time to Consider First Sale Valuation

As we discussed in our November 15th update, the new administration may bring new challenges for trade. Thus, now is the time for importers to look for ways to mitigate the cost increases that may be forthcoming.

In this update we want to remind our clients of the sizeable cost-savings benefits of first sale (aka middleman) pricing.

Since the 1992 Court of Appeals for the Federal Circuit decision in Nissho Iwai American Corp. v. United States (a case argued by Sharretts Paley on behalf of the importer), CBP has based transaction value in qualifying transactions on the price paid by the buyer in the first or earlier sale (*i.e.*, normally the sale between the manufacturer and the middleman) rather than the later sale (between the middleman and the buyer).

In order for an importer to be eligible for first sale, the importer must establish that the sale was at arm's length and that the merchandise was clearly and irrevocably destined for exportation to the United States at the time of the purchase.

First sale can be a significant opportunity for cost savings with many importers reducing their duties paid by upwards of ten percent. Accordingly, now is an ideal time for companies- not already taking advantage of this program- to explore whether first sale makes sense for you,

Sharretts Paley has helped many of its clients establish successful First Sale programs. If you would like to discuss how first sale works, the potential benefits of first sale on your business, and/or Sharretts Paley's first sale program, please contact us.

If you would like to discuss First Sale valuation or other means of mitigating against potential duty increases -- with no obligation for the first meeting -- please contact Gail T. Cumins at gcumins@spcblaw.com, Alli Baron at abaron@spcblaw.com, Donna Shira at dshira@spcblaw.com, or Ken Paley at kpaley@spcblaw.com, or call us at 212-425-0055.

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