

MEMORANDUM

Follick & Bessich, Attorneys At Law

TO: U.S. Customs Brokers, Importers and all Interested Parties
FROM: Follick & Bessich
DATE: August 22, 2008
RE: First Sale Declaration Requirement and Customs 30-Day Grace Period

U.S. Customs & Border Protection has announced the following with respect to First Sale (Middleman Pricing/MMP) Transactions:

First Sale Declaration Requirement

Effective for a one-year period, beginning on August 20, 2008: All importers will be required to provide a declaration to U.S. Customs at the time of filing a consumption entry when, in a series of sequential sales, the transaction value of the imported merchandise is determined on the basis of the 'first or earlier sale' of goods (the first sale in which the goods are 'sold for exportation to the United States' or any other sale earlier than the last sale prior to the introduction of the merchandise into the United States).

In other words, all importers are required to provide Customs with an "F" indicator next to the declared value at the line level on Customs Form 7501, or the electronic equivalent, when the declared transaction value of the imported merchandise is determined on the basis of the priced paid by the buyer in a sale occurring earlier than the last sale price to the introduction of the merchandise into the United States.

Members of the trade community have advised Customs that due to the complexity of the programming changes required, they will not be ready to comply with the First Sale Declaration Requirement on August 20, 2008. Accordingly, Customs will delay the enforcement of the First Sale Declaration for 30 days. Customs will commence enforcement of the data collection requirements on September 20, 2008. However, entries subject to the First Sale Declaration Requirement made between August 20th and September 19th will require an amendment. Customs will provide further guidance describing the amendments shortly.

Although this interim rule is now in effect, interested parties may submit comments within 60 days from the date the interim rule is published in the Federal Register (the interim rule is scheduled to be published on August 25, 2008. Accordingly, comments would be due by October 24, 2008).

Importers involved in first sale transactions should insure that their customs broker(s) will comply with the above entry declaration agreement. Should you have any questions or wish to discuss this further, please contact this office.

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