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# CBP Issues Guidance on How to Obtain Sections 301 and 201 Refunds

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On February 8, 2019, U.S. Customs and Border Protection (CBP) issued two guidance notices detailing how importers may obtain refunds related to Section 301 and Section 201 duties. One [notice details how importers may submit refunds claims](#) for duties paid on products from China that were subject to Section 301 tariffs, but were subsequently excluded through the U.S. Trade Representative’s (USTR) product exclusion process. The other [notice details how importers may submit drawback claims](#) with regard to Sections 301 and 201 duties.

## Submitting Refunds for Products Excluded from Section 301 Duties

On December 28, 2018, USTR published a [Federal Register notice](#) of certain List 1 products from China that are excluded from the Section 301 additional duties. Notably, the exclusions are available to any importer whose Chinese-origin imports meet the product-specific description of the merchandise as provided in the notice, whether or not the importer filed an exclusion request.

As the exclusions are retroactive on imports from July 6, 2018, importers may file a Post Summary Correction to obtain a refund on unliquidated entries. For liquidated entries, an importer should file a formal administrative protest.

In order to obtain a refund of duties that have already been paid, importers must report HTSUS subheading 9903.88.05 which provides for “Articles of the product of China, as provided for in U.S. note 20(g) to this subchapter, each covered by an exclusion granted by the U.S. Trade Representative,” in addition to the HTSUS subheading under which the product is regularly classified.

It is also worth highlighting that imports from China granted a product exclusion, and therefore, not subject to Section 301 duties, are not covered by the Foreign Trade Zone provisions of the Section 301 Federal Register notice requiring zone admission in privileged foreign (PF)

status. Instead, such admissions are subject to the normal FTZ provisions in 19 CFR Part 146.

## Drawback Claims Regarding Sections 301 and 201 Duties

CBP announced that filers now have the ability to submit drawback claims related to Sections 301 and 201 duties. In order to file such a claim, filers should provide the Chapter 99 HTSUS subheading related to the particular Section 301 or Section 201 duties, along with the regular subheading classification for the particular product.

If any Sections 301 or 201 drawback claims have previously been filed, the filer should perfect the claim by contacting the filer’s Drawback Specialist and requesting that the claim be returned to trade control. The filers should then list both HTSUS subheadings as detailed above and resubmit the claim within five (5) days.

Sections 301 and 201 duties are refundable in full for pre-Trade Facilitation and Trade Enforcement Act (TFTEA) substitution drawback claims. CBP has stated that for TFTEA claims, Sections 301 and 201 duties are refundable “even if subject to the TFTEA lesser of [value] rule.” For such claims, “the amount will be limited by the value of the substituted merchandise when it is lower than the value of the imported merchandise.”

Further, for NAFTA drawback claims, both pre- and post-TFTEA duties may be refundable “subject to the lesser of [duty] rule, but only when the total amount of Canadian/Mexican duties is higher than the total amount of duties paid in the United States.” For these claims, the duties refunded “will be limited by the amount of duties paid on the merchandise imported into Canada/Mexico.”

For further information or assistance with pursuing the duty refunds described above, please contact any of the members of the Customs and International Trade Team listed below.

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