AUSTRALIAN CUSTOMS NOTICE NO. 2005/49

Changes to Item 50A – Consumption goods

The purpose of this ACN is to advise that there have been changes to the administrative list of ‘consumption goods’ attached to Item 50A of Schedule 4 of the *Customs Tariff Act 1995* (the Tariff).

Item 50A provided for the concessional entry, with a ‘Free’ rate of Customs duty, of certain goods identified as ‘consumption goods’.

Item 50A in the Tariff refers to United Nations Statistical Papers, Broad Economic Categories (BEC) and Standard International Trade Classification (SITC). These documents define those classifications that are ‘consumption goods’ for the purposes of Item 50A.

It has been brought to Customs attention that certain changes to the BEC occurred in February 2003, and that those changes had not been reflected in the administrative table attached to Item 50A in the working tariff. As a consequence affected parties may be eligible for a refund of duty, and/or may be subject to recovery action where duty has been short levied.

The changes involve:

1. Certain classifications changing to that of ‘consumption goods’; and
2. Certain classifications that were ‘consumption goods’ changing to that of non- consumption goods.

As a consequence, during the period February 2003 to 10 May 2005, certain goods that should have attracted a duty rate of ‘Free’ due to the changes in paragraph (a), attracted a rate of 3%; and certain goods that should have attracted a duty rate of 3% due to the changes in paragraph (b), attracted a rate of ‘Free’.

The change does not impact on goods entered for home consumption on or after 11 May 2005, as Item 50A was repealed with effect from that date, as part of the 2005/06 Budget.

In particular, attention is drawn to the limitation in time applicable to applications for refunds and any recovery action by Customs.

# Refunds - goods that should have been considered ‘consumption goods’

Subsection 163(1) of the *Customs Act 1901* (the Act) provides for the making of refunds, rebates and remissions of duty in such circumstances, and subject to such conditions and restrictions, as are prescribed.

Under sub regulation 128A(4B) of the Regulations, an application for a refund of duty in a circumstance specified in paragraph 126(1)(r) must be made within 12 months after the date upon which one of the specified events occur, whichever happens last. The specified event for the purposes of this matter is the date on which the particular goods were entered for home consumption.

Paragraph 126(1)(r) of the Regulations provides that a refund of duty is payable where:



(r) duty has been paid on goods that were first entered for home consumption at a time when a TCO, made in respect of those goods under Part XVA of the Act, was in force or was taken to have come into force;

Refund applications already received have begun to be processed.

# Recovery of duty - goods that should have been classified as ‘non-consumption’ goods

Section 153 of the Act provides for the recovery of duties at any time. However, section 165 of the Act limits Customs capacity to recover short levies of duty or erroneous refunds of duty arising from a Customs error in the calculation of duty or the classification of the goods. The section operates to limit Customs to 12 months to fix its duty related errors resulting in short levies prior to 19 July 2005. Therefore, Customs will only seek to recover duty short levied for a period of 12 months from the date of importation of the goods i.e. when the short levy occurred.

Affected parties are encouraged to apply for refunds and/or voluntarily submit Post Warrant Amendments (PWAs) for short levied duties before 21 November 2005 when external access to COMPILE will cease under the ICS imports transition arrangements. After that date documentary refund applications and PWAs will be required.

For advice on refund applications and PWA lodgement procedures, contact your Regional Refunds and Import Entry Processing areas.

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