Australian Customs Notice 2001 17

**Regulation changes temporary imports and drawback\refund**

The purpose of this Customs Notice is to advise of changes to the *Customs Regulations 1926* ("the Regulations") that will take effect on 1 March 2001. These changes are contained in the Customs Amendment Regulations (No. 1) 2001 (SR No. 30) ("the Amending Regulations"). These changes amend the Regulations to:

remove wedding presents and traveller's samples from the classes of goods that can be imported temporarily without the payment of duty;

insert a new class of goods that can be imported temporarily without the payment of duty, being specialised equipment or tools to be used in exploration, production, manufacture, repair or modification; that are also specified in the categories of goods contained in those Customs Conventions on Temporary Admission acceded to by Australia, and

remove the restriction from the drawback provisions which prohibits a drawback of duty being paid on relanded goods.

The changes are the result of the Tradex review. The Amending Regulations also:

amend the prescribed purposes for which goods may be temporarily imported; replace a prescribed form with an approved form;

prescribe new conditions that must be complied with before temporarily imported goods can be exported; and return the manual refund application fee to $65.00.

# Temporary Import Regulation Changes

Subsection 162(1) of the *Customs Act 1901* provides that where a person imports goods included in a prescribed class, or goods intended for a prescribed purpose and the person intends to export those goods, the Collector may grant the importer permission to take delivery upon giving a security or an undertaking for the payment of duty, goods and services tax and/or luxury car tax otherwise payable on those goods.

Regulation 124 provides that for the purposes of section 162 the prescribed classes of goods include traveller's samples and wedding presents. The amended regulations remove those two classes of goods and insert a new class of goods, being certain types of specialised equipment or tools.

Subregulation 124(1)(c) provides that for the purposes of section 162, the prescribed purposes are: assembly or other industrial purposes approved by the Collector; and

testing and evaluation.

The amended Regulations remove the first purpose and make it clear that the second purpose applies where the testing and evaluation is in respect of the imported goods themselves, and not the testing and evaluation of other goods.

The major effect on current users of the temporary import provisions is that Australian individuals and companies wishing to import equipment for purposes such as testing, commissioning, maintenance or repair of machinery, plant, means of transport (including aircraft), survey of ships and similar purposes will now be able to use paragraph 124(1)(b) of the Regulations, as the provision extends eligibility under the Customs Convention on the Temporary Importation of Professional Equipment (Brussels, 1961) to Australians.

Previously, goods in the above categories could only be temporarily imported by foreign individuals or company representatives visiting Australia for a specified task.

An application for the permission of the Collector under section 162 of the Act was previously required to be made in accordance with Form 46 in the Regulations. The Regulations omit the prescribed Form 46 and now require the application to be made in an approved form.

The current application form is available on the Customs Internet site at [http://www.customs.gov.au/ecom/prodn/homepage/bizlink/imports/imptmp/index.htm#top.](http://www.customs.gov.au/ecom/prodn/homepage/bizlink/imports/imptmp/index.htm#top)

The Regulations also replace the conditions that must be met prior to exporting temporarily imported goods. The new conditions are that the person exporting the goods must give the Collector notice of intention to export the goods, and the goods must be brought to a prescribed place for export.

# Refund Application Fee

Following system changes necessary for the implementation of the GST, a temporary Customs Regulation (128AC) provided that from 17 June 2000 the fee payable on all refund applications made in an approved form would be $45.

After that date applicants were not able to electronically transmit refund applications to Customs via the COMPILE computer system, and as a result all applicants were able to benefit from paying the lower fee.

The COMPILE computer system is again available for transmission of refund applications. Regulation 128AC of the Regulations has therefore been repealed, returning refund application fees to the level they were prior to 17 June 2000. That is, $45 for electronically lodged and $65 for a documentary application.

# Drawback Regulation Changes

The purpose of drawback is to ensure that refunds of Customs duty on goods that have been exported from Australia are only payable on goods that do not enter the commerce of Australia. Conditions pertaining to drawbacks are prescribed in regulations 129-138 of the Regulations.

Following the introduction of the TRADEX scheme the requirement that drawback of duty cannot be paid in respect of goods which are to be re-landed into Australia is to be removed. This is considered redundant, as other controls are in place under the *Customs Tariff Act 1995* to ensure goods that are re-imported after export do not gain a double benefit.

Subregulations 133(1) and (2) of the Regulations provide that drawback of import duty is not payable on the exportation of the goods, if after exportation, the goods are relanded in Australia.

The Amending Regulations remove this restriction from the Regulations. Phil Burns

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