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PROFESSIONAL CORPORATION

## Canada-U.S. Blog

LEGAL DEVELOPMENTS AFFECTING CANADA-U.S. CROSS BORDER TRADE

# Who Would Have Thought Tariff Classification of Pizza Kits Would Be So Complicated

By Cyndee Todgham Cherniak on August 28th, 2015

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On August 20, 2015, the Canada Border Services Agency (“CBSA”) issued D-Memorandum D-10-14-32 “Tariff Classification of Pizza Kits”. The good news is that the D-Memorandum is only 2 pages in length. The bad news is that the instructions to importers of pizza kits is as clear as mud.

Paragraph 1 of D-Memorandum D-10-14-32 states as follows:

“That a product is described commercially as a “pizza kit” does not mean it qualifies as such for the purposes of this memorandum.”

It does not get more clear after this opening statement.

It appears that the CBSA distinguishes between pizza kits for retail sale to an individual vs pizza kits for sale to a commercial establishment (e.g., restaurant) or institution.

If the pizza kits are imported for sale to an individual or consumer, then the classification depends on whether or not the crust (dough) is uncooked/raw crust (dough) vs cooked or pre-cooked. If the crust is raw dough, the H.S. tariff classification is 19.01. If the crust is cooked or pre-cooked, the H.S. tariff classification is 19.05.

However, if the pizza kit is for sale to a commercial establishment or institution, then each component part of the pizza must be classified separately according to the CBSA’s administrative policy.

One of the reasons behind the CBSA’s administrative position is to react to circumvention of Canada’s cheese quotas. The CBSA wishes to stop importers of shredded mozzarella cheese from getting around the cheese quotas by importing the ingredients for a pizza.

When viewed in light of the goal to stop circumvention activities, the contorted D-Memo is explained. However, the average person needs to understand the rules and the rules could be set out clearly and concisely so that real people can comply.

Tags: Canada Border Services Agency, CBSA, cheese quota, pizza kits

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