

Canada-U.S. Blog

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

On What Basis Can I Appeal An Administrative Monetary Penalty (Customs)?

By Cyndee Todgham Cherniak on January 5th, 2016

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The Canada Border Services Agency (“CBSA”) uses the Administrative Monetary Penalty System (AMPS) to issue monetary penalties to commercial importers for violating CBSA’s customs and border laws. You make a mistake, there is a penalty for that. The mistake does not have to be intentional. The Master Penalty Document contains the infractions and the AMPS penalty for each infraction.

Examples of infractions are:

- failure to pay duties;
- failure to report goods to the CBSA;
- using an incorrect tariff classification;
- providing an incorrect value for duty;
- providing an incorrect statement of origin;
- providing false information to a CBSA officer;
- exporting goods without a permit;
- importing goods without a permit;
- unauthorized removal of goods from a warehouse;
- etc.

The CBSA will issue a Detailed Adjustment Statement (for the underlying infraction) and a Notice of Penalty Assessment (setting out the AMPS to pay) to impose the AMPS penalty.

If you believe that the penalty issued by the CBSA was incorrect, you may request a correction within 90 days of the date of your Notice of Penalty Assessment. Errors that may be disputed include, but are not limited to, errors in the name of the importer, errors in the level of penalty, errors in calculation of the penalty amount, failure to consider information provided, failure to consider due diligence activities, etc. The due diligence defence comes from case law relating to strict liability offences.

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Tags: Administrative Monetary Penalty, AMPs

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