

Canada-U.S. Blog

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

Removing Confusion Over Tariff Classification of "Religious Articles"

By Cyndee Todgham Cherniak on August 31st, 2015

Posted in Customs Law, tariff classification, Uncategorized



On August 27, 2015, the Canada Border Services Agency ("CBSA") reissued D-Memorandum D-14-15-12 "Interpretation of Tariff Item 9986.00.00", which supercedes the previous version. The new and improved version is much longer than the previous May 29, 1998 version.

Goods that are properly classified pursuant to H.S. item number 9986.00.00.00 enter Canada duty free regardless of the country of origin of the item. Due to the duty free treatment of religious articles, importers have used this tariff classification for a number of items that the CBSA has considered to be questionable.

The *Customs Tariff* identifies H.S. item number 9986.00.00 as including:

"religious statues, statuettes, medals, crosses, figures, plaques or ancestral shrines, and communion sets, oil stocks, crosiers, benitiers, sprinklers, incensers, incense boats, baptismal shells or fonts, scapulars, chapelets, rosaries, Scroll sets, Chanuka candlesticks, Kiddush sets, Mezuzah boxes, Havdalah sets or Seder plates and parts of all of the foregoing."

D-Memo D-14-15-12 explains how the CBSA will interpret the above list. First, the CBSA states that "tariff item 9986.00.00 is a list of specific religious goods. If an item is not included in the list, it cannot be eligible for the" duty free benefits of the tariff item.

The CBSA goes on to explain the administrative test that they will be applying to determine when a good will be considered to fall within the list. The CBSA states that H.S. item 9986.00.00 covers goods that are:

- (a) used in religious services, or
- (b) used as explicit witness of a religious affiliation or devotion.

The CBSA then goes on clarify that H.S. item 9986.00.00 applies to all religious persuasions (without providing a positive list of religions) and that a religion need not be currently practiced for an object to qualify. Articles of mythology that are based on religious ideology or dogma are also eligible for the benefits of H.S. item 9986.00.00.

The CBSA provides numerous examples of what types of goods will be considered by the CBSA to fit within the tariff classification and what types of goods will be considered by the CBSA to not be entitled to the benefits of the H.S. item number.

The D-Memo is quite detailed and covers a variety of types of religious articles. However, the administrative policy also contains pre-conditions and tests that the CBSA says it will be applying (more likely to exclude goods than to include goods). This is where importers are likely to run into difficulties if they do not plan ahead.

While D-Memo 10-15-12 is helpful, it will undoubtedly be used by the CBSA to disqualify certain goods. It is, therefore, very important to review the D-Memo carefully and make every effort to comply with the documentary and evidentiary requirements. While the Canadian International Trade Tribunal is not bound by the CBSA's administrative position and may not agree with the CBSA's position, compliance with the D-Memo will limit the length of the battle with the CBSA.

Tags: and communion sets, baptismal shells or fonts, benitiers, Canada Border Services Agency, CBSA, Chanuka candlesticks, chapelets, crosiers, crosses, eligious statues, figures, Havdalah sets, incense boats, incensers, Kiddush sets, medals, Mezuzah boxes, oil stocks, plaques or ancestral shrines, religious articles, rosaries, scapulars, Scroll sets, Seder plates, sprinklers, statuettes, tariff classification

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Cyndee Todgham Cherniak
c/o LexSage Professional Corporation
The Gooderham "Flatiron" Building, 49 Wellington Street East, Suite 501
Toronto, Ontario
M5E 1C9
Phone: 416-307-4168
Fax: 416-760-8999

Susan Kohn Ross
c/o Mitchell Silberberg & Knupp LLP
11377 W. Olympic Boulevard
Los Angeles, California
90064
Phone: 310-312-3206
Fax: 310-231-8406

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