



Regulatory Alerts & Updates

Regulatory Alert: Shipping Gifts to the U.S. via FedEx Express 2021

November 3, 2021

BACKGROUND

The U.S. Customs and Border Protection (CBP) defines “bona-fide gift” as an article formerly owned by a donor who gave it outright in its entirety to the recipient without compensation or promise of compensation. CBP allows bona-fide gifts to be entered and released duty free, provided they qualify as gifts for the purposes of Customs processing:

- Must be from an individual to an individual or from a company to an individual.
Note - Shipments from business to business are considered as commercial shipments, not gifts.
- Valued at \$100 USD or less per recipient per day. Gifts exported from the U.S. Virgin Islands, Guam and American Samoa cannot exceed \$200 USD per recipient per day.
- Clearly marked as ‘gift’ on the outside of the box.

REQUIRED DOCUMENTATION

- Air Waybill and Commercial Invoice must indicate that the shipment is an unsolicited gift, not for resale.
- Complete name, address, and phone number of both the shipper and the consignee.
- Detailed description of the items, including if the item is homemade or store-bought (i.e. homemade cookies for personal consumption, not for resale).
- Consolidated gift shipments (gifts for more than one person consolidated in the same shipment) addressed to one consignee will be treated as one importation. The commercial invoice must list the names of each individual receiving the gift, each individual’s gift item(s) and the value of each item.

Example:

Donna Smith – Two pounds of store-bought candy mix in an enclosed tin, \$40 USD

Walter Smith – One pair leather golf glove, total value \$75 USD

IMPORTANT – If any single gift article exceeds the gift allowance, the entire shipment will be dutiable.

SPECIAL REQUIREMENTS – FOOD

- Perishable foodstuffs: These are prohibited from FedEx International Express Service.
- Non-Perishable Food Items: Homemade or store-bought food items shipped from individual to individual do NOT require submission of FDA Prior Notice.
- Specialty baskets and items ordered through an online commercial establishment and sent to an individual require submission of Prior Notice to the FDA if a company name is shown anywhere on the Air Waybill.
- If shipped from person to person, the Air Waybill and Commercial Invoice must clearly show the shipper and consignee as an individual.
- Shipments from a business to an individual, individual to a business or business to business will require the FDA Prior Notice regardless of value.

SPECIAL REQUIREMENTS – OTHER

- Textiles: Exemption does not apply to any merchandise subject to a quota, regardless of whether the quota is open.
- Alcoholic Beverages, Cigars and Cigarettes: From an individual to an individual are prohibited from FedEx International Express Service. Cuban cigars are prohibited entry into the United States.
- Perfumes containing alcohol are excluded from the gift provision and require formal entry and may be subject to duty/tax assessment.
- Personal and household effects articles purchased solely for the personal use of an individual and shipped unaccompanied, will be entered under separate Customs provisions, not as a gift.
- Articles originating from wildlife or containing wildlife parts may incur Fish & Wildlife clearance and fees. The U.S. Fish & Wildlife Service defines “wildlife” as “any living or dead wild animal, its parts, and products made from it. Wildlife not only includes mammals, birds, reptiles, amphibians, and fish, but also invertebrates such as insects, crustaceans, arthropods, and coelenterates. Examples of “products made from wildlife” might include shirts with buttons made of ivory or boots made of skin from a protected animal species.

NON-COMPLIANCE RAMIFICATIONS

Potential service delays, duty/tax may be assessed if not declared as gift or eligible for processing under gift provisions.

REFERENCES:

19 CFR 10.152 Bona-fide Gifts

<https://ecfr.io/Title-19/Section-10.152>

19 CFR 10.153 Conditions for Exemption

<https://ecfr.io/Title-19/Section-10.153>

FDA Prior Notice Policy for Sending Gifts

<https://www.fda.gov/food/importing-food-products-united-states/prior-notice-policy-sending-gifts-your-friends-and-family>

Importing Your Commercial Import Shipment (Fish & Wildlife)

<https://www.fws.gov/le/commercial-wildlife-shipment.html>

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