



FedEx Regulatory Alerts & Updates

Regulatory Alert: USTR Makes Technical Correction for China 301 Exclusion Products

May 4, 2021

BACKGROUND

Effective September 24, 2018, the U.S. Trade Representative (USTR) imposed additional 10% ad valorem duties on goods of China classified in 5,757 full and partial subheadings of the Harmonized Tariff Schedule of the United States (HTSUS), with an approximate annual trade value of \$200 billion USD. In May 2019, the USTR increased the additional duty to 25% with an effective date of May 10, 2019.

The USTR published an implementing notice on May 15, 2019, which provided that products of China covered by the September 2018 action that were exported before May 10, 2019, were not subject to the additional duty of 25%, as long as the products entered into the United States prior to June 15, 2019.

To separate the various articles of China subject to the 10% rate of additional duty from those subject to the 25% rate, a new subheading in Chapter 99 of the HTSUS (9903.88.09) was created to cover products from China exported before May 10, 2019, and entered into the United States on or after May 10, 2019 and before June 15, 2019.

In August 2019, the USTR announced the first of ten rounds of product exclusions from August 2019 to May 2020. However, the implementing language used in the exclusion notices did not include a reference to HTSUS subheading 9903.88.09. This means it did not exclude the products that were exported before May 10, 2019 and entered into the United States on or after May 10, 2019, and before June 15, 2019.

WHAT HAS CHANGED?

The annex to this USTR notice makes a technical correction to the exclusions granted under the \$200 billion USD action to include HTSUS subheading 9903.88.09.

Q & A

Q 1 – The USTR Notice states “Cover Goods on the Water”; would this encompass FedEx Express (FXE) shipments?

A 1 – This technical amendment issued by the USTR applies to ANY SHIPMENT that involved China origin products that were exported before May 10, 2019, and entered into the United States on or after May 10, 2019 and before June 15, 2019 regardless of mode of transportation.

Q 2 – How can I obtain a duty refund for my shipments with FXE that are impacted by this technical correction?

A 2 – There are different liquidation times for different entry types which will impact how to proceed with any potential refund. Liquidation is the final determination of money owed to Customs based on the assigned duty rates and the value of the imported goods.

Formal entries typically liquidate on a 314 day schedule. Informal entries typically liquidate upon payment of duties on the summary date. Informal entries only have 180 days from the date of summary (and thus date of liquidation of the informal entry) to file a protest. See the CBP Protest Page link in the References section for more details.

A post summary correction (PSC) can be filed if the entry is not liquidated.

Customers may find it very helpful to utilize the CBP resource “Official Notice of Extension, Suspension and Liquidation” page listed in the References section below. The site allows customers to determine if their entry has liquidated or what the anticipated liquidation date is. This can save time for customers who might have a lengthy list of entries to correct but many of them are outside the timeframe to allow correction by FedEx Logistics (FXL).

Finally, FXE customers who have shipments that have NOT liquidated and are eligible for refunds must submit a post summary correction (PSC) to FXL. This is done by completing and submitting a Duty Tax Dispute form for each shipment.

The FedEx Duty and Tax Dispute team can be reached in two ways:

U.S. toll free 866-728-8587

Email: dutytaxdisputes@fedex.com

REFERENCES:

USTR Notice

https://ustr.gov/sites/default/files/enforcement/301Investigations/Amendment_List_%203%20Exclusions_Cover_Goods_on_the_Water.pdf

CBP Official Notice of Extension, Suspension and Liquidation Page

<https://aceservices.cbp.dhs.gov/LBNotice>

CBP Protest Page

<https://www.cbp.gov/trade/programs-administration/entry-summary/protests>

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