



The New Duty Drawback Law - New Rules for Unused Merchandise Substitution Drawback

TFTEA - The Trade Facilitation and Enforcement Act of 2015

December 2017 by David Verkaik, VP of Drawback Development

As I mentioned in a previous article, beginning on February 24, 2018, drawback claimants will be able to file Unused Merchandise Substitution Drawback (Unused Substitution) claims by matching the imported goods to the exported goods by the HTS number at the 8-digit level. Currently an Unused Substitution claim is done by matching part numbers or composition specifications.

For example, if a company imports Electric Blankets with the HTS 6301.10.00 and then exports Electric Blankets with the HTS 6301.10.00, they will be able to file a duty drawback claim because the import and export HTS numbers are the same at the 8-digit level. The part number of the imported blanket may be different than that of the exported blanket, but as long as the HTS number is the same at the 8-digit level, an Unused Substitution claim may be filed.

The “Other” Drawback Rule

However, if the “Article Description” of the HTS number begins with the word “Other”, the claimant must then match the import to the export by the same HTS at the 10-digit level.

For example, let’s look at HTS number 6211.11.80, which is the classification for track suits. You will see that the “Article Description” for this HTS begins with the word “Other”. Therefore, you will have to go to the 10-digit level. The HTS number 6211.11.80.10 is the classification for Men’s Cotton Track Suits. Since the “Article Description” for this HTS does not begin with the word “Other”, we may claim Unused Substitution using this 10 digit HTS number to match the import to the export.

The other “Other” Drawback Rule

Now, what if the “Article Description” of the HTS at the 10-digit level also begins with the word “Other”? If this happens, unfortunately the claimant will not be able to file Unused Substitution. They will be forced to file their drawback claim using the Unused Merchandise Direct Identification drawback rules. In fact, there are 1,484 unique HTS numbers for which this occurs.

For example, if we look again at HTS number 6211.11.80, the HTS description begins with “other”, meaning we would need to move to the 10-digit level. If both the import and export are classified at the 10-digit level as 6211.11.80.40, but the description for that HTS also begins with “Other”, we would then be forced to file this claim using Unused Merchandise Direct Identification, rather than Unused Substitution.