



U.S. Immigration and Customs Enforcement Homeland Security Investigations



DRAWBACK PROGRAM

The U.S. Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI), Trade Enforcement Unit manages the drawback program for all HSI drawback investigations. HSI focuses on importers and any individuals submitting false statements to U.S. Customs and Border Protection (CBP) to obtain improper drawback refunds.

Drawback permits American businesses to compete in foreign markets without the handicap of including in its costs, and consequently in its sales price, the duty paid on imported merchandise that is not destined for ultimate consumption in the United States. Specifically, drawback is the refund of duty paid on imported merchandise that is linked to an exportation or destruction of an article provided under 19 U.S.C. § 1313 and 26 U.S.C. § 5062. There are three categories of drawback:



HSI Seized Clothing

- 1. Manufacturing Drawback:** Manufacturing drawback requires that the imported merchandise and the export of a new and different article be within five years of the importation of the article. In addition, the designated imported merchandise must be used and the exported article must be made with either the imported or substituted merchandise. Manufacturing operations must take place within three years after receipt by the manufacturer of the designated imported merchandise. This three-year period must be within the five-year import-to-export period.
- 2. Unused Merchandise Drawback:** Any duty, tax, or eligible fee (including merchandise processing fee) paid by reason of importation on merchandise that is not used prior to exportation or destruction is recoverable as drawback. The three-year time limit for the merchandise to be exported or destroyed under CBP supervision begins on the date of importation of the imported merchandise. Allowable incidental operations, such as testing, cleaning, inspecting, etc., on the imported item that do not amount to a manufacture or production are not treated as use of the merchandise.
- 3. Rejected Merchandise Drawback:** Importers of merchandise not conforming to a sample or specifications, shipped without consent of the consignee, or defective as of the time of importation, may recover the duties paid as drawback if the merchandise is exported or destroyed under CBP supervision within the three-year statutory period.



Warehouse

The Customs Modernization Act of 1993 added section 593A to the Tariff Act of 1930 (19 U.S.C. § 1593a) which creates administrative penalties for the filing of false or fraudulent drawback claims and establishes a drawback compliance program in which participants receive reduced penalties and/or warning letters for non-fraudulent violations. The penalty provisions and the administrative procedures for enforcing them are based on 19 U.S.C. § 1592, which penalizes negligent or fraudulent practices in connection with the importation of merchandise. The drawback compliance program is similar to the recordkeeping compliance program established under 19 U.S.C. § 1509(f).

