



Ottawa, April 12, 2006

CUSTOMS NOTICE 636

Order Amending the Schedule to the *Customs Tariff*

1. The purpose of this customs notice is to clarify the treatment of goods imported in 2005 that have been affected by Order-in-Council 2005-2115, *Order Amending the Schedule to the Customs Tariff, 2005-3 (Textiles and Apparel)* (hereafter referred to as the Order). It also addresses goods, for which advanced rulings have been issued, that are affected by the Order.

2. On November 21, 2005, the Department of Finance passed Order-in-Council 2005-2115, *Order Amending the Schedule to the Customs Tariff, 2005-3 (Textiles and Apparel)*, which made amendments to certain provisions of the *Customs Tariff* concerning a number of textile products. These changes covered the period beginning January 1, 2005.

Legislation

3. Subsection 32.2(2) of the *Customs Act* requires importers to correct any declaration of tariff classification within 90 days from the time they have “reason to believe” that the declaration is incorrect. (Memorandum D11-6-6, *Self-Adjustments to Declarations of Origin, Tariff Classification, Value for Duty and Diversion of Goods*, identifies the nature of information that constitutes “reason to believe.”) Please note that the requirement is to correct a declaration of tariff classification **that is in error**. In the case of goods properly declared at the time of accounting, in accordance with the *Customs Tariff* that existed at that time, the declaration is considered correct and does not require adjustment. The legal amendments made to the *2005 Customs Tariff* in the Order were published in the *Canada Gazette*, Part II, on December 14, 2005. There is no need to self-correct declarations made between January 1, 2005 and December 14, 2005. However, importers or their representatives are encouraged to review declarations made between December 15, 2005 and December 31, 2005, as they may need to self-correct declarations made during this period.

4. Subsection 32.2(5) of the *Customs Act* exempts importers from the requirement to make corrections to a declaration that results in a refund of duties. Importers may find that the Order makes them eligible for a refund of duties. Refund claims are made in accordance with the provisions of section 74 of the Act. Refund requests arising from the provisions of the Order should be submitted on Form B2, *Canada Customs — Adjustment Request*, quoting

“paragraph 74(1)(g) of the *Customs Act*,” in the legislative reference portion of field 37. Comments in the explanation portion of field 37 should refer to a refund due to the Order. Paragraph 74(1)(g) of the Act provides for duties overpaid or paid in error for any reason that may be prescribed. Unlike other provisions of section 74, under which interest payable accrues beginning on the 91st day after the refund claim was submitted, paragraph 74(1)(g) grants interest payable beginning on the day after the duty was paid, in accordance with section 80.1 of the Act. Importers should be aware that, in accordance with subsection 74(1.1), the granting of a refund under paragraph 74(1)(g) of the Act is treated as if it were a re-determination made under paragraph 59(1)(a) of the Act.

Release Date

5. In the submission of B2 adjustment requests, the date the goods were released is used to determine if the importation falls into the period that the Order affects, since goods were charged with the rate of duty in effect at the time of release. For example, goods released on December 30, 2004, and accounted for on January 3, 2005, do not require an adjustment, but goods released on January 1, 2005 must be adjusted.

Blanket Requests

6. The decision of whether or not to allow adjustments on a blanket format, including the final format, rests with individual regions. Importers or their representatives, who feel a blanket B2, *Canada Customs – Adjustment Request*, would be beneficial, should contact the Client Services office in the region where the importer is located to request such permission.

Supporting Documents

7. Supporting documents should accompany individual and blanket B2 adjustment requests, unless the explanation field (field 37 of the B2) provides a satisfactory reason for supporting documentation not being presented (see Appendix B of Memorandum D11-6-4, *Legislative Authorities and Supporting Documentation Requirements for Form B2, Canada Customs – Adjustment Request*).

Various Adjustments to a B2

8. B2 adjustment requests submitted to change only value for duty or tariff treatment on importations affected by the Order will also require correction of the tariff classification.

Advance Rulings

9. Advance rulings issued in or prior to 2005 may no longer be valid due to the legislative amendments made in the Order. It is the responsibility of the person to whom the advance ruling was given or a person importing the goods from that person to request a revised advance rulings letter from the Canada Border Services Agency.

Additional Information

10. Any questions concerning this notice should be directed to the Border Information Service (BIS) Online.

The BIS telephone service is available during regular business hours, Monday to Friday (except holidays), from 8 a.m. to 4 p.m., local time. (Press 0 to speak to an agent.)

For service in English, from within Canada call:
1 800 461-9999 (toll free)

For service in French, from within Canada call:
1 800 959-2036 (toll free)

For service in English, from outside Canada, call:
(204) 983-3500 or **(506) 636-5064** (long-distance charges apply)

For service in French, from outside Canada, call:
(204) 983-3700 or **(506) 636-5067** (long-distance charges apply)