§ 351.519 Remission or drawback of import charges upon export.

(a) Benefit—(1) In general. The term "remission or drawback" includes full or partial exemptions and deferrals of import charges.

(i) Remission or drawback of import charges. In the case of the remission or drawback of import charges upon export, a benefit exists to the extent that the Secretary determines that the amount of the remission or drawback exceeds the amount of import charges on imported inputs that are consumed in the production of the exported product, making normal allowances for waste.

(ii) Exemption of import charges. In the case of an exemption of import charges upon export, a benefit exists to the extent that the exemption extends to inputs that are not consumed in the production of the exported product, making normal allowances for waste.

(iii) Deferral of import charges. In the case of a deferral of import charges, a benefit exists to the extent that the deferral extends to inputs that are not consumed in the production of the exported product, making normal allowances for waste.

(b) Time of receipt of benefit. In the case of the exemption, remission, or deferral of prior-stage cumulative indirect taxes, the Secretary normally will consider the benefit as having been received:

(1) In the case of an exemption, as of the date of exportation;

(2) In the case of a remission, as of the date of exportation;

(3) In the case of a deferral of one year or less, on the date the deferred tax became due; and

(4) In the case of a multi-year deferral, on the anniversary date(s) of the deferral.

(c) Allocation of benefit to a particular time period. The Secretary normally will allocate (expense) the benefit of the exemption, remission or deferral of prior-stage cumulative indirect taxes to the year in which the benefit is considered to have been received under paragraph (b) of this section.
making normal allowance for waste, and the government does not charge appropriate interest on the import charges deferred.

(2) Substitution drawback. “Substitution drawback” involves a situation in which a firm uses a quantity of home market inputs equal to, and having the same quality and characteristics as, the imported inputs as a substitute for them. Substitution drawback does not necessarily result in the conferral of a benefit. However, a benefit exists if the Secretary determines that:

(i) The import and the corresponding export operations both did not occur within a reasonable time period, not to exceed two years; or
(ii) The amount drawn back exceeds the amount of the import charges levied initially on the imported inputs for which drawback is claimed.

(3) Amount of the benefit—(i) Remission or drawback of import charges. If the Secretary determines that the remission or drawback, including substitution drawback, of import charges confers a benefit under paragraph (a)(1) or (a)(2) of this section, the Secretary normally will consider the amount of the benefit to be the difference between the amount of import charges remitted or drawn back and the amount paid on imported inputs consumed in production for which remission or drawback was claimed.

(ii) Exemption of import charges. If the Secretary determines that the exemption of import charges upon export confers a benefit, the Secretary normally will consider the amount of the benefit to be the difference between the amount of import charges that otherwise would have been paid on the inputs not consumed in the production of the export product and the amount paid on imported inputs consumed in production for which remission or drawback was claimed.

(4) Exception. Notwithstanding paragraph (a)(3) of this section, the Secretary will consider the entire amount of an exemption, deferral, remission or drawback to confer a benefit, unless the Secretary determines that:

(i) The government in question has in place and applies a system or procedure to confirm which inputs are consumed in the production of the exported products and in what amounts, and the system or procedure is reasonable, effective for the purposes intended, and is based on generally accepted commercial practices in the country of export; or

(ii) If the government in question does not have a system or procedure in place, if the system or procedure is not reasonable, or if the system or procedure is instituted and considered reasonable, but is found not to be applied or not to be applied effectively, the government in question has carried out an examination of actual inputs involved to confirm which inputs are consumed in the production of the exported product, and in what amounts.

(b) Time of receipt of benefit. In the case of the exemption, deferral, remission or drawback, including substitution drawback, of import charges, the Secretary normally will consider the benefit as having been received:

(1) In the case of remission or drawback, as of the date of exportation;
(2) In the case of an exemption, as of the date of the exportation;
(3) In the case of a deferral of one year or less, on the anniversary date(s) of the deferral.
(4) In the case of a multi-year deferral, on the anniversary date(s) of the deferral.

(c) Allocation of benefit to a particular time period. The Secretary normally will allocate (expense) the benefit from the exemption, deferral, remission or drawback of import charges to the year in which the benefit is considered to have been received under paragraph (b) of this section.