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FURTHER DUTY SAVINGS OPPORTUNITY FOR GARMENTS IMPORTED ON HANGERS

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Recent developments have created a new opportunity to increase the benefits of existing duty-savings programs associated with imported garment-on-hanger programs.

BACKGROUND

Historically, hangers supporting imported garments, like other packing materials and packing containers, were classified together with the garments (and assessed duty at the garment duty rate). However, in recent years, Customs has acknowledged that certain substantial hangers are “clearly suitable for repetitive use” and, as such, are eligible for a separate lower duty classification apart from their accompanying garments. Customs has based its conclusion on the fact that such hangers are of the class or kind of those that are used in hanger recovery programs (under which hangers are recycled for use in connection with several garment import cycles). While not a hard and fast rule, Customs has generally considered plastic hangers with metal swivel hooks to meet this standard, but has not normally extended this treatment to one piece molded plastic hangers.¹

As a result, many plastic hangers with metal swivel hooks accompanying imported garments have, in recent years, been separately classified as plastic articles of conveyance at a 3% *ad valorem* rate of duty (as opposed to the substantially higher garment duty rates).

NEW DEVELOPMENT

In recent rulings, Customs has held that plastic hangers may be entered **duty-free** as “instruments of international traffic.” In order to qualify for such treatment, the hanger must be “used as a container or holder” and must be “substantial, suitable for and capable of repeated use, and used in significant numbers in international traffic.” In its rulings, Customs has applied this test in a manner similar to the “clearly suitable for repetitive use” test utilized for separate hanger classification. Thus, the opportunity now exists to increase the duty savings for hangers of the

¹ In its rulings, Customs has observed that it has not been presented with documentation substantiating the commercial reuse of such hangers.

type used in hanger recovery programs by entering such articles as duty-free instruments of international traffic (instead of at the 3% plastic hanger rate).

Additionally, one of the recent rulings suggests that at least some of the qualifying hangers in question were of molded plastic construction without a metal swivel hook. Thus, to the extent that evidence is available demonstrating their use (or suitability for use) in a hanger recovery program, it is conceivable that the hanger duty-savings opportunity, historically limited to plastic hangers with metal swivel hooks, may now be extended to certain plastic hangers lacking such hooks.

While each hanger has to be considered on its own merits (e.g., in terms of its durability, use in a hanger recovery program, whether it has been already ruled upon by Customs, etc.), recent developments create the environment to substantially increase the duty-savings opportunity associated with garment on hanger programs by both reducing the duty rate to be applied to the hangers (to “free”) and to broaden the class of hangers to which such treatment may apply.

We are available to review importers’ hanger programs and make recommendations with regard to future duty savings as well as past duty recovery. Please do not hesitate to contact our office to discuss this issue further and the potential impact on your Company’s import program.