

§ 223. Basis of import duty.

(1) For purposes of determining the basis of import duties levied by this subchapter, the term *ad valorem* shall mean the CIF price of the subject item.

(2) If the Customs officer can reasonably determine the CIF price of imported goods, the import duty shall be payable on the CIF price.

(3) If the Customs officer cannot reasonably determine the CIF price of imported goods, the value for payment of duty shall be determined by the first of the following methods which is reasonably available to the Customs officer:

(a) FOB price plus actual insurance, freight, and other charges from the FOB location to the CIF location;

(b) The value of identical goods at the CIF location; or

(c) The value of identical goods at an earlier point plus actual insurance, freight, and other charges from that point to the CIF location.

(4) If the Customs officer cannot determine the CIF price or its equivalent through one of the foregoing methods, the value for payment of duty shall be determined by the appraisement, the cost of which shall be borne by the owner.

(5) No deduction of any kind shall be allowed from the CIF amount because of any special or sample discount, or on account of any other consideration by which a special reduction in price has been or might be obtained.

(6) Where there is a relationship between the buyer and seller of imported goods the consignee may be required to provide reasonable proof that the relationship did not influence the price paid or payable for the goods.

(a) To demonstrate the acceptability of the price paid or payable for the goods, the consignee shall supply to Customs details of:

(i) The way in which the buyer and seller organize their commercial relationship;

(ii) The way in which the price in question was arrived at; and

(iii) The price of identical merchandise, or similar merchandise, in sales to unrelated buyers in the FSM.

(b) Where Customs officials determine that the relationship has influenced the price paid or payable the CIF shall be determined by appraisement, the cost of which shall be borne by the owner.

(7) If the value of imported goods is stated in a currency other than that of the FSM, then the basis of the import tax of such goods shall be calculated according to the ruling rate of exchange at the date of export of the goods.

Source: PL 9-139 § 11.

§ 224. Lien on imported goods.

All duties imposed on goods under this chapter, together with any penalties and interest thereon, shall constitute a lien on those goods having priority over all other claims and liens, and may be collected by levy upon those goods in the same manner as the levy of an execution.

Source: PL 9-139 § 12.

§ 225. Personal liability of importer.

If any imported goods are removed, whether legally or illegally, from the dock, airport, or post office before payment of the full and correct duties thereon, the importer of the goods shall be personally liable for the payment of any duties not so paid, together with any penalties and interest thereon. If there is more than one importer, all such importers shall be jointly and severally liable.

Source: PL 9-139 § 13.

§ 226. Lien on importer's property.

The personal liability of an importer provided for in this chapter shall be secured by a lien on any personal property of that importer having priority over all other claims and liens, with the exception of liens imposed pursuant to subsection (2) of section 135 of this title, and may be collected by levy upon such property in the same manner as the levy of an execution.

Source: PL 9-139 § 14.

§ 227. Civil penalties and interest.

The following penalties and interest shall be separate from and in addition to the criminal penalties imposed elsewhere in this chapter. It is the duty of an importer to know and declare, fully and accurately, the types, quantities, and values of all dutiable goods which he or she imports, and civil penalties and interest may not be avoided through lack of knowledge, however innocent such lack of knowledge may be.

(1) *Understatement.* If the amount of duty due on goods is understated when reasonably calculated on the basis of the documentary and other information provided to Customs officers, there shall be added to the amount of the understatement a penalty equal to the following percentage of the amount of the understatement:

(a) 100% if the understatement is discovered by Customs officials before release of the goods;

(b) 100% if the understatement is discovered and reported to Customs by an importer or owner and the full and correct duty, including penalties and interest, is paid within 10 days after release of the goods; or

(c) 200% otherwise.

(2) *Late payment.* Unless goods are entered and the duty thereon is paid within the time limit for entry established in section 238 of this chapter, there shall be added to the amount of duty due five percent of the duty if the failure is for not more than one month, with an additional five percent for each additional month or fraction thereof during which such failure continues, not to exceed 100% in the aggregate.

(3) *Interest.* Any duty which is not paid before the earlier of the time limit for entry or release of the goods shall thereafter bear interest at the rate of 18% per annum until paid.

Source: PL 9-139 § 15, modified.

§ 231. Administration of Customs.

(1) The Secretary of Finance shall appoint Customs officers.

(2) *Customs locks and seals.*

(a) *Official locks and seals.* All courts and all persons shall take notice of any official lock or seal used by an officer during the course of his/her duties and shall presume, until shown otherwise, that the lock or seal was fastened by the proper authority.

(b) *National offense.* Any person who willfully disregards, alters, breaks, or interferes with a lawfully affixed Customs lock or seal is guilty of a National offense.

(c) *Penalty.* A person convicted under this subsection shall be subject to a fine not exceeding \$1,000, or imprisonment of not more than one year, or both.

(3) *Customs stamps.*

(a) *Stamped impression.* All courts and all persons shall take notice of a stamped impression made by an officer during the course of his/her duties and shall presume, until shown otherwise, that the impression was made by the proper authority.

(b) *National offense.* Any person who willfully disregards, alters or attempts to alter, or unlawfully duplicates a Customs stamp is guilty of a National offense.

(c) *Penalty.* A person convicted under this subsection shall be subject to a fine not exceeding \$1,000, or imprisonment of not more than one year, or both.

(4) *Working days and hours.* The working days and hours of the Division of Customs are Monday through Friday, 8 a.m. through 5 p.m., except for National holidays or as prescribed by Public Service System Regulations.

(a) Except when the working of overtime is authorized in advance by the Commissioner, cargo should be cleared and passengers landed from vessel or aircraft only on working days and during working hours.

(b) Any person may request that the Commissioner arrange for an officer to be made available to perform a function at a place outside of the hours prescribed under paragraph (a) above. Such person shall pay to the FSM Government such fee as is set by the Secretary, reflecting the cost of making officers available.

(7) *Customs officers' authority to arrest.*

(a) When authorized by the Secretary, a Customs officer shall have the authority given to a policeman under section 211 of title 12, or successor provision of law, to make an arrest without warrant for an offense defined under this chapter.

(b) The Secretary shall, on consultation with the Attorney General, establish procedures for arrest and disposition of criminal suspects by Customs officers.

Source: PL 9-139 § 17.

Cross-reference: Title 12 of this code is on Criminal Procedure.

§ 232. Duties of controlling authorities.

(1) The controlling authority of every port, airport or transit building shall provide and maintain at the port, airport or transit building, to the satisfaction of the Secretary the following;

(a) staff accommodation and facilities for the use of Customs officers, at such place or places as the Secretary may direct; and

(b) suitable transit buildings as the Secretary may declare as necessary in respect to the port or airport, together with suitable weighing appliances for use by Customs officers.

(2) The controlling authority of every port, airport or transit building shall store goods subject to the control of Customs in such manner and place as the Commissioner or other proper officer of Customs may direct.

Source: PL 9-139 § 18.

§ 234. Customs control of goods.

(1) *Goods subject to Customs control:*

(a) Imported goods, from the time of their importation until applicable duties are paid and the goods are released or until their exportation to any country outside of the FSM.

(b) All goods for export, from the time such goods are brought to any port, airport or other place for export until their exportation to any country outside of the FSM.

(c) Goods imported or exported through the Post Office are subject to the control of the Customs in the same manner as goods otherwise imported or exported.

(2) *Non-routine examinations.* Where, for the purposes of section 235 of this chapter, examination at the dock or airport is impracticable, shipments may, subject to approval by a customs officer of a written undertaking in the approved form, be removed to the owner's premises for examination.

(3) *CY-CY Containers.*

(a) CY-CY container shipments or similar shipments may be delivered to a final destination other than the dock, upon the approval of a Customs officer.

(b) The consignee shall notify the Division of Customs of the delivery of the shipment and shall not open the container without the approval of a Customs officer.

(c) Customs officers shall be given access to any CY-CY container or similar shipment at the owner's premises for the purposes of any section of this chapter.

(4) *Removal of goods.* Goods removed from the dock or airport pursuant to subsections (2) and (3) of this section remain subject to Customs control until the examination has been undertaken and a Customs officer has authorized their release.

(5) *National offense.* Any person who, otherwise than by authority and in accordance with this chapter, moves, alters or interferes with goods subject to the control of Customs, is guilty of a National offense.

(6) *Penalty.* A person convicted under this section shall be subject to a fine not exceeding \$5,000, or imprisonment of not more than five years, or both.

Source: PL 9-139 § 20.

§ 235. Right of examination.

A Customs officer shall have the right to examine all goods subject to Customs control.

(1) *Examination of goods.* In carrying out the examination of goods:

(a) Any Customs officer may open packages and examine, weigh, mark and seal any goods.

(b) Where, shipment has been removed to the owner's premises for examination, Customs officers shall be granted access to the shipment for the purposes of this section. The expenses of the examination, including the cost of removal to the place of the examination, shall be borne by the owner.

(2) *Search of residences, building and premises.* Any officer, with legally sufficient grounds to believe goods that may be forfeited pursuant to section 253 of this chapter are present and, pursuant to a search warrant required by law, may enter any residence, building or premise to search for and seize such goods.

(3) *Search of persons.*

(a) Where a Customs officer on reasonable grounds believes a person who has just landed from or is about to board a vessel or aircraft has dutiable or prohibited goods on or about his or her person, the officer may, subject to the following conditions, search and detain that person and may use reasonable force to carry out the search.

(b) No search shall be undertaken unless another officer or person is present as a witness.

(c) Searches shall be undertaken by an officer or person of the same gender unless there are reasonable grounds for believing the person being searched may resist the search or, despite diligent efforts to procure an officer or person of the same gender, no such person is available to undertake the search.

(d) Body cavity searches shall be carried out by a qualified medical officer.

Source: PL 9-139 § 21.