



**U.S. Customs and
Border Protection**

HQ H350673

October 9, 2025

OT:RR:CTF:VS H350673 EE

CATEGORY: Classification, Valuation

Mr. Cristopher M. Kane
Simon Gluck & Kane LLP
55 Front Street, Suite 8
Rockville Centre, New York 11570

RE: Subheading 9813.00.50, HTSUS; 9801.00.10, HTSUS; Appraisement

Dear Mr. Kane:

This is in response to your letter, dated June 18, 2025, on behalf of your client Mosti Mondiale Inc., in which you request a ruling concerning the applicability of subheading 9813.00.50, Harmonized Tariff Schedule of the United States (“HTSUS”), and 9801.00.10, HTSUS, to a certain wine bottling, washing, and disgorging machine and the appraisement of the machine. Our ruling is set forth below.

FACTS:

You state that Mosti Mondiale is a non-resident importer. The merchandise at issue is a wine bottling, bottle washing, and disgorging machine owned by Mosti Mondiale. The machine is transportable via truck on a flatbed trailer to locations where the machine will be used in the bottling process after wine has been made. You state that the machine is classified under subheading 8422.30.91, HTSUS. You indicate that the machine will be used in wineries in Canada and the United States several times a year as the need arises. As such, there will be multiple border crossings. You inquire about applicability of subheading 9813.00.50, HTSUS, to the machine. In the alternative, you inquire about the eligibility of the machine for duty-free treatment under subheading 9801.00.10, HTSUS. Lastly, you inquire about the appraisement of the machine based on the fallback method with allowance for depreciation for the period it was used abroad.

ISSUES:

- I. Whether the bottling, washing, and disgorging machine at issue is eligible for duty-free treatment under subheading 9813.00.50, HTSUS.

- II. Whether the bottling, washing, and disgorging machine at issue is eligible for duty-free treatment under subheading 9801.00.10, HTSUS.
- III. Whether the proposed method of appraisement of the imported bottling, washing, and disgorging machine based on the fallback method with allowance for depreciation for the period it was used abroad is appropriate.

LAW AND ANALYSIS:

I. Subheading 9813.00.50, HTSUS

Pursuant to General Note 1, HTSUS, all merchandise imported into the United States is subject to duty unless specifically exempted. Subheading 9813.00.50, HTSUS, provides for the temporary entry, duty-free and under bond, of:

Professional equipment, tools of trade, repair components for equipment or tools admitted under this heading and camping equipment; all the foregoing imported by or for nonresidents sojourning temporarily in the United States and for the use of such nonresidents...

U.S. Note 1(a) of Subchapter XIII, Chapter 98 of the HTSUS provides:

The articles described in the provisions of this subchapter, when not imported for sale or for sale on approval, may be admitted into the United States without the payment of duty, under bond for their exportation within 1 year from the date of importation, which period, in the discretion of the Secretary of the Treasury, may be extended, upon application, for one or more further periods which, when added to the initial 1 year, shall not exceed a total of 3 years...

U.S. Note 1(b) of Subchapter XIII, Chapter 98 of the HTSUS provides:

For articles admitted into the United States under heading 9813.00.50, entry shall be made by the nonresident importing the articles or by an organization represented by the nonresident which is established under the laws of a foreign country or has its principal place of business in a foreign country.

The CBP regulations pertaining to temporary importations under bond ("TIB") are found in 19 C.F.R. §§ 10.31-10.40. Section 10.37, CBP Regulations, provides that extensions of the time for exportation of merchandise under a TIB may be granted by the appropriate Center Director upon written application on CBP Form 3173. Pursuant to 19 C.F.R. § 10.31(f) a bond shall be given on Customs Form 301, containing the bond conditions set forth in 19 C.F.R. § 113.62. For professional equipment, tools of trade and repair components entered under subheading 9813.00.50, HTSUS, the bond

required to be given shall be in an amount equal to 110 percent of the estimated duties, including fees, determined at the time of entry. See 19 C.F.R. § 10.31(f).

Subchapter XIII of the HTSUS and the CBP regulations do not define “professional equipment” or “tools of trade.” See Headquarters Ruling Letter (“HQ”) H256982, dated November 30, 2016. In HQ 223970, dated September 22, 1992, CBP held that “equipment under subheading 9813.00.50, HTSUS, is intended to be necessary for the exercise of the calling, trade, or profession of a person visiting this country to perform a specific task.” The type of articles allowed have been varied due to the liberal construction given to the terms “professional equipment” and “tools of trade.” *Id.* CBP has previously approved a variety of equipment, such as a mobile education vehicle for dealers; a van with permanently attached equipment of hydraulic tracer controls for machine tools admitted for demonstration tours in the United States; drilling equipment temporarily attached to a barge for use in underwater digging operations; rigging equipment used in the installation of offshore platforms, not permanently affixed to any vessel, rig or platform; chain saws for pulp or logging operations; diesel tractors for logging operations; television receivers for showing methods of installation and servicing; portable transmitter-receivers for broadcasting from an aircraft; photographic plates for cosmic ray studies; and foreign-origin cinematography equipment intended for use in the production of motion pictures. *Id.*

You state that the facts at issue are similar to scenario #1 of HQ 222651, dated January 7, 1991, insofar as a machine entering the United States from Canada is used to perform onsite functions at a facility in the United States and returns to Canada. HQ 222651 concerned a mobile shredding unit that was transported from Canada into the United States for use at locations where document shredding was performed and then returned to Canada. CBP held that the mobile shredding unit may temporarily be brought into the United States under subheading 9813.00.50, HTSUS, to perform shredding services, provided that the conditions in that subheading, in U.S. Note 1(a) and (b) of Subchapter XIII, HTSUS, and in 19 C.F.R. 10.31-10.41 were met and that the mobile shredding unit was intended for use by the nonresident making entry or for use under his or her supervision.

We agree that the bottling, washing, and disgorging machine at issue is professional equipment and tools of trade necessary for the nonresident to perform a specific task and thus falls within the scope of subheading 9813.00.50, HTSUS, provided the conditions in U.S. Note 1(a) and (b) of Subchapter XIII, HTSUS, are met. We note that CBP has consistently held that entry under subheading 9813.00.50, HTSUS, is personal to the nonresident, is nontransferable, and terminates when the nonresident ceases to use the imported merchandise. See, e.g. HQ 225808, dated May 9, 1995; and HQ 223970, dated September 22, 1992.

II. Subheading 9801.00.10, HTSUS

Section 904(b) of the Trade Facilitation and Trade Enforcement Act of 2015 (Pub. L. 114-125, February 24, 2016) amended subheading 9801.00.10, HTSUS, to include any products which are returned within 3 years after having been exported.

Previously, subheading 9801.00.10, HTSUS, only applied to products of the United States. Subheading 9801.00.10, HTSUS, now provides for the duty-free treatment of:

Products of the United States when returned after having been exported, or any other products when returned within 3 years after having been exported, without having been advanced in value or improved in condition by any process of manufacture or other means while abroad.

Section 10.1, U.S. Customs and Border Protection (“CBP”) Regulations (19 C.F.R. § 10.1) sets forth the documentary requirements for entry under subheading 9801.00.10, HTSUS. We note that CBP has not yet amended the regulations to implement the change to subheading 9801.00.10, HTSUS. Nonetheless, 19 C.F.R. § 10.1(a)(1) requires the foreign shipper to declare the following information with regard to articles in a shipment valued over \$2,500: the port of exportation, the date of exportation, the quantity, the description of the merchandise, the value of the merchandise, the date of the declaration, and whether the articles were returned without having been advanced in value or improved in condition by any process of manufacture or other means. In addition, the documentation is to be filed “in connection with the entry.”

19 C.F.R. § 10.1(a)(2), requires the owner, importer, consignee, or agent having knowledge of the facts regarding the claim for free entry to declare that the foreign shipper’s statement is true, and, that the articles were not manufactured or produced in the United States under subheading 9813.00.05, HTSUS, and that the articles were exported from the United States without benefit of drawback. The information required also pertains to the name of the manufacturer, the location of the manufacturer, and the date of the declaration.

Further, 19 C.F.R. § 10.1(a)(d) provides that if the Center Director is reasonably satisfied, because of the nature of the articles or production of other evidence, that the articles are imported in circumstances meeting the requirements of subheading 9801.00.10, HTSUS, the Center Director may waive the requirements for producing the documents specified in 19 C.F.R. § 10.1(a).

As previously noted, the bottling, washing, and disgorging machine at issue will be used in wineries in Canada and the United States several times a year as need arises. Accordingly, there will be multiple border crossings between the United States and Canada. The machine at issue would be eligible for duty-free treatment under subheading 9801.00.10, HTSUS, if is returned to the United States from Canada within 3 years and is not advanced in value or improved in condition while in Canada, provided the documentary requirements of 19 C.F.R. § 10.1 are satisfied. We note that while the documents listed in 19 C.F.R. § 10.1(a) are required, it is ultimately within the discretion of the Center Director whether he or she is reasonably satisfied that the evidence presented substantiates the importer’s claim that the goods are products of the United States. Further, we note that duty must be paid upon the initial importation of the machine into the United States.

III. Method of Appraisalment

Merchandise imported into the United States is appraised in accordance with Section 402 of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (TAA; 19 U.S.C. § 1401a). The primary method of appraisalment is transaction value, which is defined as “the price actually paid or payable for the merchandise when sold for exportation to the United States,” plus amounts for certain statutorily enumerated additions to the extent not otherwise included in the price actually paid or payable. See 19 U.S.C. § 1401a(b)(1).

The imported bottling, bottle washing, and disgorging machine will not be sold for exportation to the United States. Since there is no sale for exportation to the United States, transaction value is not applicable. When imported merchandise cannot be appraised on the basis of transaction value, it is appraised in accordance with the remaining methods of valuation, applied in sequential order. The next basis of appraisalment is the transaction value of identical or similar merchandise; however, there is no information regarding sales of identical or similar merchandise and this method is therefore inapplicable. Deductive value is the next applicable method of appraisalment; but as the machine will be imported into the United States to be used by your client, and as deductive value requires a sale in the United States, this method is also not applicable. Similarly, computed value is inapplicable since there is no information relating to the cost of production.

When merchandise cannot be appraised under the methods set forth in 19 U.S.C. § 1401a(b)-(e), its value is to be determined in accordance with the “fallback” method of 19 U.S.C. § 1401a(f). This method provides that merchandise should be appraised on the basis of a value derived from one of the prior methods reasonably adjusted to arrive at a value. However, there are certain prohibited bases of appraisalment under 19 U.S.C. § 1401a(f). For example, merchandise may not be appraised on the basis of the price in the domestic market of the country of export, the selling price in the United States of merchandise produced in the U.S., minimum values, or arbitrary or fictitious values. 19 U.S.C. § 1401a(f).

Nevertheless, under section 500 of the Tariff Act of 1930, as amended, which sets forth CBP’s general appraisalment authority, the appraising officer may:

Fix the final appraisalment of merchandise by ascertaining or estimating the value thereof, under section 1401a of this title, by all reasonable ways and means in his power, any statement of cost or costs of production in any invoice, affidavit, declaration, or other document to the contrary notwithstanding...

19 U.S.C. § 1500(a).

In this regard, the SAA, which forms part of the legislative history of the TAA, provides in pertinent part:

Section 500 allows Customs to consider the best evidence available in appraising merchandise. It allows Customs to consider the contract between the buyer and seller, if available, when the information contained in the invoice is either deficient or is known to contain inaccurate figures or calculations.... Section 500 authorize [sic] the appraising officer to weigh the nature of the evidence before him in appraising the imported merchandise. This could be the invoice, the contract between the parties, or even the recordkeeping of either of the parties to the contract.

In those transactions where no accurate invoice or other documentation is available, and the importer is unable, or refuses, to provide such information, then reasonable ways and means will be used to determine the appropriate value, using whatever evidence is available, again within the constraints of section 402.

Statement of Administrative Action, H.R. Doc. No. 153, 96 Cong., 1st Sess., pt 2, reprinted in, Department of the Treasury, Customs Valuation under the Trade Agreements Act of 1979 (October 1981), at 67.

Section 152.107 of the CBP regulations (19 C.F.R. § 152.107) provides:

(a) Reasonable adjustments. If the value of imported merchandise cannot be determined or otherwise used for the purposes of this subpart, the imported merchandise will be appraised on the basis of a value derived from the methods set forth in §§ 152.103 through 152.106, reasonably adjusted to the extent necessary to arrive at a value. Only information available in the United States will be used.

(b) Identical merchandise or similar merchandise. The requirement that identical merchandise, or similar merchandise, should be exported at or about the same time of exportation as the merchandise being appraised may be interpreted flexibly. Identical merchandise in any country other than the country of exportation or production of the merchandise being appraised may be the basis for customs valuation. Customs values of identical merchandise, or similar merchandise, already determined on the basis of deductive value or computed value may be used.

(c) Deductive value. The “90 days” requirement for the sale of merchandise referred to in § 152.105(c) may be administered flexibly.

You state that the wine bottling, bottle washing and disgorging machine is a used machine that was originally purchased in 2015, delivered to Canada in 2016, and its components were assembled in early 2017. You claim that the machine should be appraised based on the depreciated value over 7 years. In prior rulings, we have held that under the fallback method, the original purchase price of imported merchandise

may be adjusted downward to reflect depreciation for the time period the merchandise was used abroad. See HQ H288062, dated September 5, 2017. Similarly, in this case, the method for appraisement based on adjusting the original purchase price to reflect reasonable depreciation for the 7-year period that the machine was used is acceptable as a fallback method pursuant to 19 U.S.C. § 1401a(f) provided it is in accordance with generally accepted accounting principles (“GAAP”).

HOLDING:

The bottling, washing, and disgorging machine is eligible for preferential tariff treatment under subheading 9813.00.50, HTSUS.

The bottling, washing, and disgorging machine is eligible for duty-free treatment under subheading 9801.00.10, HTSUS, if reimported into the United States within 3 years and is not advanced in value or improved in condition while in Canada, provided the documentary requirements of 19 C.F.R. § 10.1 are satisfied.

The bottling, washing, and disgorging machine may be appraised under the fallback method pursuant to 19 U.S.C. § 1401a(f) based on adjusting the original purchase price to reflect reasonable depreciation for the 7-year period it was used provided it is in accordance with GAAP.

Please note that 19 C.F.R. § 177.9(b)(1) provides that “[e]ach ruling letter is issued on the assumption that all of the information furnished in connection with the ruling request and incorporated in the ruling letter, either directly, by reference, or by implication, is accurate and complete in every material respect. The application of a ruling letter by a Customs Service field office to the transaction to which it is purported to relate is subject to the verification of the facts incorporated in the ruling letter, a comparison of the transaction described therein to the actual transaction, and the satisfaction of any conditions on which the ruling was based.”

A copy of this ruling letter should be attached to the entry documents filed at the time this merchandise is entered. If the documents have been filed without a copy, this ruling should be brought to the attention of the CBP officer handling the transaction.

Sincerely,

Monika R. Brenner, Chief
Valuation and Special Programs Branch