



TaxNewsFlash

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U.S. guidance on claiming tax credits, reduced tax rates (imported spirits, beer, wine)

U.S. Customs and Border Protection (CBP) today announced the issuance of new procedures and guidance that revises previously issued CBP guidance concerning certain provisions under the part of the new U.S. tax law known as the “Craft Beverage Modernization and Tax Reform Act of 2017” (CBMA).

Background

The CBMA is part of the new U.S. tax law (Pub. L. No. 115-97) enacted December 22, 2017. The provisions of the CBMA are effective for two years, during calendar years 2018 and 2019.

Under the CBMA, reduced tax rates and/or tax credits are available for imports of certain limited quantities of distilled spirits, beer or wine imported from each foreign producer or “assigning entity.”

The assignments of tax credits or reduced tax rates by the foreign producer or assigning entity to all importers may not exceed the quantities allowed by law. Thus, for an importer to be eligible to receive a reduced tax rate or a tax credit, the importer must substantiate that the foreign producer or assigning entity has assigned an allotment of its reduced tax rate or tax credits to the distilled spirits, beer or wine imported by that importer.

CBP guidance

Today’s CBP guidance—[CSMS #18-00609](#)—addresses the foreign assignment aspect of CBMA for 2018 entries, and states that CBP will issue, at a later date, information about 2019 entries as well as separate procedures and requirements addressing the CBMA’s temporary changes to the tax classification of certain wines—including wines containing more than 14% but not more than 16% alcohol by volume.

Today's CBP release sets forth instructions and procedures including the following:

- Importers are not to use the CBMA flag to identify entry lines to which such tax classification changes apply.
- Instead, the CBMA flag is to be used to identify entry lines for which the importer has received a CBMA assignment from a foreign producer or assigning entity and for which the CBMA rate is claimed.
- Importers claiming a reduced tax rate or tax rate incorporating applicable tax credits (under the CBMA) are to do so at the time of entry summary.
- Importers are to use the CBMA flag to identify entry lines for which the CBMA rate is claimed and declare the lower tax rate (as opposed to the excise tax rate required prior to the enactment of the CBMA).
- Importers are only to use the CBMA flag when claiming the CBMA rate, whether at the time of entry summary filing or the filing of a post summary correction (PSC).
- For entries filed since January 1, 2018, and that have not liquidated and for which the importer wants to make a CBMA claim, effective immediately: (1) if not flagged, importers need to file a PSC with the CBMA flag and the CBMA rate; but (2) if flagged but the CBMA rate has not been claimed, importers need to file another PSC with the CBMA rate and the CBMA flag.
- For those importers that have liquidated entries for which they would like to claim the CBMA rate, the importer may file a protest. Importers filing protests claiming the CBMA rate need to identify "CBMA" in the protest issue dropdown.
- For any entries filed since January 1, 2018, for which the low excise tax rate was claimed, importers must complete the CBMA claim by flagging the entry immediately via PSC, and submitting the substantiating documents prior to CBP review and liquidation. PSC is the mechanism for submitting CBMA claims in this situation if within the PSC timeframe.
- Importers are required to file documentation to complete their CBMA claim, and the documentation must be filed at the time of entry summary, PSC filing or protest filing.
- Specifics concerning items to be included to complete a CBMA claim are provided.

Today's release states that CBP will process and liquidate claims for entries made in calendar year 2018, beginning January 31, 2019. CBP will begin its review with the oldest entry on file with a CBMA claim and work forward chronologically. CBP cautions that any 2018 CBMA claims that are not substantiated with the required documentation by January 31, 2019, are at risk of being liquidated without the benefit of the CBMA rate. If the importer has a complete and valid claim and the assignment

limit has not been reached at the time of CBP review, CBP will liquidate the entry and apply the CBMA rate.

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