

INTERNAL REVENUE SERVICE

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APR 5, 2001

Dear [REDACTED]

This replies to your March 8, 2001, letter wherein you inquire whether two items you import are subject to the tax on ozone-depleting chemicals (ODCs) imposed by § 4681(a) of the Internal Revenue Code. The items are a camping stool and a camping chair, both of which you import under tariff # 9401.79.0015. You indicate that neither item is made of foam nor has either item any foam in it. Should you require a ruling in this matter, you may submit a specific set of facts to the National Office of the IRS as a ruling request pursuant to Revenue Procedure 2001-1, 2001-1 I.R.B. 1 (copy enclosed). In the meantime, we hope the following general information will be useful to you.

Section 4681(a) imposes a tax on any ODC sold or used by the manufacturer, producer, or importer thereof and any imported taxable product sold or used by the importer thereof.

Section 4682(c) provides that the term "imported taxable product" means any product (other than an ODC) entered into the United States for consumption, use, or warehousing if any ODC was used as material in the manufacture or production of the product.

Section 52.4682-3(b)(1)(i) of the Environmental Tax Regulations provides that, except as provided in § 52.4682-3(b)(2), the term imported taxable product means any product that is entered into the United States for consumption, use, or warehousing, and is listed in the current Imported Products Table (the Table). Part II of the Table lists foam chairs and foam sofas under a Harmonized Tariff Schedule Heading of 9401. Section 52.4682-3(f)(6).

Section 52.4682-3(d)(1) provides that the tax imposed on an imported taxable product is computed by reference to the weight of the ODCs used as materials in the manufacture of the product (ODC weight). The ODC weight of a product includes the weight of ODCs used as materials in the manufacture of any components of the product.

Section 52.4682-3(e)(2) provides that if the importer determines the weight of each ODC used as a material in the manufacture of an imported taxable product and supports that determination with sufficient and reliable information, the ODC weight of the product is the weight so determined (the exact method). Representations by the manufacturer of the product to the importer as to the weight of the ODCs used as materials in the manufacture of the product may be sufficient and reliable information for this purpose. Thus, a letter to the importer signed by the manufacturer may constitute sufficient and reliable information if the letter adequately identifies the product and states the weight of each ODC used as a material in the product's manufacture.

Section 52.4682-3(e)(3)(i) provides that if the ODC weight of an imported taxable product is not determined using the exact method and the current Table specifies an ODC weight for the product, the ODC weight of the product is the Table ODC weight, regardless of what ODCs were used in the manufacture of the product.

If you have any questions about this, please contact the person whose name appears above.

Sincerely,

Associate Chief Counsel
(Passthroughs and Special Industries)

By:

Ruth Hoffman
Senior Technician Reviewer, Branch 8

Enclosure