

## **DUTY DRAWBACK CHANGES: RELIEF FOR THE US AIRLINE, RETAIL, MANUFACTURING, AND PETROLEUM REFINING INDUSTRIES**

**Benefits of H.R. 1756 and 1838 to US Businesses.** By changing the duty drawback laws, these bipartisan bills would: (1) free-up capital for re-investment and employee retention; (2) ease administrative burdens and overhead costs imposed by the current regulatory structure; and (3) increase competitiveness in the global marketplace. Duty drawback is the refund of Federal duties, taxes or fees paid on imports when the same or a commercially interchangeable product is exported. The Tariff Act of 1930 established the duty drawback program.

**H.R. 1756** would provide annual relief to the airline, refining, and other industries by reinstating Congressional intent that drawback can be claimed for all duties, taxes and fees paid on an imported product when later exported.

- 19 USC § 1313(j) allows the refund of “any duty, tax, or fee imposed under Federal law” on imported merchandise that is later exported. For example, when jet fuel is imported and jet fuel is exported (when an airplane undertakes an international flight and carries jet fuel across the US border) drawback of duties paid on the imported jet fuel can be claimed against the exported jet fuel.
- Contrary to Congressional intent, Customs and the Court of Appeals for the Federal Circuit have held that certain Federal duties, taxes and fees (e.g., the Harbor Maintenance Tax) imposed on imports are NOT drawbackable.
- This action establishes dangerous precedent with regard to US industry’s ability to claim drawback of any Federal duties, taxes and fees as set forth by Federal law.

**Section 105 of H.R. 1838** would eliminate millions of dollars in existing contingent liabilities of US businesses for drawback claims already paid out by the US Treasury but not liquidated by Customs.

- By moving millions of dollars from the liability to the asset column of a company’s balance sheet, this would free up tremendous capital for US businesses suffering from the "double hit" of trying to "keep afloat" during the current recession and dealing with the secondary impact of the September 11 catastrophe.
- No time period currently exists for liquidating drawback claims. Thus, they unfairly remain open and subject to challenge by the Customs.
- This unwarranted liability creates the possibility that the claimant will have to reimburse the US Treasury any drawback monies paid several years after the claim was made and the money was paid.
- Section 105 would remove this liability by requiring Customs to liquidate (1) existing drawback claims, and (2) future drawback claims within a reasonable period of time (as the Customs already does for merchandise entered for consumption).

**Section 101 of H.R. 1838** simplifies the current process of filing for duty drawback on returned goods that are re-exported because they (1) do not conform to the specification requested by the importer, or (2) are sold in the U.S. at retail and ultimately returned to the importer for destruction or re-exportation for any reason, such as for a manufacturing defect.

- Many businesses do not file for drawback and lose millions of dollars in refunds that otherwise would be due to them.
- The current process of filing drawback for "returned goods" is overly costly and burdensome.
- This provision would remove antiquated requirements under 19 USC 1313(c) mandating that goods be returned to the custody of Customs in order to claim drawback.
- These changes make good business sense and are consistent with the commercial realities faced by today’s exporting community.