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A Cross-Border Checklist for Small Business

The Canadian Federation of Independent Business, in conjunction with the Canadian Society of Customs Brokers, has recently developed a checklist for cross-border traffic. In addition to some useful tips, the list also provides some web sites that may be of interest to both importers and exporters.



The checklist is available at: <http://www.cfib.ca/borders/6011.pdf>. ▲

AMPS Penalties AMPS Penalties

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Question: *Are AMPS penalties a deductible expense for Income Tax purposes?*

Answer: Maybe. According to paragraph 18(1)(a) of the Income Tax Act, deductions may be made as an outlay or expense provided that they are made "for the purpose of gaining or producing income from the business or property." There is no provision to disallow a fine or penalty from deduction if it could be avoided.

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Certain other criteria apply, so we would recommend that you refer to the bulletin located at: <http://www.cra-adrc.gc.ca/E/pub/tp/it104r3/it104r3-e.html>, or contact an Income Tax office/professional. ▲

reporter

RUSSELL A. FARROW LIMITED
CUSTOMERS • LOGISTICS • SYSTEMS SOLUTIONS • GLOBAL SERVICE

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The Customs Reporter is a quarterly bulletin on Customs and International Trade for the clients of Russell A. Farrow Limited.

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This publication is not intended to provide legal or other professional advice. Readers are asked to contact their local RAF office for advice specific to their needs.



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The Farrow Group Acquires Alberta Custom Brokers



Rick Farrow, President and C.E.O., recently announced the acquisition of Alberta Custom Brokers, of Edmonton Alberta, by Russell A. Farrow Limited, the Canadian brokerage division of the Farrow Group of Companies effective February 3rd, 2003.

Alberta Custom Brokers is an independently owned Alberta based customs broker, whose staff includes four licensed brokers. Dave Black has been the sole owner for the past six years. Dave will continue with Russell A. Farrow Limited for at least two more years. All the Alberta Customs Brokers' management and staff will be relocated to Russell A. Farrow Limited offices at Scotia Place.

Russell A. Farrow Limited has been active in western Canada, Alberta in particular, since 1988. In 2002, its U.S. company, Russell A. Farrow (U.S.) Inc., opened an office in Sweetgrass, MT, to further serve Canada/U.S. trade.

Russell A. Farrow Limited is a third generation family owned and operated customs brokerage business, headquartered in Windsor, Ontario since its inception in 1911. As the largest independent broker in Canada with offices in 25 locations throughout North America, Russell A. Farrow Limited employs in excess of 450 professional staff

serving approximately 4,500 clients in Canada and the U.S. Russell A. Farrow Limited remits approximately \$1 billion annually to the Canadian and U.S. customs agencies on behalf of these clients.

In addition to customs brokerage for Canadian importers, the Farrow Group of companies provides other international trade services as follows:

- Russell A. Farrow (U.S.) Inc. - U.S. customs brokerage services
- RAF Express - delivers expedited delivery services between Detroit, Michigan and Windsor; also in the Toronto area
- Farrow International - logistics and transportation services for all modes of transport including ocean and air
- canadaplus.com® provides cutting edge supply chain management.

Rick Farrow stated, "This purchase is part of our ongoing corporate strategy to grow by acquisition and cross-sell related services to our valued clients. Acquiring Alberta Custom Brokers continues our commitment to expand and grow our Western Canada operations." ▲



Russell A. Farrow (U.S.) Inc. Achieves C-TPAT Certification!

We are pleased to announce that Russell A. Farrow (U.S.) Inc. has been confirmed as a Certified Member of the U.S. Customs department's Customs-Trade Partnership Against Terrorism (C-TPAT) program.

The C-TPAT program contributes to the security of our borders and to the continued free flow of international trade.

As you are no doubt aware, Border Security is the highest priority and being a member of the C-TPAT program gives Russell A. Farrow (U.S.) Inc., and our clients a competitive edge over non-participants. Certification in the C-TPAT program is required in order for importers and carriers to participate in advanced release programs in the future. Certification in C-TPAT should result in our customers moving freight through the border more quickly. ▲



Strawman Proposals

U.S. Customs has conducted a number of public hearings with regard to their proposal to require advanced electronic shipment information. The proposals will affect air, truck, rail, and sea cargo both outbound and inbound and are in response to the Trade Act of 2002.

The intent is to ensure that U.S. Customs receives advanced electronic cargo manifest information prior to goods being loaded on whatever conveyance. In the case of truck freight destined to the United States the information will be needed four hours prior to lading, while air freight will require eight hours advance notice for courier shipments and twelve hours for other shipments. This is an extension to the twenty-four hour rule that is currently in place for sea cargo.

The electronic manifest information for truck freight will have to be transmitted via the Automated Commercial

Environment (ACE). Participating companies will need to be capable of transmitting the information within ninety days of a Port of Entry being officially up and running. There will eventually be two forms of release – expedited and standard. In the meantime, those companies that process cargo through the Pre-Arrival Processing System (PAPS), employ pre-approved drivers and are only carrying goods from C-TPAT (Customs-Trade Partnership Against Terrorism) importers will be accorded the expedited processing. Should both C-TPAT and non-CTPAT importer goods be on a truck, then that vehicle will not be entitled to expedited processing.

In a similar manner, air freight information will have to be transmitted via the Air Automated Manifest System (AAMS). Deconsolidators, freight forwarders, etc. would have the option of securing a Customs bond and transmitting house air waybill information

directly via AAMS or they will be required to furnish the actual importing carrier with all the necessary information. All air carriers having direct arrivals at U.S. ports will be required to take part in the AAMS.

Mandatory manifest information for goods being exported from the United States will be increased. And in the case of both highway and air traffic, the advance information must be transmitted and accepted by AES at least twenty-four hours before lading.

Needless to say, these proposed regulations sparked a lot of discussion. The deadline for comments was February 18, 2003. Additional information regarding the Trade Act of 2002 can be obtained at U.S. Customs web site:

<http://www.customs.gov>.

As we go to press, industry and trade are proposing much shorter pre-notice windows, i.e. 30 minutes to 2 hours. ▲

Canadian Food Inspection Agency

The CFIA will now allow import permits for low-risk plant material to be valid for more than one supplier provided the goods are supplied from the same country or U.S. state. The new procedure is similar to the one that applies to root crops which was instituted in February, 2002. Applications for low-risk plant material will have to be submitted for each country or U.S. state of propagation. No refunds will be granted if a person inadvertently applies for more permits than are necessary.

Additional information may be obtained at the CFIA web site at:
<http://www.inspection.gc.ca/english/plaveg/internat/internat.shtml>.

The CFIA has also revised the regulations governing the importation of wood and wood products. The policy, now numbered D-02-12, is available at:
<http://www.inspection.gc.ca/english/plaveg/protection/dir/d-02-12e.shtml>.

In addition to the changes made to the Plant Health import permit requirements (see above) and to treatment measures, several new commodities have been added, such as bamboo products, decorative wood items, etc. The regulations became effective on April 1, 2003. ▲

Department of Homeland Security

Through the creation of the Department of Homeland Security, twenty two agencies have been reorganized into five major directorates and some important agencies. The five directorates will consist of Border and Transportation Security (BTS), Emergency Preparedness and Response (EPR), Science and Technology (S&T), Information Analysis and Infrastructure Protection (IAIP) and Management. While the separate agencies will include the United States Coast Guard, United States Secret Service, Bureau of Citizenship and Immigration Services, Office of State and Local Government Coordination and Office of Private Sector Liaison.

The U.S. Customs Service and the border security functions of the Immigration and Naturalization Service will now be handled under Border and Transportation Security. This directorate, the largest, will also include the Transportation Security Administration, Animal & Plant Health Inspection Service and the Federal Law Enforcement Training Center.

Additional information regarding the Department of Homeland Security may be obtained on their web site:
<http://www.dhs.gov/dhspublic>.

Storage Times

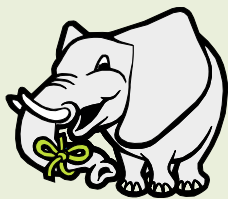
A number of freight companies have established new storage policies that no longer exempt weekends and holidays. All the more reason to request your vendors to ensure their paper work is in order prior to shipping. ▲

AMPS & NAFTA

Reminder

Keep in mind that importers have a responsibility to ensure that the benefits of NAFTA are applied appropriately. If a supplier issues a NAFTA Certificate but sends product that shows evidence of being manufactured in a non-NAFTA country, it is the importer's responsibility to ensure that the benefits of NAFTA are not applied to those goods. If NAFTA has been applied, the importer must ensure that a correction is processed within 90 days.

Example: Goods are imported under NAFTA but are marked "Made in China". The error is noted in the receiving department, but no action is taken. Customs could hold that the importer had "reason to believe" that an error had occurred and apply an AMPS (Administrative Monetary Penalty System) penalty for failure to correct. The penalty for a first offence is \$100.00 or 5.0% of the value; 2nd - \$200.00 or 10.0%; 3rd and subsequent - \$400.00 or 20.0% (Contravention C080). ▲



Shipping Food to the U.S.A.?

The U.S. Food and Drug Administration (FDA), under the 2002 United States' Public Health Security and Bioterrorism Preparedness and Response Act, is required to formulate regulations governing the registration of food facilities, prior notification of imported food, establishment and maintenance of records and setting up of administrative detention.

So far the FDA has addressed two of those concerns, that of registration of food facilities and prior notification of imported food, while information on the establishment and maintenance of records and the administrative detention was expected by the end of March, 2003.

Information on the facilities registration may be obtained at: <http://www.fda.gov/bbs/topics/NEWS/2003/NEW00865.html>. Information regarding the prior notification regulations may be obtained at: <http://www.fda.gov/bbs/topics/NEWS/2003/NEW00866.html>.

In summary the regulations will require any domestic or foreign food facility (subject to certain exemptions) that manufacture, process, pack, or hold food for consumption in the U.S. to register with the FDA.

The registration application, in English, will have to include among other things:

1. Name, full address, phone, fax, e-mail address;
2. Parent company (if applicable);
3. Emergency contact information – including name, title, office number, home number, cell number and e-mail address (as applicable);
4. Any trade names;
5. U.S. Agent for foreign facilities;
6. Some food categories.

The FDA has made the recommendation that applicants apply electronically and currently it is intended that there be no fee for registering.

The prior notification of food shipments must be submitted by the U.S. purchaser, U.S. importer or their qualified U.S. agent. The information may be submitted up to five days prior to the arrival at a U.S. port but no later than noon on the calendar day before the food arrives at the specified port of entry. In addition, amendments will be required if the port, date or time of arrival is changed. Amendments will not be accepted for a change in the nature of the food article.

While the foregoing are still proposed regulations that are not intended to take effect until December 12, 2003 and may be modified in the interim, we recommend that businesses importing or exporting foodstuffs to the United States become familiar with these new regulations. ▲



Importing Pre-Packaged Foods?

New regulations came into force on January 1, 2003 with regard to the nutrient labeling, content and health claims of pre-packaged foods. A transition period is in place until January 1, 2006 however, should a company wish to take advantage of one of the new content or health claims then all the new labeling requirements will apply. For more information, please contact your nearest CFIA (Canadian Food Inspection Agency) office. ▲

Nutrition Information Nutritionnelle	
Per/Par 354 ml serving/portion (1 bottle/bouteille)	
Energy/Énergie	57 Cal/240 kJ
Protein/Protéines	1.6 g
Fat/Matières Grasses	0.3 g
Carbohydrates/Glucides	14 g
Sodium	910 mg
Potassium	436 mg
Percentage of recommended daily intake / Pourcentage de l'apport quotidien recommandé	

Nutrition Information Nutritionnelle	
PER 200 mL SERVING / PAR PORTION DE 200 mL	
ENERGY / ÉNERGIE	96 Cal/400 kJ
PROTEIN / PROTÉINES	0 g
FAT / MATIÈRES GRASSES	0 g
CARBOHYDRATE / GLUCIDES	24 g
SODIUM	
POTASSIUM	