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Excise Act, 2001

The new Excise Act, 2001 came into effect on July 1, 2003. Among other things, importers and provincial liquor jurisdictions will no longer be able to store imported spirits and wine in a customs bonded warehouse. Only two options are available:

- 1) Pay all customs duties, GST and excise taxes or
- 2) Pay customs duties and GST and remove the goods to an excise warehouse in order to defer the payment of excise duty.

For full details visit:
http://www.parl.gc.ca/37/1/parlbus/chambus/house/bills/government/C-47/C-47_3/C-47_cover-E.html. ▲



reporter

customs

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

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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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Russell A Farrow (U.S.) Inc. Acquires Ameri-Can Customhouse Brokers

Rick Farrow, President and C.E.O. of Russell A. Farrow Limited, recently announced the acquisition of Ameri-Can Customhouse Brokers of Amherst NY. Ameri-Can, a U.S. customs broker will soon merge operations with Russell A. Farrow (U.S.) Inc., headquartered in Taylor, MI. In addition to customs brokerage services, Ameri-Can provides warehousing services and a trucking service between Buffalo NY and Toronto ON. This merger will compliment Russell A. Farrow (U.S.) Inc. branch offices in Lewiston NY (Queenston/Lewiston Bridge), Buffalo NY (Peace Bridge), Detroit MI (Ambassador Bridge), Port Huron MI (Blue Water Bridge), and Sweetgrass MT.

In making the announcement, Rick Farrow indicated that the acquisition effectively doubles the size of the U.S. division, and enables Russell A. Farrow (U.S.) Inc. to offer expanded and improved services to its U.S. clients owing to the synergies that will be realized. This acquisition also provides access to additional eastern seaboard clients, continuing the strategy of developing our coverage along the 49th parallel, the so-called U.S. Northern Border.

Rick Farrow also stated, "We are extremely pleased to acquire another family owned and operated brokerage business. Both families built their businesses with similar operating philosophies, namely; providing outstanding personalized service to our



Jack Nocera, owner of Ameri-Can, with client Steve Cashmore, of ESP Wholesale.

customers, while providing long term stability for, and investing in the expertise of our staff".

Ameri-Can Customhouse Brokers was a family owned and operated brokerage business, consisting of approximately forty-five staff operating from seven offices. The addition of the Nocera family and their qualified and experienced staff to the existing Farrow resources will result in a more effective and greatly enhanced level of service to the U.S. operation.

Established in 1911, Russell A. Farrow Limited is the largest independent and privately (family) owned customs brokerage firm in Canada operating under the direction of President and C.E.O. Rick, his brother John, Executive Vice-President and their father, Huntley J. Farrow, Chairman of the Board. The company takes pride in being a

winner of the Windsor Chamber of Commerce Business Excellence Award (2002), ISO 9001:2000 Certified at the Ayr facility and being actively involved with the community through its commitment to Habitat for Humanity and the United Way.

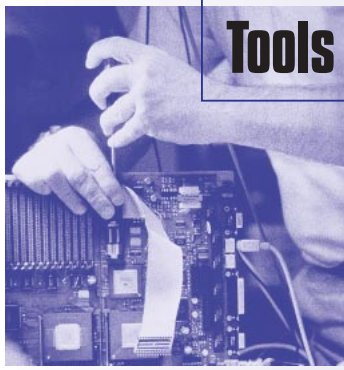
With this acquisition, Farrow companies now employ over four hundred and seventy-five employees, some four hundred in Canada, and approximately seventy-five in the U.S. The Canadian division is headquartered in Windsor, with four regional centres in Toronto, Ayr (near Kitchener/Cambridge) and Windsor, Ontario, and Edmonton, Alberta. Branch offices are located in Ontario at Fort Erie, Niagara Falls, Kitchener, Sarnia, Windsor (2), Toronto International Airport, and at Montreal QC, Calgary AB, Coutts AB, Edmonton Airport AB, Pacific Highway BC, Delta BC and Vancouver BC. ▲

Reminder

Beginning on December 12, 2003 the Food and Drug Administration in the United States will require advance notice of any shipments of food being imported. Please contact your nearest Russell A. Farrow U.S. Inc. office for details or visit the FDA web site at: <http://www.fda.gov/oc/bioterrorism/bioact.html>. ▲

Ultimate Consignee IRS Number Required for Imports to the United States

The Bureau of Customs and Border Protection in the United States will soon require (est. November 2003) the Internal Revenue Service (IRS) Employer Identification or Social Security number for the ultimate consignee on formal and informal entries. Generally speaking, only non-U.S. importers will be allowed to use a Customs assigned number. In order to avoid clearance delays, please ensure your export documents from Canada to the United States includes this information. ▲



Tools of the Trade

Canadian companies sometimes have service contracts in place with foreign suppliers. In those cases where a service call is listed in the original purchase agreement, Immigration will generally waive the work permit requirements.

However, the original purchase agreement must be available upon request. If the service call is not part of the purchase agreement then a work permit is required.

Tools of the trade that are being imported by a service representative are allowed proportional (1/60th provision of item 10 of D8-1-1) relief only in the instance that the repair, installation, erection, or maintenance is being done on machinery/equipment that the representative's own company manufactured or produced. The only exception to this is if the manufacturer/producer of the machinery/equipment makes it their normal practice to hire the service representative in their own home market for the same services.

Temporary importation relief is not allowed for tools of the trade in any other case. ▲

Common Errors to GST Returns

Commodity Tax News has provided a list of common mistakes found during the course of sales tax audits. The list was presented during a seminar held in conjunction with the Southern Ontario Commodity Tax Consultation group.

Some of the most common problems are:

1. Lacking sufficient documentation for an input tax credit claim. At the least the claims should include: a) vendor's and purchaser's name or trading name, b) total amount paid or payable, c) GST amount charged or a statement that the GST is included in the price, d) vendor's GST number on the invoice/contract/receipt, e) description of supply/supplies.
2. Input tax credit restrictions on passenger vehicles, meals and entertainment expenses and personal expenses.
3. Exports require the invoice or purchase document, transportation document, import evidence from destination, customs broker/freight forwarder invoice and any other externally generated documents.
4. Inter-company transactions require a valid election form GST25 on file or GST is payable.
5. Accounting errors including claiming PST incorrectly on GST returns, year to date balances instead of current period, calculation of exchange rates, transposition errors and other clerical errors. ▲

Niagara Region to Receive Infrastructure Funding

In May, Transport Minister David Collenette announced significant funding for the Queenston-Lewiston and Peace Bridges.

The Queenston-Lewiston bridge in Niagara Falls will be expanded to include a fifth lane which is intended to be dedicated to trucks that are part of the pre-processed programs such as FAST (Free and Secure Trade). However, the expansion will allow traffic to be directed in up to four lanes in one direction depending on the circumstances. In conjunction with the bridge expansion there will also be an additional 2.7 kilometre stretch of Highway 405 constructed to accommodate the pre-approved trucks. Construction is scheduled to being on the bridge in 2005-06 and on the highway in 2004.

The Peace bridge in Fort Erie will see toll booths relocated to the Canadian side freeing up space on the U.S. side. In addition, it will receive security enhancements and improved barriers.

The Whirlpool Rapids bridge, also located at Niagara Falls, will be dedicated to NEXUS members effective March 1, 2004. The bridge was closed for renovations starting October 12, 2003. Once it reopens CANPASS holders will no longer be able to use the bridge.

It is expected that enhanced technology will assist in the flow of data between the U.S. and Canada. Since 45% of all Canada's trade with the United States is handled through five Ontario crossings, these improvements will be welcome. ▲

Addition to GPT Countries

Mongolia has been extended the benefits of the General Preferential Tariff.

NAFTA is Almost Ten!

NAFTA was enacted on January 1, 1994 and, at least according to the three member country governments, has been a success. Currently, trade among the three countries represents approximately one third of the world's gross domestic product, making North America the largest free trade area.

The agreement certainly has not been stagnant. Recently, as part of the NAFTA Commission, trade representatives from Canada, Mexico and the United States met in Montreal to further enhance the agreement. Among the items discussed were ways to improve the Chapter 11 dispute settlement process with regard to

investments. In addition, the North American Steel Trade Committee was welcomed as an avenue to promote the North American steel trade market. The NAFTA Trade in Goods Committee was asked to review the Most Favoured Nation tariffs with a view to reduce the export related transaction costs. As well, the NAFTA Rules of Origin Working Group is to pursue liberalization of the rules of origin. The Commission reaffirmed their commitment to support the Free Trade Area of the Americas agreement. For more details visit the NAFTA web site at: <http://www.nafta.gc.ca>. ▲

Cleaning Required

The Canadian Food Inspection Agency has published a clarification regarding the prohibition of soil and related matter. Directive D95-26 requires that vehicles, used equipment, stone and other commodities must be free of soil prior to arrival in Canada.

While D-95-26 allows for some contingencies for wash facilities in Canada, they are intended for minor contamination. In general if goods arrive contaminated with soil, or if an importer repeatedly imports goods that are not sufficiently cleaned then the shipments will be refused entry and removal will be at the expense of the person in care, control or possession of the goods.

For complete details please visit the CFIA web site at: <http://www.inspection.gc.ca/english/plaveg/protect/dir/d-95-26e.shtml>. ▲

CITT Versus HSC – What Takes Precedence?

The tariff classification of battery packs for cell phones in Canada differs from that of the Compendium of Classification Opinions. The Canadian International Trade Tribunal (CITT) ruled that battery packs for cell phones were classified under tariff item 8529.90.99 as other parts suitable for use solely or principally with the apparatus of headings 85.25 to 85.28. The Harmonized System Committee (HSC) determined that these types of battery packs are correctly classified under subheading 8507.30 as nickel-cadmium electric accumulators and incorporated this decision in the Compendium of Classification Opinions.

In Canada, the CITT decision stands because under the International Convention on the Harmonized Commodity Description and Coding Systems there is no provision that requires a contracting party to adopt the classification decisions of the HSC. Under the provisions of the Customs Act, the Canada Customs and Revenue Agency is obliged to give credence to the decisions of the CITT, Federal Court of Canada or the Supreme Court of Canada. In this instance because the CITT decision was not appealed to a higher court, it takes precedence over the opinions of the World Customs Organization Harmonized System Committee. ▲

Tariff Classification Advance Rulings

Requesting advance rulings for tariff classification from Canada Customs and Revenue Agency is no longer done under the National Customs Rulings (NCR) program. The CCRA has introduced the Tariff Classification Advance Ruling (TCAR) program, which differs in some ways from the tariff rulings determined under the NCR program.

One of the main differences is the ability to appeal the decision. Under the NCR program tariff classification appeals were only considered on an actual entry. Under the new system a TCAR may

be appealed within 90 days. In addition, non-resident exporters and producers will now be able to apply for a TCAR as well as importers and their authorized agents. In the case of rulings that may set a precedent the CCRA may publish the determination in the D-memos or in some other manner, for example on the Internet and will identify the goods in questions by brand name and model numbers.

Therefore, before requesting an advance tariff classification ruling the parties involved should consider that it will still be binding, though subject to appeal, and may be made public thereby eliminating any competitive advantage that might be applicable – it may also level the playing field. ▲

Marine Mode to Begin Advance Commercial Information

On April 19, 2004 marine carriers or their agents will be expected to transmit cargo and conveyance data at least 24 hours prior to lading the goods, with the exception of bulk goods. Information on bulk goods will be required 24 hours in advance of the arrival of the ship in Canada.

General descriptions will not be accepted, such as "freight of all kinds", "general merchandise", "said to contain", "shipper's load and count" etc. In addition, marine shipments will require information transmitted regarding the carrier name, carrier code, ports of call, names of importers and shippers and whether any are members of Partners in Protection as well as the source, identity and means of the packaging or bundling of the goods to name a few.

If you receive marine cargo, it will be in your best interests to ensure that your suppliers provide detailed information on any bills of lading/manifests that they may be preparing.

This program will be expanded to include other modes of transportation e.g. rail, air and highway in the future so this is just the beginning. ▲

Asian Longhorned Beetle

The Canadian Food Inspection Agency has confirmed the presence of the Asian Longhorned Beetle in Woodbridge, Ontario. A possible infestation has been a concern for a number of years, see Customs Reporter Winter 1998-1999.

The CFIA implemented import policies to regulate wood packaging and wood products to help reduce the risk associated with these items. In addition, the CFIA supports the adoption of the international standard concerning health risks associated with wood created by the International Plant Protection Convention.

For additional information please refer to the Customs Reporter issues of Summer 2000, Spring 2001 and Fall 2001 or visit CFIA's web site at: <http://www.inspection.gc.ca>. ▲

