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Trade Facilitation and Trade Enforcement Act of 2015

The De Minimis Value Exemption – Frequently Asked Questions (FAQs)

Background: On February 24, 2016, President Obama signed into law P.L. 114-125, the Trade Facilitation and Trade Enforcement Act of 2015, strengthening the capabilities of the U.S. Customs and Border Protection (CBP) to enforce U.S. trade laws and regulations, streamline and facilitate the movement of legitimate trade, and interdict non-compliant trade. The Act of 2015 included an amendment of Section 321 of the Tariff Act of 1930, as amended (19 U.S.C. § 1321) to **increase the de minimis value exemption from duties and taxes from \$200 to \$800**, which CBP implemented on March, 10, 2016.

Q. Can CBP provide specific guidance on what is permissible under Section 321, and identify which Partner Government Agencies (PGAs) allow Section 321, and which do not?

A. CBP is currently waiting for the PGAs to define their requirements.

Q. Do brokers now have the ability to file a Section 321 electronically via the Automated Broker Interface (ABI)/ Remote Location Filing (RLF) as a result of the new legislation?

A. Section 321 shipments are released via ACE Air Manifest for express carriers, or the entry can be filed manually. There is no Section 321 entry type that can be filed in ABI.

Q. Some companies process manual Section 321 entries because they are not an express carrier. Are those companies allowed to process the manual entries with a value up to \$800?

A. Yes, the Trade Enforcement and Trade Facilitation Act of 2015 resulted in an increase in the de minimis value exemption (i.e., Section 321) from \$200 to \$800.

Q. Are the Automated Commercial Environment (ACE) program updates that are needed for the new de minimis value increase complete?

A. The program updates to the ACE certification, to include Section 321 (see below) are complete. The trade community may now process using the de minimis value change.

Q. Does the implementation of the de minimis value increase impact whether or not Harmonized System codes are needed since a Section 321 entry may not be used? Does the involvement of other government agencies (e.g., the United States Department of Agriculture) regulating certain products have any impacts on requirements?

A. No requirements have been changed.

Q. Is the de minimis value exemption a change in the law of Section 321, or just a programming change?

A. The de minimis value increase is a change in law that resulted in a subsequent change in programming.

Q. Is the trade community permitted to file Section 321 entries on PGA merchandises as well, like the Food and Drug Administration (FDA), Lacey Act, Federal Communications Commission (FCC) shipments?

A. At this time, no requirements or restrictions have changed. If these shipments were cleared when the level was \$200 or less, then they can be cleared at \$800 or less. FDA exemptions are provided in ABI Administrative message 94-1260. USDA requires Lacey Act filing only for formal entries [https://www.aphis.usda.gov/plant_health/lacey_act/downloads/faq.pdf]. All other PGA's are expected to clearly define requirements for commodities under their regulatory scope. As of July 1, FCC no longer requires data when shipments the agency regulates are imported. From an automation viewpoint, the optimum capability is a stand-alone PGA release in ABI that will allow filing of Section 321 and a separate filing for PGA data.



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Q. For the air/ocean environment, in ACE, will Section 321 entries be released via document submittal through the Document Imaging System (DIS), or will we transmit and receive a “98 release” message as with the other entry types?

A. Section 321 shipments are released via ACE Air Manifest for express carriers. Truck carriers and air carriers also have the ability to file Section 321 via the manifest. Non-courier air carriers use the master manifest from the airline, which does not include the house bill level. CBP will develop an ABI functionality in ACE for clearance of low-value shipments. [CBP should comment on whether 321 entries submitted manually can be submitted through DIS.]

Q. Does the new legislation affect entries of clients that are multi-consignee loads, if filed in the ABI?

A. As was the case prior to the legislation, multi-consignee loads of shipments (the same shipper sending to multiple consignees) under the de minimis level can be released under Section 321 procedures via ACE Air Manifest for express carriers and also by truck and air carriers via the manifest. CBP will develop an ABI functionality in ACE for clearance of low-value shipments.

Q. Does the change in the de minimis value exemption impact the requirement for a formal entry?

A. At this time the requirements and restrictions have not changed. PGAs have not yet formally provided requirements or restrictions for their related cargo clearances. After the Interim Final Rule (IFR) comment period concludes, the PGA requirements will be compiled and mandated.

Q. Is there a way to file a Section 321 entry in ACE, and transmit it in ABI? If so, can I find notice or instruction on how these entries are done in ACE?

A. No, not at this time. Section 321 shipments are released via manifest by air and truck carriers or manually in other modes. No entry can be posted to specifically release a Section 321 shipment via ABI.

Q. Has the trade community been informed about the changes to Section 321?

A. Yes, below are links to both Cargo Systems Messaging Service (CSMS) messages and CBP’s press release, announcing the change.

- [ACE Certification De Minimis Value Increase to \\$800: CSMS # 16-000170](#)
- [ACE Production De Minimis Value Increase to \\$800: CSMS # 16-000180](#)
- [CBP Press Release: De Minimis Value Increases to \\$800](#)

Q. When will CBP have an ABI Entry Type 86 (or similar functionality) available in ACE to be used for low-value clearances?

A. In keeping with the President’s Executive Order on ACE/ITDS, this functionality will be developed as rapidly as programming resources allow.

Q. How will CBP automate for mass posting (bulk release) of manifest releases for all modes/freight locations for Section 321 clearances filed via AMS and ABI?

A. CBP should open ACE Air Manifest clearance filing (CED line) to all interested parties as defined in 19 CFR 143.26(b). CBP envisions programming Section 321 clearance procedures with bulk release capabilities in all modes of transportation and ports via ABI and AMS.

Q. What documentation will the consignee need to retain to support the value of a particular clearance does not exceed the “\$800 aggregate fair retail value in the country of shipment”?



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A. The consignee must retain related financial accounting records [19 CFR 163.1(a)(1)] for a period of two years [19 CFR 163.4(a)(4)]

Q. How is “person” defined?

A. Persons are generally defined as “individuals, partnerships, associations, and corporations)

Q. How will the restriction to “articles imported by one person on one day” be monitored, waived or enforced? How will the restriction against forwarding separate lots of goods covered by a single order or contract be monitored, waived or enforced?

A. The port director may require a formal consumption or appraisal entry for any merchandise if deemed necessary for import admissibility enforcement purposes; revenue protection; or the efficient conduct of customs business. Individual shipments for the same consignee, when such shipments are valued at \$2,500 or less, may be consolidated on one such entry. (19 CFR 143.22)

Q. Does the importer need to post a bond for any low-value admissions?

A. CBP bonds are not specifically required under Sec. 10.151. CBP may require a formal entry including posting of a bond.

Q. Does the \$800 value threshold apply to commercial as well as personal shipments?

A. Yes. Personal shipments are separately provided for in 19 CFR 148.

Q. If commercial shipments are permitted, is there any change to the formal entry requirements for tariff numbers specifically identified as requiring entry?

A. No alcoholic beverages, perfume containing alcohol, cigars, or cigarettes are permitted [19 CFR 10.153(e)] under Section 321. These products require formal entry whether they are commercial or for personal use.