



- **Do the standards of reasonable care and responsible supervision and control both apply to a broker when filing an entry type 86?**

When filing an entry type 86, the broker must exercise responsible supervision and control. The responsible supervision and control standard broadly pertains to all of the customs business conducted by the broker, pursuant to 19 C.F.R. § 111.28(a). Responsible supervision and control is always applicable to brokers filing an entry type 86 because the act of filing an entry on behalf of an owner, purchaser, or consignee, and classifying the merchandise being entered, constitutes customs business.

In addition, for purposes of the Entry Type 86 Test, the reasonable care standard applies in particular when the broker is filing an entry on behalf of a consignee. For this Test, CBP requires that whenever a broker is filing entry on behalf of a consignee, the broker must act as the importer of record. (See [89 Fed. Reg. 2630, 2633. Jan. 16, 2024](#))

- **Is an Importer of Record (IOR) number required when filing an entry type 86?**

For purposes of the Entry Type 86 Test, the IOR number is a conditional data element and is required when the shipment is subject to Partner Government Agency data reporting requirements. (See [89 Fed. Reg. 2630, 2633. Jan. 16, 2024](#))

Regardless of whether an IOR number is required on the entry type 86, a broker must act as the importer of record when filing an entry type 86 on behalf of a consignee.

- **Who has the right to make entry and who may issue the Power of Attorney for an entry type 86?**

Generally, the right to make entry for a shipment eligible for the exemption from duties and taxes that is provided by 19 U.S.C. § 1321(a)(2)(C) is vested with the owner, purchaser, or consignee. 19 C.F.R. §143.26(b). A broker may file an entry type 86 on behalf of any of these three parties only if appropriately “designated.” For purposes of the Entry Type 86 Test, however, a consignee may not file an entry in its own name; it must use a broker to file the entry.

Appropriate designation to file an entry type 86 on behalf of an owner, purchaser, or consignee requires a broker to execute a Power of Attorney (POA) with the relevant party. Pursuant to 19 C.F.R. § 141.46, a broker must obtain a valid POA prior to transacting customs business, such as filing entry, on behalf of another party. The Entry Type 86 Test requires that a customs broker designated to enter a qualifying shipment must be appointed through a valid POA. (See [89 Fed. Reg. 2630, 2633; Jan. 16, 2024](#))



A broker must execute a POA with the party on whose behalf the broker is transacting customs business when filing an entry type 86. However, this party may not be the “person” described in 19 U.S.C. § 1321(a)(2)(C) who qualifies the shipment for the administrative exemption from duty and tax.

For example, where the broker is designated by the carrier, as the nominal consignee, to file the entry, then the broker is filing on behalf of and will obtain a POA from the carrier. In these cases, however, the ultimate consignee (i.e., the party taking final delivery of the shipment, who may be the owner or purchaser of the merchandise) is the “person” qualifying the shipment for the administrative exemption from duty and tax. In such circumstances, the broker is not transacting customs business on behalf of the ultimate consignee, but the carrier as a nominal consignee.

- **Who is the “person” for purposes of the “imported by one person on one day and exempted from the payment of duty” value cap for an entry type 86?**

For purposes of the Entry Type 86 Test, the consignee that is reported on the entry filing is the “person” who qualifies the shipment for the exemption. (See [89 Fed. Reg. 2630, 2633; Jan. 16, 2024](#))

Generally, the “person” who qualifies the shipment as free of duty and tax under 19 U.S.C. § 1321(a)(2)(C), provided that the aggregate fair retail value in the country of shipment does not exceed \$800, may be the owner or purchaser of the merchandise in the shipment or the named consignee. Often, the “person” is the ultimate consignee taking final delivery of the shipment.

- **What is the actionable date in the transaction for the \$800 per person per day parameter?**

The daily \$800 value cap for the exemption is aggregated based on the date of arrival. Pursuant to 19 U.S.C. § 1321(a)(2)(C), eligible shipments “imported by one person on one day” may be exempted from duty and tax. *See also* 19 C.F.R. § 10.151. The “date of importation” is defined by 19 C.F.R. § 101.1 as the date of arrival.

- **Is a broker required to obtain a commercial invoice to support an entry type 86 and, if not, what is the requirement for a merchandise description to support an entry type 86?**

Regardless of whether an entry type 86 is filed for merchandise imported pursuant to purchase or intended for sale, such that a commercial invoice is generated, a broker must have an articulable basis to support the classification and valuation of the merchandise for which an entry type 86 is filed. Accordingly, a broker must be able to identify a basis, such as an invoice or detailed description that was used to classify and value the merchandise for which the broker filed the entry type 86.



**Additional Entry Type 86 Resources**

**Section 321 Programs:** <https://www.cbp.gov/trade/trade-enforcement/tftea/section-321-programs>

**Entry Type 86 Frequently Asked Questions:** <https://www.cbp.gov/trade/trade-enforcement/tftea/section-321-programs/entry-type-86-frequently-asked-questions>

**Entry Type 86/ Section 321 Programs Contact Information:**  
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