

LAW OFFICES OF NITHYA NAGARAJAN, LLC
INTERNATIONAL TRADE LAW AND CONSULTING

TEMPORARY IMPORT BONDS

What is TIB?

TIB stands for Temporary Importation under Bond and is a procedure whereby, under certain conditions, merchandise may be entered -- for a limited time -- into U.S. Custom's territory free of duty. Instead of duty, the importer posts a bond for twice the amount of duty, taxes, etc. that would otherwise be owed on the importation. Under this procedure, the importer agrees to export or destroy the merchandise within a specified time or pay liquidated damages, which are twice the normal duty. Only certain items may be entered as a TIB.

How do you obtain a TIB?

The importer must clear the shipment through Customs either through a Customs' broker or themselves. Prior to clearing the shipment with Customs, the importer should make arrangements in advance to secure a Customs bond in the amount of twice the amount of duties, taxes, etc., that would be owed on the importation. For help in determining the amount of duties that would be owed, counsel for the exporter/importer works in conjunction with the import specialist at the port where your goods will be entering the country.

What are the bond exportation requirements?

Any article imported under the TIB provision must be exported within one year from the date of importation. However, upon application to the director of the port where the entry was filed, this one-year-period for exportation may be extended for further periods, which, when added to the initial one year, shall not exceed a total of three years.

Additionally, in rare cases, relief from liability may be obtained in any case in which the article is destroyed under Customs supervision within the original bond period. However, in the case where articles are destroyed during the course of experiments or tests during the bond period, or any lawful extension, destruction need not be under Customs supervision but satisfactory proof of destruction shall be furnished to the port director with whom customs entry is filed.

Generally, destruction for purposes of satisfying the TIB means destruction as an article of commerce. The article must have no commercial value whatsoever if it is to be considered destroyed.

Goods Eligible for TIB Entry

The only goods that qualify for TIB entry are those listed in subheadings 9813.00.05 through 9813.00.75 of the Harmonized Tariff Schedule of the U.S. (HTSUS).

Merchandise sold in the U.S. for exportation to a foreign purchaser is not considered "imported for sale or sale on approval" within the meaning of the law and are generally eligible for importation under the TIB program. There are 14 separate HTS categories that cover TIB entries, however, the most important of them are entries under HTS *9813.00.05* which cover articles to be repaired, altered or processed (including processes which result in an article's being manufactured or produced in the United States).

Liability Issues

If an article imported under the TIB provision is not exported or destroyed properly as provided by the Customs' regulations, either at the port of entry, or at another port within the period specified or any lawful extension, there is a breach of the bond that subjects the importer to a liability for the payment of liquidated damages equal to double the estimated duties applicable to such entry, unless another amount is prescribed by the port director. In addition to liquidated damages, if the breach is intentional, the importer would also be subject to a penalty.

Generally, an exportation for purposes of satisfying the bond means a severance of the article from the mass of goods belonging to the United States with the intention of uniting it with the mass of goods belonging to some foreign country. This occurs when any bona fide commercial purpose or sale is conducted.

If you have further questions about temporary import bonding requirements, please contact the Law Offices of Nithya Nagarajan, LLC.