

19 U.S.C. 1313 Drawback and Refunds

- (a) **ARTICLES MADE FROM IMPORTED MERCHANDISE.** Upon the exportation or destruction under customs supervision of articles manufactured or produced in the United States with the use of imported merchandise, provided that those articles have not been used prior to such exportation or destruction, the full amount of the duties paid upon the merchandise so used shall be refunded as drawback, less 1 per centum of such duties, except that such duties shall not be so refunded upon the exportation or destruction of flour or by-products produced from imported wheat. Where two or more products result from the manipulation of imported merchandise, the drawback shall be distributed to the several products in accordance with their relative values at the time of separation.
  
- (b) **SUBSTITUTION FOR DRAWBACK PURPOSES.** If imported duty-paid merchandise and any other merchandise (whether imported or domestic) of the same kind and quality are used in the manufacture or production of articles within a period not to exceed three years from the receipt of such imported merchandise by the manufacturer or producer of such article, there shall be allowed upon the exportation, or destruction under customs supervision of any such articles, notwithstanding the fact that none of the imported merchandise may actually have been used in the manufacture or production of the exported or destroyed articles, an amount of drawback equal to that which would have been allowable had the merchandise used therein been imported, but only if those articles have not been used prior to such exportation or destruction; but the total amount of drawback allowed upon the exportation or destruction under customs supervision of such articles, together with the total amount of drawback allowed in respect of such imported merchandise under any other provision of law, shall not exceed 99 per centum of the duty paid on such imported merchandise.
  
- (c) **MERCHANDISE NOT CONFORMING TO SAMPLE OR SPECIFICATIONS.—**
  - (1) **Conditions for drawback.--**Upon the exportation or destruction under the supervision of the Customs Service of articles or merchandise--
    - (A) upon which the duties have been paid,
    - (B) which has been entered or withdrawn for consumption,
    - (C) which is—
      - (i) not conforming to sample or specifications, shipped without the consent of the consignee, or determined to be defective as of the time of importation, or
      - (ii) ultimately sold at retail by the importer, or the person who received the merchandise from the importer under a certificate of delivery, and for any reason returned to and accepted by the importer, or the person who received the merchandise from the importer under a certificate of delivery, and

- (D) which, within 3 years after the date of importation or withdrawal, as applicable, has been exported or destroyed under the supervision of the Customs Service, the full amount of the duties paid upon such merchandise, less 1 percent, shall be refunded as drawback.
- (2) Designation of import entries.--For purposes of paragraph (1)(C)(ii), drawback may be claimed by designating an entry of merchandise that was imported within 1 year before the date of exportation or destruction of the merchandise described in paragraph (1) (A) and (B) under the supervision of the Customs Service. The merchandise designated for drawback must be identified in the import documentation with the same eight-digit classification number and specific product identifier (such as part number, SKU, or product code) as the returned merchandise.
- (3) When drawback certificates not required.--For purposes of this subsection, drawback certificates are not required if the drawback claimant and the importer are the same party, or if the drawback claimant is a drawback successor to the importer as defined in subsection (s)(3).
- (d) **FLAVORING EXTRACTS AND MEDICINAL OR TOILET PREPARATIONS; BOTTLED DISTILLED SPIRITS AND WINES.** Upon the exportation of flavoring extracts, medicinal or toilet preparations (including perfumery) manufactured or produced in the United States in part from domestic alcohol on which an internal-revenue tax has been paid, there shall be allowed a drawback equal in amount to the tax found to have been paid on the alcohol so used. Upon the exportation of bottled distilled spirits and wines manufactured or produced in the United States on which an internal-revenue tax has been paid, there shall be allowed under regulations to be prescribed by the Commissioner of Internal Revenue with the approval of the Secretary of the Treasury, a drawback equal in amount to the tax found to have been paid on such bottled distilled spirits and wines. In the case of distilled spirits the preceding sentence shall not apply unless the claim for drawback is filed by the bottles or packages of the spirits and unless such spirits have been stamped or restamped, and marked, especially for export under regulations prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury.
- (e) **IMPORTED SALT FOR CURING FISH.** Imported salt in bond may be used in curing fish taken by vessels licensed to engage in the fisheries, and in curing fish on the shores of the navigable waters of the United States, whether such fish are taken by licensed or unlicensed vessels, and upon proof that the salt has been used for either of such purposes, the duties on the same shall be remitted.
- (f) **EXPORTATION OF MEATS CURED WITH IMPORTED SALT.** Upon the exportation of meats whether packed or smoked, which have been cured in the United States with imported salt, there shall be refunded, upon satisfactory proof that such meats have been cured with imported salt, the duties paid on the salt so used in curing such exported meats, in amounts not less than \$100.

- (g) **MATERIALS FOR CONSTRUCTION AND EQUIPMENT OF VESSELS BUILT FOR FOREIGNERS.** The provisions of this section shall apply to materials imported and used in the construction and equipment of vessels built for foreign account and ownership, or for the government of any foreign country, notwithstanding that such vessels may not within the strict meaning of the term be articles exported.
- (h) **JET AIRCRAFT ENGINES.** Upon the exportation of jet aircraft engines manufactured or produced abroad that have been overhauled, repaired, rebuilt, or reconditioned in the United States with the use of imported merchandise, including parts, there shall be refunded, upon satisfactory proof that such imported merchandise has been so used, the duties which have been paid therein, in amounts not less than \$100.
- (i) **TIME LIMITATION ON EXPORTATION OR DESTRUCTION.** Unless otherwise provided for in this section, no drawback shall be allowed under the provisions of this section unless the completed article is exported or destroyed under the supervision of the Customs Service within five years after importation of the imported merchandise.
- (j) **UNUSED MERCHANDISE DRAWBACK.**
  - (1) If imported merchandise, on which was paid any duty, tax, or fee imposed under Federal law upon entry or importation -
    - (A) is, before the close of the three-year period beginning on the date of importation-
      - (i) exported, or
      - (ii) destroyed under customs supervision; and
    - (B) is not used within the United States before such exportation or destruction;
 

then upon such exportation or destruction 99 percent of the amount of each duty, tax, or fee so paid shall be refunded as drawback. The exporter (or destroyer) has the right to claim drawback under this paragraph, but may endorse such right to the importer or any intermediate party.
  - (2) Subject to paragraph (4), if there is, with respect to imported merchandise on which was paid any duty, tax, or fee imposed under Federal law upon entry or importation, any other merchandise (whether imported or domestic) that -
    - (A) is commercially interchangeable with such imported merchandise<sup>1</sup>;

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<sup>1</sup> The United States Customs Service shall treat the chemical N-cyclohexyl-2-benzothiazolesulfenamide and the chemical N-tert-Butyl-2-benzothiazolesulfenamide as 'commercially interchangeable' within the meaning of section 313(j)(2) of the Tariff Act of 1930 (19 U.S.C. 1313(j)(2)) for purposes of permitting drawback under section 313 of the Tariff Act of 1930 (19 U.S.C. 1313.) [Public Law 106-476, Sec. 1458]

(B) is, before the close of the three-year period beginning on the date of importation of the imported merchandise, either exported or destroyed under customs supervision; and

(C) before such exportation or destruction -

(i) is not used within the United States, and

(ii) is in the possession of, including ownership while in bailment, in leased facilities, in transit to, or in any other manner under the operational control of, the party claiming drawback under this paragraph, if that party-

(I) is the importer of the imported merchandise, or

(II) received from the person who imported and paid any duty due on the imported merchandise a certificate of delivery transferring to the party the imported merchandise, commercially interchangeable merchandise, or any combination of imported and commercially interchangeable merchandise (and any such transferred merchandise, regardless of its origin, will be treated as the imported merchandise and any retained merchandise will be treated as domestic merchandise);

then, notwithstanding any other provision of law, upon the exportation or destruction of such other merchandise the amount of each such duty, tax, and fee paid regarding the imported merchandise shall be refunded as drawback under this subsection, but in no case may the total drawback on the imported merchandise, whether available under this paragraph or any other provision of law or any combination thereof, exceed 99 percent of that duty, tax, or fee. For purposes of subparagraph (A) of this paragraph, wine of the same color having a price variation not to exceed 50 percent between the imported wine and the exported wine shall be deemed to be commercially interchangeable.

(3) The performing of any operation or combination of operations (including, but not limited to, testing, cleaning, repacking, inspecting, sorting, refurbishing, freezing, blending, repairing, reworking, cutting, slitting, adjusting, replacing components, relabeling, disassembling, and unpacking), not amounting to manufacture or production for drawback purposes under the preceding provisions of this section on

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(A) the imported merchandise itself in cases to which paragraph (1) applies, or

(B) the commercially interchangeable merchandise in cases to which paragraph (2) applies,

shall not be treated as a use of that merchandise for purposes of applying paragraph (1)(B) or (2)(C).

(4) (A) Effective upon the entry into force of the North American Free Trade Agreement, the exportation to a NAFTA country, as defined in section 2(4) of the North American Free Trade Agreement Implementation Act, of merchandise that is fungible with and substituted for imported merchandise, other than merchandise described in paragraphs (1) through (8) of section 203(a) of that Act, shall not constitute an exportation for purposes of paragraph (2).

(B) Beginning on January 1, 2015, the exportation to Chile of merchandise that is fungible with and substituted for imported merchandise, other than merchandise described in paragraphs (1) through (5) of section 203(a) of the United States-Chile Free Trade Agreement Implementation Act, shall not constitute an exportation for purposes of paragraph (2). The preceding sentence shall not be construed to permit the substitution of unused drawback under paragraph (2) of this subsection with respect to merchandise described in paragraph (2) of section 203(a) of the United States-Chile Free Trade Agreement Implementation Act.

(k) **USE OF DOMESTIC MERCHANDISE ACQUIRED IN EXCHANGE FOR IMPORTED MERCHANDISE OF SAME KIND AND QUALITY.**

(1) For purposes of subsections (a) and (b), the use of any domestic merchandise acquired in exchange for imported merchandise of the same kind and quality shall be treated as the use of such imported merchandise if no certificate of delivery is issued with respect to such imported merchandise.

(2) For purposes of subsections (a) and (b), the use of any domestic merchandise acquired in exchange for a drawback product of the same kind and quality shall be treated as the use of such drawback product if no certificate of delivery or certificate of manufacture and delivery pertaining to such drawback product is issued, other than that which documents the product's manufacture and delivery. As used in this paragraph, the term `drawback product' means any domestically produced product, manufactured with imported merchandise or any other merchandise (whether imported or domestic) of the same kind and quality, that is subject to drawback.

(1) **REGULATIONS.** Allowance of the privileges provided for in this section shall be subject to compliance with such rules and regulations as the Secretary of the Treasury shall prescribe, which may include, but need not be limited to, the authority for the electronic submission of drawback entries, and the designation of the person to whom any refund or payment of drawback shall be made.

(m) SOURCE OF PAYMENT. Any drawback of duties that may be authorized under the provisions of this chapter shall be paid from the Customs receipts of Puerto Rico, if the duties were originally paid into the Treasury of Puerto Rico.

(n) REFUNDS, WAIVERS, OR REDUCTIONS UNDER CERTAIN FREE TRADE AGREEMENTS.—

(1) For purposes of this subsection and subsection (o))-

- (A) the term “NAFTA Act” means the North American Free Trade Agreement Implementation Act;
- (B) the terms “NAFTA country” and “good subject to NAFTA drawback” have the same respective meanings that are given such terms in sections 2(4) and 203(a) of the NAFTA Act;
- (C) a refund, waiver, or reduction of duty under paragraph (2) of this subsection or paragraph (1) of subsection (o) is subject to section 508(b)(2)(B); and
- (D) the term ‘good subject to Chile FTA drawback’ has the meaning given that term in section 203(a) of the United States-Chile Free Trade Agreement Implementation Act.

(2) For purposes of subsections (a), (b), (f), (h), (p), and (q), if an article that is exported to a NAFTA country is a good subject to NAFTA drawback, no customs duties on the good may be refunded, waived, or reduced in an amount that exceeds the lesser of-

- (A) the total amount of customs duties paid or owed on the good on importation into the United States, or
- (B) the total amount of customs duties paid on the good to the NAFTA country.

(3) If Canada ceases to be a NAFTA country and the suspension of the operation of the United States-Canada Free-Trade Agreement thereafter terminates, then for purposes of subsections (a), (b), (f), (h), (j)(2), and (q), the shipment to Canada during the period such Agreement is in operation of an article made from or substituted for, as appropriate, a drawback eligible good under section 204(a) of the United States-Canada Free-Trade Implementation Act of 1988 does not constitute an exportation.

(4) (A) For purposes of subsections (a), (b), (f), (h), (j)(2), (p), and (q), if an article that is exported to Chile is a good subject to Chile FTA drawback, no customs duties on the good may be refunded, waived, or reduced, except as provided in subparagraph (B).

(B) The customs duties referred to in subparagraph (A) may be refunded, waived, or reduced by—

- (i) 100 percent during the 8-year period beginning on January 1, 2004;
- (ii) 75 percent during the 1-year period beginning on January 1, 2012;
- (iii) 50 percent during the 1-year period beginning on January 1, 2013; and

(iv) 25 percent during the 1-year period beginning on January 1, 2014.

(o) SPECIAL RULES FOR CERTAIN VESSELS AND IMPORTED MATERIALS.—

(1) For purposes of subsection (g), if-

- (A) a vessel is built for the account and ownership of a resident of a NAFTA country or the government of a NAFTA country, and
- (B) imported materials that are used in the construction and equipment of the vessels are goods subject to NAFTA drawback,

the amount of customs duties refunded, waived, or reduced on such materials may not exceed the lesser of the total amount of customs duties paid or owed on the materials on importation into the United States or the total amount of customs duties paid on the vessel to the NAFTA country.

(2) If Canada ceases to be a NAFTA country and the suspension of the operation of the United States-Canada Free-Trade Agreement thereafter terminates, then for purposes of subsection (g), vessels built for Canadian account and ownership, or for the Government of Canada, may not be considered to be built for any foreign account and ownership, or for the government of any foreign country, except to the extent that the materials in such vessels are drawback eligible goods under section 204(a) of the United States-Canada Free-Trade Implementation Act of 1988.

(3) For purposes of subsection (g), if—

(A) a vessel is built for the account and ownership of a resident of Chile or the Government of Chile, and

(B) imported materials that are used in the construction and equipment of the vessel are goods subject to Chile FTA drawback, as defined in section 203(a) of the United States-Chile Free Trade Agreement Implementation Act, no customs duties on such materials may be refunded, waived, or reduced, except as provided in paragraph (4).

(4) The customs duties referred to in paragraph (3) may be refunded, waived or reduced by—

- (A) 100 percent during the 8-year period beginning on January 1, 2004;
- (B) 75 percent during the 1-year period beginning on January 1, 2012;
- (C) 50 percent during the 1-year period beginning on January 1, 2013; and
- (D) 25 percent during the 1-year period beginning on January 1, 2014.

(p) SUBSTITUTION OF FINISHED PETROLEUM DERIVATIVES.

(1) In General. Notwithstanding any other provision of this section, if-

- (A) an article (hereafter referred to in this subsection as the "exported article") of the same kind and quality as a qualified article is exported;
- (B) the requirements set forth in paragraph (2) are met; and
- (C) a drawback claim is filed regarding the exported article;

drawback shall be allowed as described in paragraph (4).

(2) Requirements. The requirements referred to in paragraph (1) are as follows:

- (A) The exporter of the exported article-
  - (i) manufactured or produced a qualified article in a quantity equal to or greater than the quantity of the exported article,
  - (ii) purchased or exchanged, directly or indirectly, a qualified article from a manufacturer or producer described in subsection (a) or (b) in a quantity equal to or greater than the quantity of the exported article,
  - (iii) imported a qualified article in a quantity equal to or greater than the quantity of the exported article, or
  - (iv) purchased or exchanged, directly or indirectly, a qualified article from an importer in a quantity equal to or greater than the quantity of the exported article.
- (B) In the case of the requirement described in subparagraph (A)(ii), the manufacturer or producer produced the qualified article in a quantity equal to or greater than the quantity of the exported article.
- (C) In the case of the requirement of subparagraph (A)(i) or (A)(ii), the exported article is exported during the period that the qualified article described in subparagraph (A)(i) or (A)(ii) (whichever is applicable) is manufactured or produced, or within 180 days after the close of such period.
- (D) In the case of the requirement of subparagraph (A)(i) or (A)(ii), the specific petroleum refinery or production facility which made the qualified article concerned is identified.
- (E) In the case of the requirement of subparagraph (A)(iii) or (A)(iv), the exported article is exported within 180 days after the date of entry of an imported qualified article described in subparagraph (A)(iii) or (A)(iv) (whichever is applicable).
- (F) Except as otherwise specifically provided in this subsection, the drawback claimant complies with all requirements of this section, including providing certificates which establish the drawback eligibility of articles for which drawback is claimed.



- (G) The manufacturer, producer, importer, transferor, exporter, and drawback claimant of the qualified article and the exported article maintain all records required by regulation.
- (3) Definition of qualified article, etc.-For purposes of this subsection-
- (A) The term "qualified article" means an article-
    - (i) described in-
      - (I) headings 2707, 2708, 2709.00, 2710, 2711, 2712, 2713, 2714, 2715, 2901, and 2902, and subheadings 2903.21.00, 2909.19.14, 2917.36, 2917.39.04, 2917.39.15, 2926.10.00, 3811.21.00, and 3811.90.00 of the Harmonized Tariff Schedule of the United States, or
      - (II) headings 3901 through 3914 of such Schedule (as such headings apply to the primary forms provided under Note 6 to chapter 39 of the Harmonized Tariff Schedule of the United States), and
    - (ii) which is-
      - (I) manufactured or produced as described in subsection (a) or (b) from crude petroleum or a petroleum derivative,
      - (II) imported duty-paid, or
      - (III) an article of the same kind and quality as described in subparagraph (B), or any combination thereof, that is transferred, as so certified in a certificate of delivery or certificate of manufacture and delivery in a quantity not greater than the quantity of articles purchased or exchanged.

The transferred merchandise described in subclause (III), regardless of its origin, so designated on the certificate of delivery or certificate of manufacture and delivery shall be the qualified article for purposes of this section. A party who issues a certificate of delivery, or certificate of manufacture and delivery, shall also certify to the Commissioner of Customs that it has not, and will not, issue such certificates for a quantity greater than the amount eligible for drawback and that appropriate records will be maintained to demonstrate that fact.

- (B) An article, including an imported, manufactured, substituted, or exported article, is of the same kind and quality as the qualified article for which it is substituted under this subsection if it is a product that is commercially interchangeable with or referred to under the same eight-digit classification of the Harmonized Tariff Schedule of the United States as the qualified article. If an article is referred to under the same eight-digit classification of the Harmonized Tariff Schedule of the United States as the qualified article on January 1, 2000, then whether or not the article has been reclassified under another eight-digit classification after January 1, 2000, the article shall be deemed to be an article that is referred to under the same eight-digit classification of such Schedule as the qualified article for purposes of the preceding sentence.
- (C) The term "drawback claimant" means the exporter of the exported article or the refiner, producer, or importer of either the qualified article or the exported article. Any person eligible to file a drawback claim under this subparagraph may designate another person to file such claim.
- (4) Limitation on drawback. The amount of drawback payable under this subsection shall not exceed the amount of drawback that would be attributable to the article-
  - (A) manufactured or produced under subsection (a) or (b) by the manufacturer or producer described in clause (i) or (ii) of paragraph (2)(A), or
  - (B) imported under clause (iii) or (iv) of paragraph (2)(A) had the claim qualified for drawback under subsection (j).
- (q) PACKAGING MATERIAL.
  - (1) Packaging material under subsections (c) and (j).--Packaging material, whether imported and duty paid, and claimed for drawback under either subsection (c) or (j)(1), or imported and duty paid, or substituted, and claimed for drawback under subsection (j)(2), shall be eligible for drawback, upon exportation, of 99 percent of any duty, tax, or fee imposed under Federal law on such imported material.
  - (2) Packaging material under subsections (a) and (b).--Packaging material that is manufactured or produced under subsection (a) or (b) shall be eligible for drawback, upon exportation, of 99 percent of any duty, tax, or fee imposed under Federal law on the imported or substituted merchandise used to manufacture or produce such material.
  - (3) Contents.--Packaging material described in paragraphs (1) and (2) shall be eligible for drawback whether or not they contain articles or merchandise, and whether or not any articles or merchandise they contain are eligible for drawback.

- (4) Employing packaging material for its intended purpose prior to exportation.--The use of any packaging material for its intended purpose prior to exportation shall not be treated as a use of such material prior to exportation for purposes of applying subsection (a), (b), or (c), or paragraph (1)(B) or (2)(C)(i) of subsection (j).

(r) FILING DRAWBACK CLAIMS.

- (1) A drawback entry and all documents necessary to complete a drawback claim, including those issued by the Customs Service, shall be filed or applied for, as applicable, within 3 years after the date of exportation or destruction of the articles on which drawback is claimed, except that any landing certificate required by regulation shall be filed within the time limit prescribed in such regulation. Claims not completed within the 3-year period shall be considered abandoned. No extension will be granted unless it is established that the Customs Service was responsible for the untimely filing.
- (2) A drawback entry for refund filed pursuant to any subsection of this section shall be deemed filed pursuant to any other subsection of this section should it be determined that drawback is not allowable under the entry as originally filed but is allowable under such other subsection.
- (3) (A) The Customs Service may, notwithstanding the limitation set forth in paragraph (1), extend the time for filing a drawback claim for a period not to exceed 18 months, if--
- (i) the claimant establishes to the satisfaction of the Customs Service that the claimant was unable to file the drawback claim because of an event declared by the President to be a major disaster on or after January 1, 1994; and
  - (ii) the claimant files a request for such extension with the Customs Service--
    - (I) within 1 year from the last day of the 3-year period referred to in paragraph (1), or
    - (II) within 1 year after the date of the enactment of this paragraph,whichever is later.
- (B) If an extension is granted with respect to a request filed under this paragraph, the periods of time for retaining records set forth in subsection (t) of this section and section 508(c)(3) shall be extended for an additional 18 months or, in a case to which subparagraph (A)(ii) applies, for a period not to exceed 1 year from the date the claim is filed.
- (C) For purposes of this paragraph the term 'major disaster' has the meaning given that term in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)).

(s) DESIGNATION OF MERCHANDISE BY SUCCESSOR.

- (1) For purposes of subsection (b), a drawback successor may designate imported merchandise used by the predecessor before the date of succession as the basis for drawback on articles manufactured by the drawback successor after the date of succession.
- (2) For purposes of subsection (j)(2), a drawback successor may designate-
  - (A) imported merchandise which the predecessor, before the date of succession, imported; or
  - (B) imported merchandise, commercially interchangeable merchandise, or any combination of imported and commercially interchangeable merchandise for which the predecessor received, before the date of succession, from the person who imported and paid any duty due on the imported merchandise a certificate of delivery transferring to the successor such merchandise;as the basis for drawback on merchandise possessed by the drawback successor after the date of succession.
- (3) For purposes of this subsection, the term "drawback successor" means an entity to which another entity (in this subsection referred to as the "predecessor") has transferred by written agreement, merger, or corporate resolution-
  - (A) all or substantially all of the rights, privileges, immunities, powers, duties, and liabilities of the predecessor; or
  - (B) the assets and other business interests of a division, plant, or other business unit of such predecessor, but only if in such transfer the value of the transferred realty, personalty, and intangibles (other than drawback rights, inchoate or otherwise) exceeds the value of all transferred drawback rights, inchoate or otherwise.
- (4) No drawback shall be paid under this subsection until either the predecessor or the drawback successor (who shall also certify that it has the predecessor's records) certifies that-
  - (A) the transferred merchandise was not and will not be claimed by the predecessor, and
  - (B) the predecessor did not and will not issue any certificate to any other person that would enable that person to claim drawback.

- (t) **DRAWBACK CERTIFICATES.** Any person who issues a certificate which would enable another person to claim drawback shall be subject to the recordkeeping provisions of this Act, with the retention period beginning on the date that such certificate is issued.
- (u) **ELIGIBILITY OF ENTERED OR WITHDRAWN MERCHANDISE.** Imported merchandise that has not been regularly entered or withdrawn for consumption shall not satisfy any requirement for use, exportation, or destruction under this section.
- (v) **MULTIPLE DRAWBACK CLAIMS.** Merchandise that is exported or destroyed to satisfy any claim for drawback shall not be the basis of any other claim for drawback; except that appropriate credit and deductions for claims covering components or ingredients of such merchandise shall be made in computing drawback payments.
- (w) **LIMITED APPLICABILITY FOR CERTAIN AGRICULTURAL PRODUCTS.**
  - (1) **IN GENERAL.** No drawback shall be available with respect to an agricultural product subject to the over-quota rate of duty established under a tariff-rate quota, except pursuant to subsection (j)(1).
  - (2) **APPLICATION TO TOBACCO.** Notwithstanding paragraph (1), drawback shall also be available pursuant to subsection (a) with respect to any tobacco subject to the over-quota rate of duty established under a tariff-rate quota.
- (x) **DRAWBACKS FOR RECOVERED MATERIALS-** For purposes of subsections (a), (b), and (c), the term ‘destruction’ includes a process by which materials are recovered from imported merchandise or from an article manufactured from imported merchandise. In determining the amount of duties to be refunded as drawback to a claimant under this subsection, the value of recovered materials (including the value of any tax benefit or royalty payment) that accrues to the drawback claimant shall be deducted from the value of the imported merchandise that is destroyed, or from the value of the merchandise used, or designated as used, in the manufacture of the article.
- (y) **ARTICLES SHIPPED TO THE UNITED STATES INSULAR POSSESSIONS.--**Articles described in subsection (j)(1) shall be eligible for drawback under this section if duty was paid on the merchandise upon importation into the United States and the person claiming the drawback demonstrates that the merchandise has entered the customs territory of the United States Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Guam, Canton Island, Enderbury Island, Johnston Island, or Palmyra Island.