

The Pike Law Firm, P.C.

Customs and International Trade



"Round Two" at Emory Law School

June 5, 2009

After kicking off the inaugural class of “Customs Law & Administration” last year at Emory Law School in Atlanta, Professor Pike returned for “Round Two” during this year's winter semester to teach the course again. However, this year's syllabus added a lecture on customs and intellectual property rights (such as the issue of “parallel imports” and seizure cases for IPR violations). With patent, copyright, and trademark violations on the rise and international tax and transfer pricing now heavily focusing on intangibles, I felt that this topic warranted an entire class session. I was especially pleased to have three exceptional guest lecturers join me during the semester: Dan Gladden, U.S. Customs Senior Import Specialist from the Port of Atlanta, who spoke on tariff classification; Sushan Arora of Deloitte Tax LLP (an Emory Law alumnus!), who covered the overlap between customs valuation and transfer pricing; and Judge Leo M. Gordon of the U.S. Court of International Trade (another Emory Law alumnus!), who lectured on the court's jurisdiction and procedures. Many thanks to these individuals for contributing their time and efforts to training the next generation of Customs lawyers!



WCO Continues Focus On Transfer Pricing

June 5, 2009

In between various meetings in Europe recently, I attended the private sector training on customs valuation and transfer pricing that took place at the World Customs Organization (WCO) in Brussels, Belgium. Representatives from multinational companies such as Renault, Henkel, and Proctor & Gamble, as well as from the World Trade Organization (WTO) and various consulting and law firms, took part in the training. With expert instruction from Stefan DeBaets of the Belgian Finance Ministry and Maki Kitaura of the WCO (on leave from Japanese Customs), the attendees worked their way through various Case Studies in order to understand the similarities and differences between the income tax transfer pricing guidelines of the OECD (Organization for Economic Cooperation and Development) and the customs valuation rules set forth in the WTO Customs Valuation Agreement. I closed the training session by presenting my own Case Study involving Advance Pricing Agreements (APAs) and the automotive industry, with emphasis on the selection of “comparables” and the treatment of “compensating adjustments.” (Click [here](#) for my recent article on the latter topic.) A general consensus emerged from the training that advance, binding customs rulings prepared in conjunction with APAs offered the best potential for customs and tax authorities to work together in finding a way to harmonize the two disciplines to the benefit of Customs, the importer/taxpayer, and the income tax authorities.



EEI – Don't Overlook Export Reporting Requirements!

June 5, 2009

With many global traders intensely focused on the plethora of new import requirements imposed the U.S. government (such as “10+2,” the Consumer Product Safety Improvement Act, the Lacey Act, etc.), export reporting requirements can easily be overlooked or only partially addressed. These reporting requirements are imposed by the Commerce Department's Bureau of the Census for mainly statistical purposes, and thus seem relatively “innocuous” given the lack of any financial impact on a company's global operations. However, U.S. Customs and Border Protection is the agency charged with enforcement of the Census Bureau's regulations, and recently released regulations ([click here](#)) make it clear that a failure to file the required Electronic Export Information (EEI) can result in a \$10,000 penalty for each failure to file, i.e., for each shipment valued at over \$2,500 per line item classification on the export declaration. Coupled with stepped-up enforcement of the Export Administration Regulations (EAR) by the Bureau of Industry and Security, overlooking simple EEI reporting can spell big trouble for U.S. exporters. Contact our firm for an “export check-up” to ensure that EEI, EAR, and all related export laws are being properly addressed!

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