

## NEWS IN BRIEF

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### CBP has Changed Some Criteria for Data for ISF Filing

U.S. Customs and Border Protection (CBP) has issued a notice with a change to the format for data for filing of the Importer Security Filing (ISF). The change deals with the use of an IRS Employee Identification Number for the importer number. This is often called either an EIN number or IRS number. The basic format is two digits followed by a dash and seven more digits. An example would be 95-1234567. This number can have a two-digit suffix that can be either digits or letters (i.e. 95-1234567AB). CBP has changed the criteria ISF in that the importer number MUST include the last two suffix digits.

If your IRS number does not include any suffix numbers for the ISF format, you can add two 0's to your IRS number (i.e. 95-123456700). This change goes into effect on October 22, 2020. It is important that you tell your sources for the ISF data to make the adjustments in the data that they supply for the ISF filing.

This change does not apply to social security numbers or for Customs assigned numbers, only for IRS/EIN numbers.

### President Issues a Memorandum on Counterfeit Enforcement

President Trump has issued a presidential memorandum to increase enforcement on the importation of counterfeit articles through eCommerce platforms. He has called for strict enforcement with increased penalties and seizures of goods found to be counterfeit or violative of Intellectual Property Rights. He has given the Secretary of Homeland Security 120 days to develop a legislative proposal to promote this action. A copy of the memorandum can be found by clicking [here](#).

### New Lawsuit that Challenges All China 301 Duties on Lists 3 and List 4

A recent lawsuit has been filed to challenge all additional duties for China Section 301 duties that were paid for goods under List 3 and List 4. This judicial challenge argues that the additional duties imposed on these lists were imposed in violation of the authority granted under the Trade Act of 1974 and the Administrative Procedures Act. The suit claims that Congress did not give the executive branch authority to extend targeting of unfair trade practices into an unlimited trade war and that the promulgation of List 3 list failed to follow the statutory provisions of the Administrative Procedures Act.

This means that, if the litigation is successful, refunds would be granted on all 301 duties charged against List 3 and List 4 regardless of any exclusions that were granted and whether a Post Summary Correction (PSC) or Protest was filed or not. Such a decision would be expected to authorize refunds even if the entries had passed the liquidation period for filing a protest. There may be a possibility that the court could issue an order for the affected 301 duties for all filers, but it is also possible that the court would grant relief only to those parties who filed timely for the refunds.

Time is very short to file to join in this challenge. The deadline is two years from the issuance of the 301 instructions which was on September 21, 2018. We advise our clients to address this issue with their own Customs council. If you need additional assistance, we can recommend a few Customs attorneys who are ready to help you. Please note that process will have costs. Attorneys will probably charge a retainer to file the initial claim and a percentage of the duties

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recovered as the case goes forward. Please let us know if you have any questions.

**CIS Webinar on our new Web Portal**

Carmichael will be hosting another webinar to introduce our customers to our new Web Portal. This will be held on October 21st at 1 pm PDT. If you are interested in attending, please send a message to the following email address: [joseph\\_lee@carmnet.com](mailto:joseph_lee@carmnet.com).



By **Todd Boice**, *President*