

FISCAL YEAR 97 RECALLS AFFECTING VEHICLES IMPORTED BY REGISTERED IMPORTERS—Continued

Make	Model	Model year	Recall No.
TOYOTA	CAMRY	1997	97V156000

[FR Doc. 97-33251 Filed 12-19-97; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33515]

Connecticut Central Railroad Company, Inc.—Modified Rail Certificate

On November 14, 1997, Connecticut Central Railroad Company, Inc. (CCCL), a class III shortline railroad, filed a notice for a modified certificate of public convenience and necessity under 49 CFR 1150, Subpart C—*Modified Certificate of Public Convenience and Necessity* to operate approximately 4.0 miles of abandoned rail line between milepost 3.0 in Hartford, CT, and milepost 7.0 in Wethersfield, CT (the Wethersfield Secondary Track), owned by the Connecticut Department of Transportation (C-DOT).

The involved rail line was abandoned by Boston and Maine Corporation pursuant to Board authorization granted in *Boston and Maine Corporation—Abandonment Exemption—in Hartford County, CT*, STB Docket No. AB-32 (Sub-No. 80X) (STB served Sept. 17, 1997). C-DOT acquired the rail line on October 28, 1997.

Pursuant to a supplement to the agreement dated March 28, 1996, between C-DOT and CCCL,¹ which is scheduled to terminate on May 17, 2017, operations over the 4-mile segment of the Wethersfield Secondary Track were scheduled to commence no sooner than November 17, 1997.

The rail segment qualifies for a modified certificate of public convenience and necessity. See *Common Carrier Status of States, State Agencies and Instrumentalities, and Political Subdivisions*, Finance Docket No. 28990F (ICC served July 16, 1981).

No subsidy is involved. There may be preconditions for shippers to meet in order to receive rail service. CCCL indicates that in order for potential shippers to receive service, they may be required to enter into a contractual agreement with it, and may be subject to a special train charge as set forth in CCCL's tariff.

¹ The original notice of lease/operating agreement, dated June 24, 1987, governs CCCL's operations over other rail lines owned by C-DOT.

The segment represents a connecting piece of trackage linking lines over which CCCL has already obtained a modified rail certificate. Northerly, the line will form a link with other CCCL-operated trackage, and will connect with Consolidated Rail Corporation (Conrail) at Hartford, at or near milepost 2.6. Southerly, the line will connect with other CCCL-operated trackage and with a larger portion of CCCL's system. By this southerly connection, the line will enjoy interline connections already established by CCCL with the Providence and Worcester Railroad Company at Middlefield, CT, and with Conrail at Cedar Hill Yard in New Haven, CT.

This notice must be served on the Association of American Railroads (Car Service Division) as agent for all railroads subscribing to the car-service and car-hire agreement: Association of American Railroads, 50 F St., NW, Washington, DC 20001; and on the American Short Line Railroad Association: American Short Line Railroad Association, 1120 G St., NW, Suite 520, Washington, DC 20005.

Decided: December 15, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97-33337 Filed 12-19-97; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF THE TREASURY

Customs Service

Receipt of Domestic Interested Party Petition Concerning Tariff Classification of Textile Costumes

AGENCY: Customs Service, Treasury.

ACTION: Notice of receipt of domestic interested party petition; solicitation of comments.

SUMMARY: Customs has received a petition submitted on behalf of a domestic interested party requesting the reclassification of certain imported textile costumes. The petitioner contends that Customs is incorrect in classifying textile costumes which are flimsy, not durable, and not normal articles of wearing apparel, under subheading 9505.90.6090, Harmonized Tariff Schedule of the United States (HTSUS), as "Festive, carnival or other

entertainment articles, including magic tricks and practical joke articles; parts and accessories thereof: Other: Other." The provision is duty free under the general column one rate and costumes classifiable under this provision are not subject to quota or visa restraints. The petitioner contends that all imported textile costumes should be classified in Chapters 61 or 62, HTSUS, asserting that textile costumes are excluded from classification under subheading 9505.90.6090, HTSUS, pursuant to Note 1(e), Chapter 95, which states that the chapter does not cover sports clothing or fancy dress, of textiles, of chapter 61 or 62. If classified under Chapter 61 or 62 of the HTSUS, the costumes would be dutiable and may be subject to quota and visa restraints. This document invites comments with regard to the correctness of the current classification.

DATES: Comments must be received on or before February 20, 1998.

ADDRESS: Written comments (preferably in triplicate) are to be addressed to U.S. Customs Service, Office of Regulations and Rulings, Attention: Commercial Rulings Division, 1300 Pennsylvania Avenue, NW., Washington, D.C. 20229. Comments submitted may be inspected at the Commercial Rulings Division, Office of Regulations and Rulings, located at 1300 Pennsylvania Avenue., NW., 3rd Floor, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Ann Segura Minardi, Textiles Branch, (202-927-1368).

SUPPLEMENTARY INFORMATION:

Background

A petition has been filed under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), on behalf of an American manufacturer of textile costumes. The petitioner contends that virtually identical costumes to those manufactured by petitioner are being imported into the U.S. and some of these textile costumes are being erroneously classified by Customs under subheading 9505.90.6090, Harmonized Tariff Schedule of the United States (HTSUS), as "Festive, carnival or other entertainment articles, including magic tricks and practical joke articles; parts and accessories thereof: Other: Other." The provision is duty free under the general column one rate and costumes classified under this provision are not subject to quota or visa

restraints. The petitioner claims that all imported textile costumes should be classified in Chapters 61 or 62, HTSUS, asserting that textile costumes are excluded from classification under subheading 9505.90.6090, HTSUS, pursuant to Note 1(e), Chapter 95. If classified under Chapters 61 or 62, the costumes would be dutiable and may be subject to quota and visa restraints.

Classification under the HTSUS is made in accordance with the General Rules of Interpretation (GRIs). The systematic detail of the harmonized system is such that virtually all goods are classified by application of GRI 1, that is, according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied. The Explanatory Notes (ENs) to the Harmonized Commodity Description and Coding System, which represent the official interpretation of the tariff at the international level, facilitate classification under the HTSUS by offering guidance in understanding the scope of the headings and GRIs.

Heading 9505, HTSUS, includes articles which are for "Festive, carnival, or other entertainment." However, Note 1(e), chapter 95, HTSUS, excludes articles of "fancy dress, of textiles, of chapter 61 or 62" from chapter 95. The ENs to 9505, state, among other things, that the heading covers:

(A) Festive, carnival or other entertainment articles, which in view of their intended use are generally made of non-durable material. They include:

* * * * *

(3) Articles of fancy dress, e.g., masks, false ears and noses, wigs, false beards and moustaches (not being articles of postiche-heading 67.04), and paper hats. However, the heading excludes fancy dress of textile materials, of chapter 61 or 62.

In interpreting the phrase "fancy dress, of textiles, of chapter 61 or 62," Customs initially took the view that fancy dress included "all" costumes regardless of quality, durability, or nature of the item. However, Customs has reexamined its view regarding the scope of the term "fancy dress" as it relates to costumes. On November 15, 1994, Customs issued Headquarters Ruling Letter (HQ) 957318, which referred to the settlement agreement of October 18, 1994, reached by the United States and Traveler Trading in the case of *Traveler Trading Co. v. United States*, Civil Action, #91-02-00084. In HQ 957318, Customs stated that it had agreed to classify as festive articles in

subheading 9505.90.6090, HTSUS, costumes of a flimsy nature and construction, lacking in durability, and generally recognized as not being normal articles of apparel.

Description of Merchandise

The imported costumes which are the subject of HQ 957318 are of the same class or kind of merchandise as the costumes manufactured by petitioner. Costumes, whether imported or domestically manufactured, are traditionally worn in conjunction with the celebration of the Halloween festival or to costume parties. The costumes at issue are constructed of fabric comprised of man-made or natural fibers, but not of paper. The costumes usually depict a character, creature, or professional person, and often include accessories.

Issues Raised

Petitioner asserts that Customs interpretation of the term "fancy dress" is incorrect since the term "fancy dress" is synonymous with the word "costume." In support of this assertion, petitioner cites the "Cambridge International Dictionary of English" (1995) as stating that the word "costume" is American for the British and Australian term "fancy dress." In addition, petitioner cites the "Oxford English Dictionary" (2d ed. 1989) as stating that the definition of the term "fancy dress" is "[a] costume arranged according to the wearer's fancy, usually representing some fictitious or historical character."

The petitioner states that the Nomenclature Committee of the Customs Cooperation Council (predecessor to the World Customs Organization) considered the scope of the term "fancy dress" and determined that the proper classification for costumes was in Section XI. Further, a recent decision by the Canadian International Trade Tribunal held that the language of Note 1(e) regarding "fancy dress, of textiles" included the inexpensive costumes before the Tribunal because the costumes were "arranged or made to suit the wearer's fancy to represent fictitious characters" and that subheading 9505, HTSUS, covered "goods [that] are more indicative of face disguises than of actual clothing."

In citing the ENs to Chapter 95, petitioner argues that the examples set forth as "articles of fancy dress" in the ENs include only items that act as accessories to the fancy dress but are not themselves "fancy dress" because they do not clothe the body. Further, petitioner claims that the phrase in the

ENs, "articles of fancy dress", does not include those articles made of textile material and that an item of "fancy dress" is the actual costume, not the accessories.

Petitioner states that the durability of the costume is irrelevant to the determination of whether a costume is an item of apparel. Petitioner cites the case of *Admiral Craft Equip Corp. v. United States*, 82 Cust. Ct. 162, 164, C.D. 4796 (1979), in support of their position that Customs should apply a "use" test in classifying textile costumes and the case of *Dynamics Classics, Ltd. v. United States*, 10 CIT 666 (1986), as setting forth factors to be considered in applying the "use" test. In the *Dynamics* case the court cited *United States v. Carborundum Co.*, 63 CCPA 98, 102, C.A.D. 1172, 536 F.2d 373 (1976), for stating the elements used to establish the chief use of a class or kind of merchandise: "(1) the general physical characteristics of the merchandise; (2) the expectations of the ultimate purchaser, (3) the channels of trade, and (4) how it is advertised and used." According to the petitioner, application of these factors would require that a Halloween costume be classified as an article of apparel in Chapter 61 or 62.

Finally, petitioner states that Court of International Trade (CIT) decisions interpreting the Tariff Schedules of the United States (TSUS), are inapplicable when classifying costumes under the HTSUS. Petitioner argues that Customs should not consider the CIT's decisions in *Traveler Trading Co. v. United States*, 713 F.Supp. 409 (CIT 1989), and *I.C.I. Worldwide, Inc. v. United States*, 14 CIT 201 (1990), because both were decided under the TSUS. Specifically, it is petitioner's contention that the courts' decisions in those cases rested on the " * * * very broad and preclusive nature of the TSUS's definition of 'toys'." Petitioner further asserts that the classification of costumes under the HTSUS is very different from the TSUS because costumes are never classifiable as toys under the HTSUS and costumes are specifically excluded from classification as articles of fancy dress of textiles pursuant to Note 1(e) to Chapter 95.

Comments

Pursuant to Section 175.21(a), Customs Regulations (19 CFR 175.21(a)), before making a determination on the matter, Customs invites written comments on the petition from interested parties.

The domestic party petition, as well as all comments received in response to this notice will be available for public inspection in accordance with the

Freedom of Information Act (5 U.S.C. 552), 1.4, Treasury Department Regulations (31 CFR 1.4), and Section 103.11(b), Customs Regulations (19 CFR 103.11(b)), between the hours of 9:00 a.m. to 4:30 p.m. on regular business days, at the: U.S. Customs Service, Office of Regulations and Rulings, Commercial Rulings Division, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC.

Authority

This notice is published in accordance with Section 175.21(a), Customs Regulations (19 CFR 175.21(a)), 19 U.S.C. 1516.

Drafting information: The principal author of this document was Ann Segura Minardi, Textiles Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Approved: December 5, 1997.

William F. Riley,

Acting Commissioner of Customs.

Dennis M. O'Connell,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 97-33291 Filed 12-19-97; 8:45 am]

BILLING CODE 4820-02-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 2758

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 2758, Application for Extension of Time To File Certain Excise, Income, Information, and Other Returns.

DATES: Written comments should be received on or before February 20, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622-3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Extension of Time To File Certain Excise, Income, Information, and Other Returns.

OMB Number: 1545-0148.

Form Number: 2758.

Abstract: Internal Revenue Code section 6081 allows a reasonable extension of time for filing any return, declaration, statement, or other document. Form 2758 is used by fiduciaries, trustees, and certain tax-exempt organizations to request an extension of time to file their returns. The information is used to determine whether the extension should be granted.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and not-for-profit institutions.

Estimated Number of Respondents: 300,000.

Estimated Time Per Respondent: 3 hr., 51 min.

Estimated Total Annual Burden Hours: 1,155,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the

information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 16, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97-33358 Filed 12-19-97; 8:45 am]

BILLING CODE 4830-01-U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8038-T

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8038-T, Arbitrage Rebate and Penalty in Lieu of Arbitrage Rebate.

DATES: Written comments should be received on or before February 20, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622-3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Arbitrage Rebate and Penalty in Lieu of Arbitrage Rebate.

OMB Number: 1545-1219.

Form Number: 8038-T.

Abstract: Form 8038-T is used by issuers of tax exempt bonds to report and pay the arbitrage rebate and to elect and/or pay various penalties associated with arbitrage bonds. These issuers include state and local governments.