



## *News Release*

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**For Immediate Release**

### **Failing to Fulfill Congressional Intent, NCBFAA Fears, Will Cause CBP Proposal to Disrupt Drawback Process**

**Washington, DC:** In a [letter to U.S. Customs and Border Protection \(CBP\) and the Treasury Department](#), the National Customs Brokers and Forwarders Association of America, Inc., (NCBFAA) provided detailed comments on the proposed regulations implementing the drawback amendments in the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA). While NCBFAA recognized the extensive work undertaken by CBP in developing the regulations, NCBFAA's Drawback Committee identified three key areas where its members believed the agencies' proposed regulations did not implement the intentions of Congress.

First, the proposal's elimination of the longstanding practice of drawback for excise taxes is not supported by the statutory language. The NCBFAA urges the agencies to withdraw all proposed regulations seeking to eliminate drawback of excise tax or that seek to redefine drawback to include the exportation of domestically produced tax-exempt merchandise.

Second, limiting drawback under the "First Filed Rule," which permits either substitution or direct identification drawback depending on what type of claim was filed first, eliminates drawback rights provided for in TFTEA. To address this, the NCBFAA recommends that, if the first claim filed against a line item uses direct identification, then any substitution claim filed against that line item should be allowed to calculate drawback using the invoice value. However, if the first claim filed against a line item uses substitution, then any claim filed against that line item using direct identification must calculate drawback using the lesser of the per unit average or the invoice value of the item.

Third, the NCBFAA does not believe that the TFTEA amendments allow CBP and Treasury to eliminate substitution drawback under the new law filed against import entry summaries used in claims under Pre-TFTEA drawback. This result could be avoided, in the NCBFAA's view, if CBP allows claims to be filed against these entry summaries using the invoice calculation methodology.

In addition to these major challenges presented by the proposal, the NCBFAA commented extensively on many aspects of the proposal, including among others, definitions, basic importation and bond conditions, content requirement changes, review time frames, and valuation.

Headquartered in Washington, D.C., the NCBFAA represents more than 1,000 member companies with 110,000 employees in international trade - the nation's leading freight forwarders, customs brokers, ocean transportation intermediaries (OTIs), NVOCCs and air cargo agents, serving more than 250,000 importers and exporters. Established in 1897 in New York, NCBFAA is the effective national voice of the industry. Through its various committees, counsel and representatives, the Association maintains a close watch over legislative and regulatory issues that affect its members. It keeps them informed of these and other related issues through its weekly Monday Morning eBriefing, and various meetings and conferences throughout the year.

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