

**§ 1681b. Enforcement****(a) Civil penalty**

Any person who violates a provision of section 1681a of this title shall, in addition to the tax and any other penalty provided by law, be liable for a civil penalty for each violation equal to the greater of \$1,000 or 5 times the amount of the tax imposed by chapter 52 of the Internal Revenue Code of 1986 on all cigarettes or smokeless tobacco products that are the subject of such violation.

**(b) Forfeitures**

Any tobacco product, cigarette papers, or tube, or any smokeless tobacco product, that was imported into the United States or is sought to be imported into the United States in violation of, or without meeting the requirements of, section 1681a of this title shall be forfeited to the United States, or to any State in which such tobacco product, cigarette papers, or tube is found. Notwithstanding any other provision of law, any product forfeited to the United States, or to any State, pursuant to this subtitle shall be destroyed.

(June 17, 1930, ch. 497, title VIII, § 803, as added Pub. L. 106-476, title IV, § 4004(a), Nov. 9, 2000, 114 Stat. 2180; amended Pub. L. 109-432, div. C, title IV, § 401(d), (e)(1), (3), Dec. 20, 2006, 120 Stat. 3048, 3049.)

**Editorial Notes**

## REFERENCES IN TEXT

Chapter 52 of the Internal Revenue Code of 1986, referred to in subsec. (a), is classified to section 5701 et seq. of Title 26, Internal Revenue Code.

## CODIFICATION

Another section 803 of act June 17, 1930, is classified to section 1683a of this title.

## AMENDMENTS

2006—Subsec. (a). Pub. L. 109-432, § 401(e)(1), inserted “or smokeless tobacco products” after “cigarettes”.

Subsec. (b). Pub. L. 109-432, § 401(d), (e)(3), in first sentence, inserted “, or any smokeless tobacco product,” before “that was imported” and “, or to any State in which such tobacco product, cigarette papers, or tube is found” before period at end and, in second sentence, inserted “, or to any State,” after “United States”.

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-432 applicable with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after Dec. 20, 2006, see section 401(g) of Pub. L. 109-432, set out as a note under section 1681 of this title.

## EFFECTIVE DATE

Section effective 30 days after Nov. 9, 2000, see section 4004(b) of Pub. L. 106-476, set out as a note under section 1681 of this title.

## SUBTITLE VI—SOFTWOOD LUMBER

**Editorial Notes**

## CODIFICATION

Subtitle is comprised of title VIII of act June 17, 1930, as added by Pub. L. 110-246, title III, § 3301(a), June 18,

2008, 122 Stat. 1844. Another title VIII of act June 17, 1930, was added by Pub. L. 106-476, title IV, § 4004(a), Nov. 9, 2000, 114 Stat. 2178, and is classified to subtitle V (§ 1681 et seq.) of this chapter.

**§ 1683. Definitions**

In this subtitle:

**(1) Appropriate congressional committees**

The term “appropriate congressional committees” means the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

**(2) Country of export**

The term “country of export” means the country (including any political subdivision of the country) from which softwood lumber or a softwood lumber product is exported before entering the United States.

**(3) Customs laws of the United States**

The term “customs laws of the United States” means any law or regulation enforced or administered by U.S. Customs and Border Protection.

**(4) Export charges**

The term “export charges” means any tax, charge, or other fee collected by the country from which softwood lumber or a softwood lumber product, described in section 1683b(a) of this title, is exported pursuant to an international agreement entered into by that country and the United States.

**(5) Export price****(A) In general**

The term “export price” means one of the following:

(i) In the case of softwood lumber or a softwood lumber product that has undergone only primary processing, the value that would be determined F.O.B. at the facility where the product underwent the last primary processing before export.

(ii)(I) In the case of softwood lumber or a softwood lumber product described in subclause (II), the value that would be determined F.O.B. at the facility where the lumber or product underwent the last primary processing.

(II) Softwood lumber or a softwood lumber product described in this subclause is lumber or a product that underwent the last remanufacturing before export by a manufacturer who—

(aa) does not hold tenure rights provided by the country of export;

(bb) did not acquire standing timber directly from the country of export; and

(cc) is not related to the person who holds tenure rights or acquired standing timber directly from the country of export.

(iii)(I) In the case of softwood lumber or a softwood lumber product described in subclause (II), the value that would be determined F.O.B. at the facility where the product underwent the last processing before export.

(II) Softwood lumber or a softwood lumber product described in this subclause is

lumber or a product that undergoes the last remanufacturing before export by a manufacturer who—

- (aa) holds tenure rights provided by the country of export;
- (bb) acquired standing timber directly from the country of export; or
- (cc) is related to a person who holds tenure rights or acquired standing timber directly from the country of export.

**(B) Related persons**

For purposes of this paragraph, a person is related to another person if—

- (i) the person bears a relationship to such other person described in section 152(a) of title 26;
- (ii) the person bears a relationship to such other person described in section 267(b) of such title, except that “5 percent” shall be substituted for “50 percent” each place it appears;
- (iii) the person and such other person are part of a controlled group of corporations, as that term is defined in section 1563(a) of such title, except that “5 percent” shall be substituted for “80 percent” each place it appears;
- (iv) the person is an officer or director of such other person; or
- (v) the person is the employer of such other person.

**(C) Tenure rights**

For purposes of this paragraph, the term “tenure rights” means rights to harvest timber from public land granted by the country of export.

**(D) Export price where F.O.B. value cannot be determined**

**(i) In general**

In the case of softwood lumber or a softwood lumber product described in clause (i), (ii), or (iii) of subparagraph (A) for which an F.O.B. value cannot be determined, the export price shall be the market price for the identical lumber or product sold in an arm’s-length transaction in the country of export at approximately the same time as the exported lumber or product. The market price shall be determined in the following order of preference:

- (I) The market price for the lumber or a product sold at substantially the same level of trade as the exported lumber or product but in different quantities.
- (II) The market price for the lumber or a product sold at a different level of trade than the exported lumber or product but in similar quantities.
- (III) The market price for the lumber or a product sold at a different level of trade than the exported lumber or product and in different quantities.

**(ii) Level of trade**

For purposes of clause (i), “level of trade” shall be determined in the same manner as provided under section 351.412(c) of title 19, Code of Federal Regulations (as in effect on January 1, 2008).

**(6) F.O.B.**

The term “F.O.B.” means a value consisting of all charges payable by a purchaser, including those charges incurred in the placement of merchandise on board of a conveyance for shipment, but does not include the actual shipping charges or any applicable export charges.

**(7) HTS**

The term “HTS” means the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202) (as in effect on January 1, 2008).

**(8) Person**

The term “person” includes any individual, partnership, corporation, association, organization, business trust, government entity, or other entity subject to the jurisdiction of the United States.

**(9) United States**

The term “United States” means the customs territory of the United States, as defined in General Note 2 of the HTS.

(June 17, 1930, ch. 497, title VIII, §802, as added Pub. L. 110–246, title III, §3301(a), June 18, 2008, 122 Stat. 1844.)

**Editorial Notes**

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in par. (7), is not set out in the Code. See Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

CODIFICATION

Another section 802 of act June 17, 1930, is classified to section 1681a of this title.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE

Pub. L. 110–246, title III, §3301(b), June 18, 2008, 122 Stat. 1853, provided that: “The amendments made by this section [enacting this subtitle] shall take effect on the date that is 60 days after the date of the enactment of this Act [June 18, 2008].”

**§ 1683a. Establishment of softwood lumber importer declaration program**

**(a) Establishment of program**

**(1) In general**

The President shall establish and maintain an importer declaration program with respect to the importation of softwood lumber and softwood lumber products described in section 1683b(a) of this title. The importer declaration program shall require importers of softwood lumber and softwood lumber products described in section 1683b(a) of this title to provide the information required under subsection (b) and declare the information required by subsection (c), and require that such information accompany the entry summary documentation.

**(2) Electronic record**

The President shall establish an electronic record that includes the importer information required under subsection (b) and the declarations required under subsection (c).