

Women Traveling With Expensive Purses/Handbags May Expect the CBSA to Ask Questions

April 26, 2016

There is a trend at Montreal Trudeau International Airport – Canada Border Services Agency (“CBSA”) officers are asking women who return to Canada with expensive purses (Dior, Prada, Coach, Chanel, etc.) to go to secondary inspection. In the Secondary Inspection Area, the CBSA officers accuse the woman of purchasing their purse/handbag on their most recent trip outside Canada. The woman must prove on the spot that the purse/handbag was (1) not purchased on the most recent trip, and (2) was declared if purchased on an earlier trip. If the person says they purchased the purse/handbag in Canada, they must produce the receipt right then and there or the purse/handbag will be seized. When the purse/handbag is seized, the CBSA officer usually imposes a level 2 penalty (40% of the value) after they go online to find out the going price for that purse/handbag or a similar purse/handbag. The penalty is usually over \$1000 and the woman’s NEXUS card is usually confiscated/cancelled.

Most women have the documentation about the purchase if it occurred in the last 2 years (sometimes an old visa statement or the store invoice. Sometimes the store will print a copy of an invoice from their records. If the purse/handbag was previously imported, the woman has the Casual Goods Accounting Document showing duties were previously paid.

Sometimes the purse was a gift from husband or a boyfriend. The woman must get the receipt or prove that the other person paid all applicable customs duties at the time of importation. This can be a problem if the woman is no longer on speaking terms with the giver of the purse/handbag.

If the purse/handbag was previously declared/reported on a declaration card after a previous trip outside Canada or by a courier (if the goods were shipped), it is important to know that the CBSA does not have authority under the *Customs Act* to seize the purse/handbag. Section 12(7) of the *Customs Act* provides that the following goods are not subject to seizure:

“Goods described in tariff item 9813.00.00 or 9814.00.00 in the *List of Tariff Provisions* set out in the schedule to the *Customs Tariff*:

- that are in the actual possession of a person arriving in Canada, or that form part of his baggage, where the person and his baggage are being carried on board the same conveyance,
- that are not charged with duties, and
- the importation of which is not prohibited under the *Customs Tariff* or prohibited controlled or regulated under any Act of Parliament other than [the *Customs Act*] or the *Customs Tariff*

may not be seized as forfeit under this Act by reason only that they were not reported under this section.” (Emphasis added)

Tariff Item 9813 relates to goods originating in Canada, after having been exported therefrom, if the goods are returned without having been advanced in value or improved in condition by any process of manufacture or other means, or combined with any other article abroad.

Tariff Item 9814 relates to goods, which have once been released and accounted for under section 32 of the *Customs Act* and have been exported, if the goods are returned without having been advanced in value or improved in condition by any process of manufacture of other means, or combined with any other article abroad.

So, if the purse/handbag was in Canada prior to the trip abroad and the duties were paid (either because the purse/handbag was previously declared or the purse/handbag was purchased in Canada, then the CBSA officer should not have seized the purse/handbag. Now, it is easy for me to say this. It is difficult to argue with the CBSA officer during the secondary inspection. These issues should be resolved by filing a request for redetermination and a NEXUS appeal.



Cyndee Todgham Cherniak

cyndee@lexsage.com

Mobile: (416) 389-8999

The Gooderham “Flatiron” Building

49 Wellington Street East, Suite 501

Toronto, Ontario M5E 1C9

Phone: 416-307-4168/416-760-8999

Main Office: 647-290-4249

Fax: 416-760-899

www.lexsage.com