



**FTZ optimization and  
drawback; using both  
programs to reduce costs  
and maximize savings**

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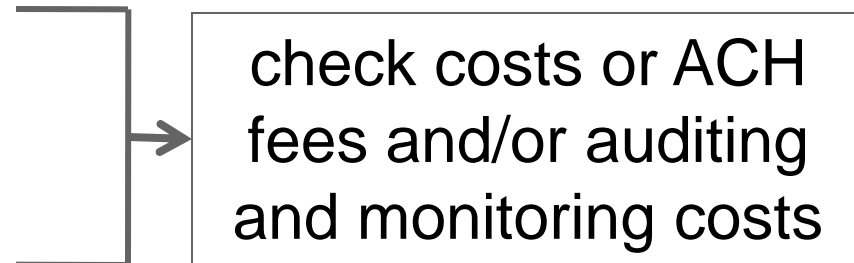
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# Petroleum importation cost concepts

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- ▶ Duties, taxes and costs liability associated and incurred at time of each import and entry

- ▶ Duties
- ▶ Harbor Maintenance Fee
- ▶ Merchandise processing fee
- ▶ Oil Spill Tax
- ▶ 7501-01 consumption entry broker costs



- ▶ Other considerations
  - ▶ Meeting today's "bar" for supporting Trade Preference Claims
    - ▶ How much "cost" is involved in supporting the claim?
  - ▶ Overall compliance risk cost of supporting entry with substantiating documentation

# Basic petroleum FTZ savings and cost concepts

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- ▶ Duty deferral for foreign merchandise under zone status, regardless of status selected
  - ▶ Utilize ICRS to manage import and admission of all cargoes to zone, using E-214 and ABI process
    - ▶ Software costs and compliance risk should be considered but proper procedures and controls are achievable
- ▶ Inverted tariff savings from approved production of NPF status merchandise
  - ▶ Know the plant production to elect proper amount of NPF status merchandise for admission
  - ▶ Pay attention to plant modifications, enhancements, or new units that could be “out of scope” of Appendix C
    - ▶ May require scope determination or grant modification
  - ▶ Software costs and compliance risk should be considered but proper procedures and controls are achievable

# Basic petroleum FTZ savings and cost concepts (cont.)

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- ▶ Quarterly Harbor Maintenance Fee payment
  - ▶ Provides for consolidated process of data but process and controls are required to coordinate with other corporate HMF obligations (domestic, etc).
- ▶ Weekly entry privileges for Merchandise Processing Fee
  - ▶ Provides for routine process and consolidated work flow and oversight effort for compliance of data
- ▶ Time Value of Money (TVM) for duty, MPF and HMF
  - ▶ Nominal savings in a low interest environment but value may increase with rate increases possibly on the horizon

# Basic petroleum FTZ savings and costs concepts (cont.)

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- ▶ Fuels consumed in processing
  - ▶ For petroleum, typically treated under TD 66-16 concept
    - ▶ Uses “constructive transfer” procedure to cover the “withdrawal” from the zone
      - ▶ Understand process and how to substantiate quantities being declared
- ▶ Loss during operations
  - ▶ Fire, spill, etc
- ▶ Zone to Zone transfer provides for advanced planning and additional savings potential
  - ▶ Requires appropriate analysis of rules and regulations
    - ▶ Zone to zone of finished product, e.g., jet fuel
    - ▶ Zone to zone of intermediate product for further processing under producibility at 2<sup>nd</sup> refinery
  - ▶ Ruling request or internal advice may be prudent to protect savings

# Basic petroleum FTZ savings and costs concepts (cont.)

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- ▶ Duty avoidance on exported merchandise
  - ▶ Can be derived from NPF or PF status merchandise
    - ▶ Routine / contracted exports may provide enhancement of NPF election where producibility of duty free categories is otherwise limited on election percentages
    - ▶ Depending on product, must consider value of direct export from FTZ or value of triggering FTZ consumption entry (type 06) and utilizing in drawback pool

# Basic petroleum FTZ savings and costs concepts (cont.)

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## ▶ Trade preference options

- ▶ For cargoes that may require extensive efforts to substantiate trade preference qualification:
  - ▶ NPF option may be a choice if:
    - ▶ Producibility table can accommodate or be modified for the subject feedstock and
    - ▶ Plant is “NPF Short” of other feedstocks, leaving duty free or duty reduced products available
  - ▶ PF option allows FTZ to avoid stand alone 7501-01
    - ▶ Again, substantiation issue arises if preference claim is made on 7501-06

# Enhancing petroleum FTZ savings

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- ▶ Optimizing weekly entry procedures
  - ▶ Consider admitting all foreign merchandise into FTZ
    - ▶ Utilizes e-214 procedures for cost control, reduction
    - ▶ Reduces individual entry fees (HMF and MPF)
    - ▶ Captures all data in one system
      - ▶ Better internal control application
      - ▶ Better use of data for reporting

# Enhancing petroleum FTZ savings (cont.)

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- ▶ Optimizing weekly entry procedures
  - ▶ Consider admitting all foreign merchandise into FTZ (cont.)
    - ▶ Requires monitoring and attention to NPF and PF levels
      - ▶ NPF flexibility
        - ▶ safety cushion for production changes
        - ▶ Contract considerations for jet fuel or other products for zone to zone or zone status delivery
      - ▶ NPF to PF conversion; for inventory
        - ▶ follow regulations 19 CFR 146.93(e)
      - ▶ PF reporting requirements
        - ▶ Relative Value reporting
        - ▶ Consider affect on duty drawback pool
    - ▶ Caveat – certain intermediate imports may provide better drawback options via CBPF 7501-01 due to other taxes

# Enhancing petroleum FTZ savings (cont.)

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- ▶ Using drawback and export planning
  - ▶ Know the “full picture” of the company’s product imports and exports
    - ▶ Educate, train, and reinforce synergies of various programs that could further increase savings from the FTZ basics
    - ▶ Understand available drawback pools to:
      - ▶ Determine 7501-06 entry vs direct export
    - ▶ Understand NAFTA 7501-08 rules

# Drawback basics

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## ▶ What is drawback?

- ▶ An export incentive provision included in the Tariff Act of 1789 passed by first Congress
- ▶ Drawback is a refund or remission, in whole or in part, of customs duties (sometimes taxes and/or fees) imposed on imported merchandise at the time of importation based upon the export of qualifying articles and the filing of a complete, timely claim.

## ▶ Legal basis:

- ▶ Unused Merchandise Drawback USC 1313(J)(1 & 2)
- ▶ Manufactured Merchandise Drawback USC 1313(a & b)
- ▶ Rejected / Destroyed Merchandise Drawback USC 1313(c)
- ▶ Substitution of Finished Petroleum Derivatives USC 1313(p)

Slide courtesy of Matt Anderson – Charter Brokerage

# Drawback basics – unused merchandise drawback

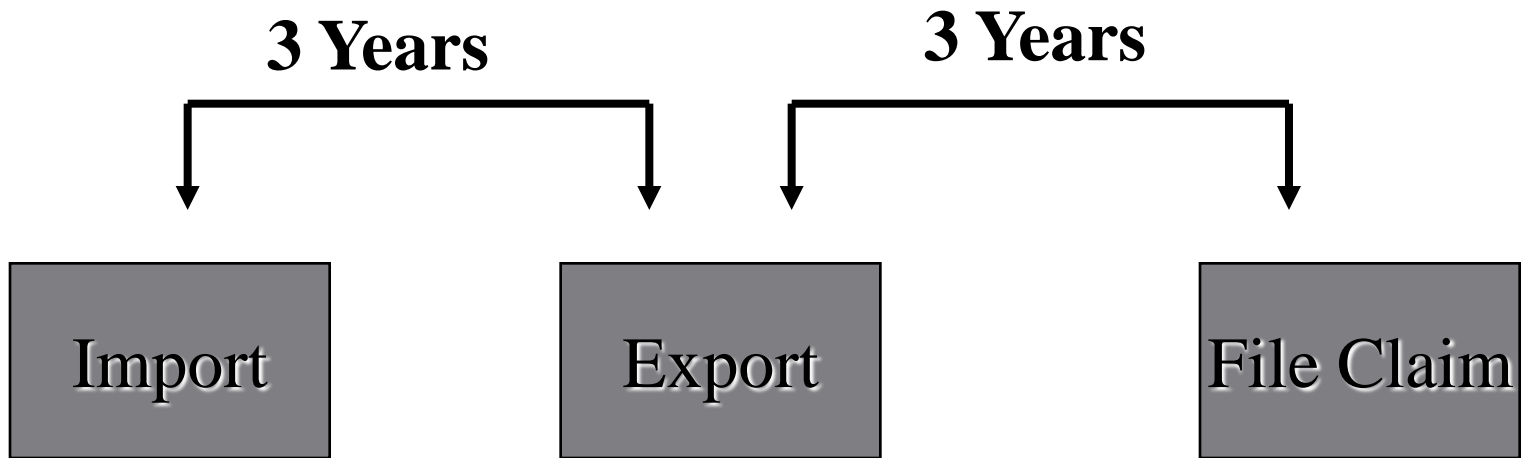
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- ▶ USC 1313 (j) - A refund of duties, taxes, and fees on imported merchandise exported in essentially the same condition
- ▶ Examples:
  - ▶ Undenatured ethanol imports for Undenatured ethanol exports
  - ▶ Butene Linear Low Density Polyethylene imports and Butene Linear Low Density Polyethylene export

Slide courtesy of Matt Anderson – Charter Brokerage

# Drawback basics – unused time frames

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Slide courtesy of Matt Anderson – Charter Brokerage

# Drawback basics – methods of matching imports to exports

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- ▶ Direct ID - specifically identifying an export with its import using serial number, lot number, or accounting methodology (FIFO)
- ▶ Substitution - matching exports to imports of similar merchandise

**Caution - NAFTA eliminated substitution under 1313(j)  
(Unused Merchandise) on exports to Canada and  
Mexico**

Slide courtesy of Matt Anderson – Charter Brokerage

# Drawback basics – commercial interchangeability

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- ▶ 4 Criteria (considered but not limited to)
  - ▶ Government / recognized industry standards
  - ▶ Part numbers
  - ▶ Tariff classification
  - ▶ Relative Value
- ▶ Commercial Interchangeability Determination
  - ▶ 19 CFR 191.32 (c)

Slide courtesy of Matt Anderson – Charter Brokerage

# Drawback basics – manufacturing drawback

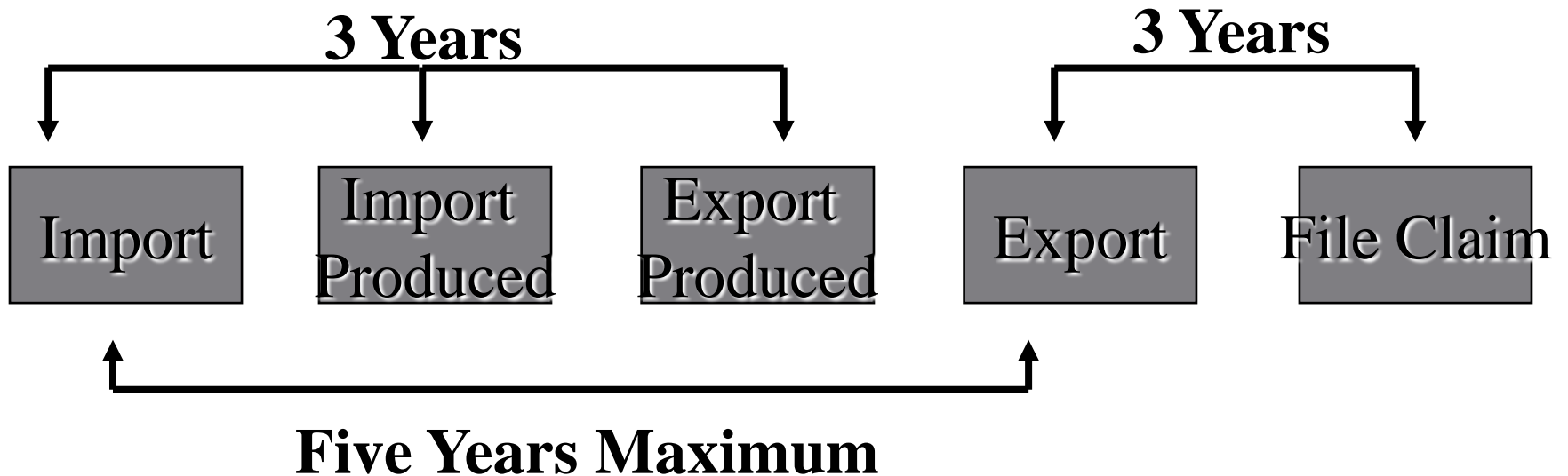
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- ▶ USC 1313 (a & b) - A refund of duties (no taxes and fees) on imported merchandise based upon the production of articles in this country from imported, duty-paid feedstocks (e.g., crude oil) or similar (“same kind and quality”) domestic feedstocks, which are substituted for the imported input/feedstock.

Slide courtesy of Matt Anderson – Charter Brokerage

# Drawback basics - manufacturing time frames

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Slide courtesy of Matt Anderson – Charter Brokerage

# Drawback basics – 1313(p)

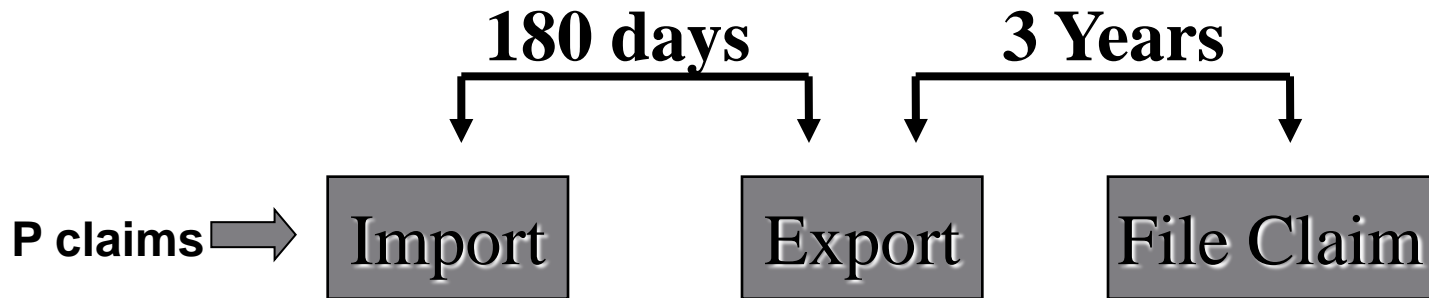
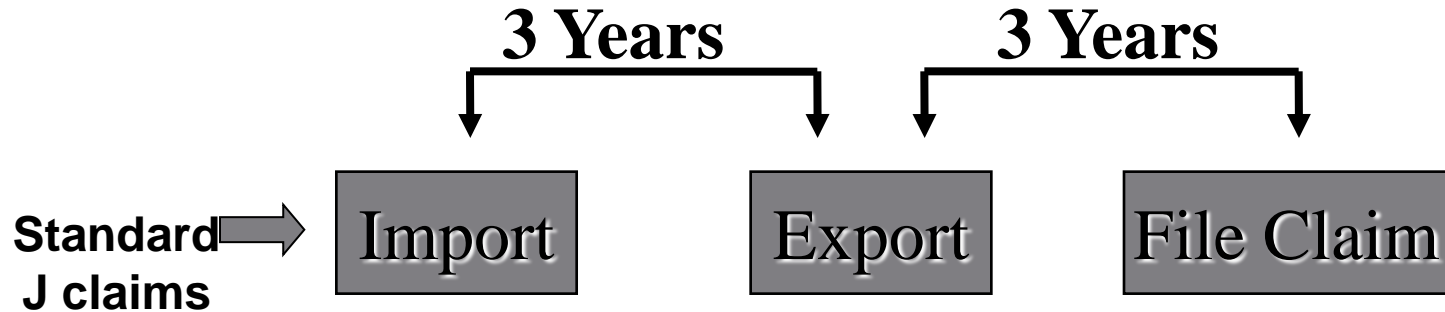
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- ▶ Max 180 days: import to export
- ▶ Done at the 8 digit level
  - ▶ Current or January 1, 2000
- ▶ Specified HTS headings

Slide courtesy of Matt Anderson – Charter Brokerage

# Drawback basics – substitution / unused drawback of finished petroleum products

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*In exchange for the more limited time frames, petroleum products receive more different substitution rules (8-digit).*

Slide courtesy of Matt Anderson – Charter Brokerage

# Drawback planning

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- ▶ It's a constantly changing balancing act

Imports



Exports

- ▶ The timing requirement that the import must precede the export compounds the complexity of planning and optimization

# Drawback planning

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Imports



Exports

7501-01s

7501-06s

Manufacturing

Company Imports

3<sup>rd</sup> Party Imports

HMT / MPF / OST

Bulk Exports

Deemed Exports

Company Exports

3<sup>rd</sup> Party Exports

Supporting Docs

FTZ Direct Exports

# Drawback options

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Company Imports

1

Company Exports

## Imports

## Exports

Third party Imports

2

Company Exports

Company Receipts

Company Imports

3

Third party Exports

Company Sales

Third Party Imports

4

Third party Exports

Company Receipts and Sales

# Drawback - imports

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- ▶ 7501-01s – duty / other taxes drawback
- ▶ 7501-06s – duty drawback only
- ▶ Manufacturing – duty drawback only based on calculated drawback factor
  - ▶ “Duty” recovery only
- ▶ Company imports
- ▶ 3rd party imports
  - ▶ 7501-01, 7501-06 or mfg
  - ▶ Drawback share terms
  - ▶ Does your company have sufficient purchases of the same product support the Certificate of Delivery

# Drawback example – import potential

▶ Company residual oil imports

▶ Drawback available @99%

## Residual Oil - 2710.19.05

<b>7501-01</b>	Duty	Other Taxes	Total
Importer Cost	\$0.0525	\$0.1000	\$0.1525
Drawback Available	0.0520	0.0990	0.1510

<b>7501-01 FTA</b>	Duty	Other Taxes	Total
Importer Cost	\$0.0000	\$0.1000	\$0.1000
Drawback Available	0.0000	0.0990	0.0990

<b>7501-06 NPF</b>	Duty	Other Taxes	Total
Importer Cost	\$0.0525	\$0.1000	\$0.1525
Drawback Available	0.0520	0.0000	0.0520

<b>FTZ Export - 3C</b>	Duty	Other Taxes	Total
Importer Cost	\$0.1050	\$0.1000	\$0.2050
Duty Avoided	0.1050	0.0000	0.1050

<b>MFG - 3C</b>	Duty	Other Taxes	Total
Importer Cost	\$0.1050	\$0.1000	\$0.2050
Drawback Available	0.0913	0.0000	0.0913

(.878 factor)

# Drawback – exports

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- ▶ Bulk exports – original BOLs
- ▶ Deemed exports
  - ▶ Fuel Consumed (19 USC 1309)
- ▶ Company exports
- ▶ 3rd party exports
  - ▶ Drawback share terms
  - ▶ Does your company have sufficient sales of the same product support the Certificate of Delivery
- ▶ Supporting docs
- ▶ FTZ direct exports

# Drawback example – export options

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## Residual Oil - 2710.19.05

### Company Imports and Company Exports

	Company Import Cost	Drawback Available	Company Net Cost	Priority
<b>7501-01 FTA</b>	(\$0.1000)	\$0.0990	(\$0.0010)	1
<b>7501-01</b>	(\$0.1525)	\$0.1510	(\$0.0015)	2
<b>7501-06 NPF</b>	(\$0.1525)	\$0.0520	(\$0.1005)	4
<b>MFG - 3C</b>	(\$0.2050)	\$0.0913	(\$0.1137)	5
<b>FTZ Export - 3C</b>	(\$0.2050)	\$0.1050	(\$0.1000)	3

# Drawback example – export options

## Residual Oil - 2710.19.05

### Company Imports and Third Party Exports

	Company Import Cost	Drawback Available	1/2 Share to Exporter	Company Net Cost	Priority
<b>7501-01 FTA</b>	(\$0.1000)	\$0.0990	\$0.0495	(\$0.0505)	1
<b>7501-01</b>	(\$0.1525)	\$0.1510	\$0.0755	(\$0.0770)	2
<b>7501-06 NPF</b>	(\$0.1525)	\$0.0520	\$0.0260	(\$0.1265)	3
<b>MFG - 3C</b>	(\$0.2050)	\$0.0913	\$0.0456	(\$0.1593)	5
<b>FTZ Export - 3C</b>	(\$0.2050)	\$0.1050	\$0.0525	(\$0.1525)	4

	Company Import Cost	Drawback Available	1/3 Share to Exporter	Company Net Cost	Priority
<b>7501-01 FTA</b>	(\$0.1000)	\$0.0990	\$0.0330	(\$0.0340)	1
<b>7501-01</b>	(\$0.1525)	\$0.1510	\$0.0503	(\$0.0518)	2
<b>7501-06 NPF</b>	(\$0.1525)	\$0.0520	\$0.0173	(\$0.1178)	3
<b>MFG - 3C</b>	(\$0.2050)	\$0.0913	\$0.0304	(\$0.1441)	5
<b>FTZ Export - 3C</b>	(\$0.2050)	\$0.1050	\$0.0350	(\$0.1350)	4

**The claimant might offer a cents per bbl to the exporter**

# Drawback example – export options

## Residual Oil - 2710.19.05

### Third Party Imports and Company Exports

	Company Import Cost	Drawback Available	1/2 Share to Importer	Company Net Cost	Priority
<b>7501-01 FTA</b>		\$0.0990	\$0.0495	\$0.0495	3
<b>7501-01</b>		\$0.1510	\$0.0755	\$0.0755	1
<b>7501-06 NPF</b>		\$0.0520	\$0.0260	\$0.0260	5
<b>MFG - 3C</b>		\$0.0913	\$0.0456	\$0.0457	4
<b>FTZ Export - 3C</b>		\$0.1050	\$0.0525	\$0.0525	2

	Company Import Cost	Drawback Available	1/3 Share to Importer	Company Net Cost	Priority
<b>7501-01 FTA</b>		\$0.0990	\$0.0330	\$0.0660	3
<b>7501-01</b>		\$0.1510	\$0.0503	\$0.1007	1
<b>7501-06 NPF</b>		\$0.0520	\$0.0173	\$0.0347	5
<b>MFG - 3C</b>		\$0.0913	\$0.0304	\$0.0609	4
<b>FTZ Export - 3C</b>		\$0.1050	\$0.0350	\$0.0700	2

# Drawback example – export options

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## Residual Oil - 2710.19.05

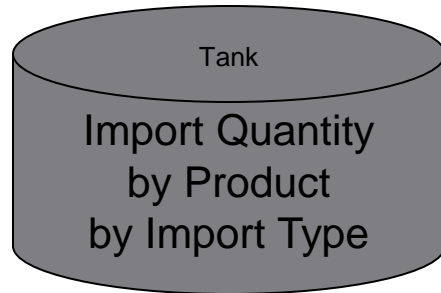
### Third Party Imports and Third Party Exports (Pass thru)

Company Import Cost	Drawback Available	1/3 Share to Importer	1/3 Share to Exporter	Company Net Cost	Priority
<b>7501-01 FTA</b>	\$0.0990	\$0.0330	\$0.0330	\$0.0330	3
<b>7501-01</b>	\$0.1510	\$0.0503	\$0.0503	\$0.0504	1
<b>7501-06 NPF</b>	\$0.0520	\$0.0173	\$0.0173	\$0.0174	5
<b>MFG - 3C</b>	\$0.0913	\$0.0304	\$0.0304	\$0.0305	4
<b>FTZ Export - 3C</b>	\$0.1050	\$0.0350	\$0.0350	\$0.0350	2

**The claimant might offer a cents per bbl for these transactions**

# Drawback decision tree

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1. Which are greater? Imports or exports
2. If imports
  1. Match against contractual drawback claims
  2. Match against company exports
  3. Look for third party export opportunities

# Drawback decision tree

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## ▶ If exports

- Match against contractual drawback claims
  - ▶ Consider if share terms are \$/bbl or % share when selecting imports
- Match against company exports
- Look for third party import opportunities

## ▶ If imports and exports are depleted

- Pass thru claims
- FREE MONEY - maybe
- Accurate receipt data
- Accurate sales data

# Drawback – other considerations

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## ▶ Cost of compliance

- Import entry status
- Drawback program

## ▶ Broker expenses

## ▶ HMT increases

- June 2009 - (HR 2355) - from 0.125% to 0.4375%.

## ▶ OST increases

- January 1, 2017 – from \$.08 to \$.09

## ▶ Elimination of excise tax drawback (OST)

- October 15, 2009 - Docket Number USCBP-2009-0021

## ▶ Loss of 1313(P) 2000 HTSUS classification rule