A Baker & McKenzie Strategic Customs Classification Review is designed to identify favorable tariff classification changes for a company’s imported products and maximize import duty savings and refunds from U.S. Customs and Border Protection ("CBP"). We have conducted these reviews for several clients with extremely successful results. This document provides a step-by-step outline of our review process and what input is required by the importer.

Compilation of Import Data
A Strategic Customs Classification Review begins with the importer’s preparation of recent import data.

If possible, the importer should supply Baker & McKenzie with import data covering a time period to be identified by Baker & McKenzie for which duty refunds would be available. Generally, the import data should cover the most recent one-and-a-half year period and should include the following data elements: (1) entry date, (2) entry number, (3) liquidation date where applicable, (4) country of origin, (5) special program code, (6) internal item number or product code, (7) a detailed item description, (8) the tariff classification used, (9) entered value, (10) duty paid, and (11) antidumping or countervailing duty paid. In the event that the importer is unable to compile this data, Baker & McKenzie will request an official record of Importer Trade Activity ("ITRAC") data from CBP at a cost of $250 to be paid by the importer. In either case, the importer will need to be able to tie tariff descriptions in the import data to specific product item numbers and product item descriptions.

The success of a Strategic Customs Classification Review also depends upon the availability of thorough product information from the importer, such as material composition, photographs, marketing descriptions, etc.

We have a very solid classification review process, so I was surprised that Terrie Gleason and her team were able to locate such substantial duty refunds for us. Not only were they on top of the recent classification decisions at Customs and in the courts, but they were uniquely skilled at looking at our products and considering whether there were valid arguments to present to Customs for a classification with a lower duty rate. On many items, Terrie and her team saw opportunities and worked with Customs to have those approved. I highly recommend that other companies have Terrie and her team conduct a Strategic Classification Review.

Director, Customs Compliance, Major Retailer
Baker & McKenzie Review Process

The review process involves multiple stages. Baker & McKenzie will begin by developing “filtering algorithms” to identify those products and classifications with the highest potential return on investment, i.e., refunds of past over-payments and lower import duties for the future. We filter and analyze the import data in multiple ways to target the products and classifications with the greatest likelihood of obtaining a successful refund. Specific items within potential high-yield product categories will be subject to a substantive legal analysis involving CBP classification rulings, ruling modifications and/or revocations, decisions of the U.S. Court of International Trade and the U.S. Court of Appeals for the Federal Circuit, as well as opinions of the World Customs Organization. The import compliance attorneys at Baker & McKenzie also identify duty-savings opportunities solely by leveraging more than 25 years of deep experience and expertise with tariff classification across a broad spectrum of products. Depending on the complexity of a particular product, Baker & McKenzie may also contact CBP’s Office of Regulations and Rulings or National Commodity Specialist Division on a no-names basis to discuss competing classification options.

Identification of Savings Opportunities (“Hits”)

Baker & McKenzie will contact the importer as it identifies products capable of duty-saving reclassifications. The notice of each new classification “hit” will be accompanied by an e-mail request for additional information, which could include photographs, material composition, supplier data, product usage, etc.

Duty Refund Process

Upon determining that a product should be reclassified, Baker & McKenzie will contact the importer with detailed refund instructions.

   The importer will be required to either instruct its broker or itself file post-entry amendments (“PEAs”), post-summary corrections (“PSCs”), or protests to obtain duty refunds from CBP. If the importer instructs its broker to file on its behalf, it should discuss volume discounting with its broker. Each set of detailed refund instructions will include a spreadsheet identifying entries eligible for refunds; dates by which PEAs, PSCs, or protests must be filed; minimum expected refund amounts; prepared legal arguments and supporting documentation; and all requisite CBP forms. The importer will be expected to confirm that it will begin to file for duty refunds or will instruct its broker to file for duty refunds.
Recordkeeping and Updates

Baker & McKenzie will keep a log of each classification “hit” and will send this to the importer at regular internals as a status update. The log will include all relevant product and classification information, as well as filing deadlines, minimum expected refunds, and minimum Baker & McKenzie fee projections.

The importer will be required to confirm with Baker & McKenzie when PEAs, PSCs, or protests are filed and approved and send records confirming the filings.

Fees & Fee Collection

Baker & McKenzie charges a 35% contingent fee for Strategic Customs Classification Reviews. The fee is due only upon refunds of duties and interest that the importer actually receives from CBP. This fee is invoiced on a monthly basis and covers 35% of the total duties plus interest recovered from CBP during the previous month.

Ongoing Review

Even after our initial review has been completed, we will monitor changes in the law and notify the importer of additional possible hits to be handled on the same contingent fee terms agreed for the initial Strategic Customs Classification Review.

Our Success Rate

To date, Baker & McKenzie has identified nearly $3 million in duty refunds for our clients.

Who We Are

Terrie A. Gleason is a partner in the Washington, D.C. office. She has practiced in the area of Customs law for more than 25 years and has extensive experience advising clients about all matters relating to tariff classification. She is also the Chair of the Firm’s Global Customs Practice Group.

Stuart P. Seidel is a partner in the Washington, D.C. office. As a former Assistant Commissioner of Customs, he possesses unique insight into Customs compliance matters, including tariff classification.

Meredith A. DeMent is an associate in the Washington, D.C. office. Her practice focuses on regulatory matters relating to product importation. She routinely advises clients on tariff classification.