



HASS AVOCADO BOARD ORGANIC IMPORT EXEMPTION PROCESSING

Background

The federal Hass Avocado Promotion, Research, and Information Order (hereinafter referred to as "Order") provides as of February 29th 2016, that an importer who imports Hass Avocados that are eligible to be labeled as "organic" or "100 percent organic" under the NOP, or certified as "organic" or "100 percent organic" under a U.S. equivalency arrangement established under the National Organic Program (NOP) (7 CFR part 205), may apply for exemption from the payment of the Hass Avocado Board assessment on those Hass Avocados.

Eligibility and Certificate of Exemption

Eligible importers may submit documentation to the Board and request an exemption from assessment on certified "organic" or "100 percent organic" Hass avocados on an Organic Exemption Request Form (Form AMS-15) at any time initially, and annually thereafter on or before November 1, as long as the importer continues to be eligible for the exemption. An importer request shall include the following:

- (1) The applicant's full name, company name, address, telephone and fax numbers, and email address;
- (2) Certification that the applicant maintains a valid certificate of certified organic operation issued under the Organic Foods Production Act of 1990 (7 U.S.C. 6501-6522) (OFPA) or a U.S. equivalency arrangement established under the NOP for Hass avocados;
- (3) Certification that the applicant imports certified organic Hass Avocados eligible to be labeled "organic" or "100 percent organic" under the NOP;
- (4) A requirement that the applicant attach a copy of their certificate of organic operation issued by a USDA-accredited certifying agent under the OFPA and the NOP;
- (5) Certification, as evidenced by signature of an officer of the importing company and date, that all information provided by the applicant is true; and
- (6) such other information as may be required by the Hass Avocado Board, with the approval of the United States Secretary of Agriculture.

Eligible importers that comply with the requirements of this section, will be granted the exemption and issued a Certificate of Exemption by the Hass Avocado Board within 30 days of receipt of completed application and correct supporting documentation or such other information as may be required by the Board. Submission may be done via the organicexempt.hassavocadoboard.com website.

ASSESSMENT COLLECTION AND QUALIFIED REIMBURSEMENTS

If Customs collects the assessment on exempt Hass Avocados that are identified as certified “organic” or “100 percent organic” by Harmonized Tariff Schedule (HTS) number **0804400020**, the Board must reimburse the exempt importer the assessments paid upon receipt of such assessments from Customs. For administrative purposes, “paid upon receipt” is defined as “within 30 days of receipt of proper request documentation”.¹

For all other exempt certified organic Hass Avocados for which Customs collects the assessment but was not identified by Harmonized Tariff Schedule (HTS) number **0804400020**, the importer may apply to the Board for a reimbursement of assessments paid for such organic Hass Avocados.

To qualify for reimbursement of paid assessments on “organic” or “100 percent organic” Hass Avocados, the importer must submit satisfactory proof to the Board that the importer paid Customs the assessment on such avocados regardless of whether or not consignments were identified by HTS number **0804400020**. Any refunds in assessments shall be credited to the account of the importer remitting the refund and shall be applied against any amounts due to the Hass Avocado Board up to that point.

Any importer so exempted shall continue to be obligated to pay assessments for any imported Hass Avocados that do not qualify for an organic exemption under the order.

ORGANIC IMPORT REFUND REQUESTS

Organic import refund requests should be submitted to the Board no later than 10 days following the close of the month the exempt certified organic imports occurred. Only importers holding a valid Certificate of Exemption issued by the Board at the time of import, will be qualified to claim a refund. All required documentation is necessary for the refund request to be considered valid and processed in a timely manner. HAB will refund the importer within 30 days of receiving complete and accurate documentation supporting the refund claim. In order to maintain the fiscal integrity of HAB and to be able to remit the proper assessment rebate amounts on a timely basis to the HAB Member Organizations, refund claims not made within 30 days of the last day of the month the import was made will be deemed invalid and those unclaimed funds will remain with the Hass Avocado Board.

ORGANIC IMPORT REFUND PROCEDURE

On or about the beginning of each month, and once data and funds from Customs have been received by HAB, HAB will analyze the prior months import data from Customs. Certified

¹ For further information, reference the Section entitled “Organic Import Refund Procedure”.

Organic imported avocados will be identified by HTS code **0804400020** and sorted by importer of record.

A summary report of the organic imports will be sent via email to each importer of record holding a valid Certificate of Exemption. The report will include the following data:

- 1.) Entry number, 2.) HTS code, 3.) Weight, 4.) Collection date, 5.) Assessment paid.

Upon receipt of the summary report from HAB, each importer seeking a refund must submit copies of the related Customs Entry Summaries (**CBP Form 7501 (06/09)**) along with an Itemized Summary including Importer of Record Name, Import date, Customs Entry Summary Entry Number, Country of Origin, Gross weight, Amount of avocado fees paid listed by entry number along with an Importer Affidavit that acknowledges the accuracy of the submitted documentation verifying that the imported avocados are “organic” or “100 percent organic” (as defined in the NOP) and therefore eligible for the exemption.

Within 30 days of receipt of the proper documentation, including Customs Entry Summaries and the Importer Affidavit, and Itemized Summary, HAB will process a refund to the importer of record.

REQUEST SUBMISSION AND DOCUMENTATION FORMATS

The Board will only process those monthly requests that are submitted via organicexempt.hassavocado.org website including the following:

1. Importer of Record Name, Valid Email Address and organic Exemption Certificate Number.
2. Itemized listing that includes Entry Number, Import date, HTS Code, Country of Origin, Gross weight, Amount of avocado fees paid listed by entry number.
3. Attach one (1) PDF file that includes copies of all **Department of Homeland Security US Customs and Border Protection Entry Summaries {(CBP Form 7501 (06/09))}** corresponding to the certified organic Hass avocados for that month.

IMPORTER OBLIGATIONS

The importer is required to:

File organic overpayment requests to the Hass Avocado Board within 10 days of the end of the month following the imported fruit was received.

Keep complete and accurate reports and records of all imported certified organic avocados, which shall be retained for at least three years beyond the fiscal period of their applicability and

made available on demand for inspection by the employees and agents of the Hass Avocado Board and U.S. Department of Agriculture.

As stated in Section 484 of the Tariff Act, as amended, (19 U.S.C. 1484), “the importer of record is responsible for using reasonable care to enter, classify and determine the value of imported merchandise...an importer of record’s failure to exercise reasonable care could delay release of merchandise and, in some cases could result in the imposition of penalties.”

IMPORTER OBLIGATIONS

IMPORTER OBLIGATIONS - CONTINUED

The Importer of record is responsible to ensure imported Hass Avocados are classified with the correct Harmonized Tariff Schedule Code (HTS) at the point of entry into the United States.

QUESTIONS

In the event you have any questions regarding these procedures please contact the Hass Avocado Board office at 949-341-3250.

THESE PROCEDURES CAN CHANGE AT ANY TIME AT THE DISCRETION OF THE HASS AVOCADO BOARD WITH APPROVAL FROM THE SECRETARY.

DEFINITIONS

The following definitions apply to these procedures

“Importer” means any person who imports Hass avocados into the United States. The term includes a person who holds title to Hass avocados produced outside of the United States immediately upon release by Customs, as well as any person who acts on behalf of others, as an agent, broker, or consignee, to secure the release of Hass avocados from Customs and the introduction of the released Hass avocados into the current of commerce and who is listed in the import records of Customs as the importer of record for such Hass avocados.

“Hass Avocado Board or Board or HAB” means the administrative body established pursuant to 1219.30 of the Order.

“Secretary” means the Secretary of Agriculture of the United States or any other officer or employee of the Department to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

“Customs” means the U.S. Department of Homeland Security Customs and Border Protection.

“Overpayment” means an importer of record holding a valid Certificate of Exemption pays an assessment for Hass avocados that is imported into the United States that is certified as “organic” or “100 percent organic.”

CODE OF FEDERAL REGULATIONS

§ 1219.202 Exemption for organic Hass avocados.

(a) A producer who operates under an approved National Organic Program (NOP) (7 CFR part 205) organic production system plan may be exempt from the payment of assessments under this part, provided that:

(1) Only agricultural products certified as “organic” or “100 percent organic” (as defined in the NOP) are eligible for the exemption;

(2) The exemption shall apply to all certified “organic” or “100 percent organic” (as defined in the NOP) products of a producer regardless of whether the agricultural commodity subject to the exemption is produced by a person that also produces conventional or nonorganic agricultural products of the same agricultural commodity as that for which the exemption is claimed;

(3) The producer maintains a valid certificate of organic operation as issued under the Organic Foods Production Act of 1990 (7 U.S.C. 6501-6522) (OFPA) and the NOP regulations issued under OFPA (7 CFR part 205); and

(4) Any producer so exempted shall continue to be obligated to pay assessments under this part that are associated with any agricultural products that do not qualify for an exemption under this section.

(b) To apply for exemption under this section, an eligible Hass avocado producer shall submit a request to the Board on an Organic Exemption Request Form (Form AMS-15) at any time during the year initially, and annually thereafter on or before November 1, for as long as the producer continues to be eligible for the exemption. Submission may be done via the organicexempt.hassavocadoboard.com website

(c) A producer request shall include the following:

(1) The applicant's full name, company name, address, telephone and fax numbers, and email address;

(2) Certification that the applicant maintains a valid certificate of organic operation issued under the OFPA and the NOP;

(3) Certification that the applicant produces organic products eligible to be labeled “organic” or “100 percent organic” under the NOP;

(4) A requirement that the applicant attach a copy of their certificate of organic operation issued by a USDA-accredited certifying agent under the OFPA and the NOP;

(5) Certification, as evidenced by signature and date, that all information provided by the applicant is true; and

(6) such other information as may be required by the Board, with the approval of the Secretary.

(d) If a producer complies with the requirements of this section, the Board will grant an assessment exemption and issue a Certificate of Exemption to the producer within 30 days. If the application is disapproved, the Board will notify the applicant of the reason(s) for disapproval within the same timeframe.

(e) The producer shall provide a copy of the Certificate of Exemption to each handler to whom the producer sells Hass avocados. The handler shall maintain records showing the exempt producer's name and address and the exemption number assigned by the Board.

(f) An importer who imports products that are eligible to be labeled as “organic” or “100 percent organic” under the NOP, or certified as “organic” or “100 percent organic” under a U.S. equivalency arrangement established under the NOP, may be exempt from the payment of assessments on those products. Such importer may submit documentation to the Board and request an exemption from assessment on certified “organic” or “100 percent organic” Hass avocados on an Organic Exemption Request Form (Form AMS-15) at any time initially, and annually thereafter on or before November 1, as long as the importer continues to be eligible for the exemption. This documentation shall include the same information required of producers in paragraph (c) of this section. If the importer complies with the requirements of this section, the Board will grant the exemption and issue a Certificate of Exemption to the importer. If Customs collects the assessment on exempt product that is identified as “organic” by a number in the Harmonized Tariff Schedule, the Board must reimburse the exempt importer the assessments paid upon receipt of such assessments from Customs. For all other exempt organic product for which Customs collects the assessment, the importer may apply to the Board for a reimbursement of assessments paid, and the importer must submit satisfactory proof to the Board that the importer paid the assessment on exempt organic product. Any importer so exempted shall continue to be obligated to pay assessments under this part that are associated with any imported agricultural products that do not qualify for an exemption under this section.

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USDA Approved on X-X-2016

(g) The exemption will apply immediately following the issuance of the Certificate of Exemption.