



October 17, 2025

All Members of the National Fireworks Association

Re: First Sale Rule Informational Guide

To All Members of the NFA:

As promised in our Tariff discussion at our convention in Rogers, Arkansas this sheet is intended to provide all the information the National Fireworks Association, (“NFA”) has obtained regarding the First Sale Rule as it relates to tariffs. This guide is intended solely to provide information and education and is not intended as legal advice. All information is provided in good faith, however, the NFA makes no representation or warranty of any kind, express or implied, regarding the accuracy, adequacy, validity, reliability, or completeness of any information. Please do not consider this letter to be any type of legal or regulatory advice. ***This is for informational purposes only.***

The First Sale Rule addresses the sale of goods from a foreign manufacturer to a broker in a bona fide transaction, transferring the title of the goods. Those goods are then sold to a U.S. buyer in the second bona fide transaction, transferring the title of the goods once again. The NFA received an overwhelming number of comments and questions during the convention regarding how the new tariffs are affecting the First Sale Rule.

As NFA members are aware, to meet the requirements for a First Sale Rule transaction, there must be a first sale of goods intended for export to the United States. Goods redirected or produced for multiple marks do not qualify. It must be an arm-lengths transaction. Detailed documentation must be kept, detailing the transaction. The importer is liable for maintaining the paper trail. Customs and Border Protection (CBP) will require the importer to provide proof such as sales contracts, invoices, proof of payment, bills of lading, and purchase orders. This will be evaluated on a totality of the circumstances to determine if the records meet the requirements. The First Sale Rule allows the price paid by the broker to the manufacturer in the “first sale” to be the value declared by the importer, as opposed to the price on the invoice to the U.S. importer.

Some brokers are being charged a lower price for the goods in the first sale and then a management fee is added to the sale to in essence recoup some of the lowered price. It is even possible this scenario is taking place without the explicit knowledge of the importer. It is important for the importer to have a complete and accurate record of the cost of the “first sale” from the factory to the broker. The importer must have proper documents that prove the “first sale price” in case of a CBP audit. Due diligence is critical to maintain a successful business.



The NFA provides this publicly available information for factual reference only. The NFA encourages each member wishing to utilize the First Sale Rule, especially in relation to the effects of tariffs, to consult with a specialized attorney and accountant. This notice is intended to encourage members of the NFA to research the obstacles associated with the First Sale Rule that could lead to liability on the importer such as goods not intended for the U.S., failure to have an arms-length transaction, not having a bona fide sale between manufacturer and broker, and insufficient documentation for CBP. This rule should be evaluated carefully to determine if its use is in the best interest of your business.

The NFA does not take a stance related to the First Sale Rule and this informational sheet should not be interpreted as legal advice.

NATIONAL FIREWORKS ASSOCIATION

A handwritten signature in cursive script, reading 'Stacy Schneitter Blake'.

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Stacy Schneitter Blake, President