



## White House and CBP Allow 90 Day Normal Trade Relation Duty Deferral for Certain Importers

### Importers Paying Duties on Periodic Monthly Statement Face Imminent Deadline for April 2020 Duty Payments

On Sunday, April 19, 2020, the White House released the text of an [Executive Order](#) allowing the temporary extension of deadlines for importers suffering significant financial hardship because of COVID-19 to pay certain types of duties.

On the same day, CBP released a [temporary final rule](#) to implement the Executive Order and to create a new section to [19 CFR 24.1](#) (the new section will be designated as 19 CFR 24.1a). CBP also released two (2) CSMS Messages: [42421561](#) and [42423171](#).

Under the Temporary Final Rule, CBP is amending the CBP regulations to temporarily postpone the deadline for importers of record with a significant financial hardship to deposit certain estimated duties, taxes, and fees that they would ordinarily be obligated to pay as of the date of entry, or withdrawal from warehouse, for consumption, for merchandise entered in March or April 2020, for a period of 90 days from the date that the deposit would otherwise have been due. No interest that would otherwise accrue upon such estimated duties, taxes, and fees will accrue during the 90-day postponement period.

The temporary postponement does not permit return of any deposits of estimated duties, taxes, and/or fees that have been paid, nor does it apply to entries, or withdrawals from warehouse, subject to certain specified trade remedies, or any entry summary that includes merchandise subject to those trade remedies. Specifically, merchandise and entry summaries containing merchandise subject to the following duty types are **not** eligible for duty deferment:

- antidumping duties (assessed pursuant to 19 U.S.C. 1673 *et seq.*)
- countervailing duties (assessed pursuant to 19 U.S.C. 1671 *et seq.*)
- duties assessed pursuant to Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862)
- duties assessed pursuant to Section 201 of the Trade Act of 1974 (19 U.S.C. 2251 *et seq.*), and
- duties assessed pursuant to Section 301 of the Trade Act of 1974 (19 U.S.C. 2411 *et seq.*)

When a shipment contains both merchandise that is eligible for temporary postponement and merchandise that is ineligible, the filing of separate entries would be required in order to utilize the duty postponement provisions.

The duty deferment does **not** affect:

- deadlines for the payment of other debts to CBP, including but not limited to deadlines for the payment of bills for duties, taxes, fees, and interest determined to be due upon liquidation or reliquidation,
- deadlines for the payment of fees authorized pursuant to 19 U.S.C. 58c (except for merchandise processing fees and dutiable mail fees), or
- deadlines for the payment of any penalty or liquidated damages due to CBP

In addition, an importer must be able to demonstrate a significant financial hardship in order to utilize the duty deferment provision. To demonstrate significant financial hardship:

- an eligible importer's operation must be fully or partially suspended during March or April 2020 due to orders from a competent governmental authority limiting commerce, travel, or group meetings because of COVID-19, **and**
- as a result of such suspension, the gross receipts of such importer for March 13-31, 2020 or April 2020 must be less than 60 percent of the gross receipts for the comparable period in 2019.

Thus, there is both a suspension of operation requirement **and** a decrease in gross receipts requirement. Both must be satisfied in order to utilize the new duty deferments. Importantly, per CSMS Message 42421561:

- An eligible importer does not need to file documentation with CBP to be eligible for this relief but must maintain documentation as part of its books and records establishing that it meets the requirements for relief. CBP may also conduct a review of the documentation at a future date to ensure compliance with the requirements.

***Last, but not least, importers who pay duties on periodic monthly statement must act by 11:59 PM, Monday, April 20th in order to have the deferral apply to those duties.***

Roll & Harris LLP is continuing to monitor events and will send out future updates as the situation develops.

Please do not hesitate to contact us at [info@thetradelawfirm.com](mailto:info@thetradelawfirm.com) with any questions you may have.