



The Bottom Line

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90-DAY DUTY DEFERRAL: ARE YOU ELIGIBLE?

Summary

On April 19, 2020, U.S. Customs and Border Protection (CBP), the Department of Homeland Security, and the Department of the Treasury issues a temporary final rule permitting importers to postpone payment of certain import duties for 90 days to help offset the impacts of COVID-19.

Background

On March 13, 2020, the President issued a proclamation (#9994) declaring a national emergency concerning the Novel Coronavirus Disease (COVID-19). On March 20, 2020, Customs advised that they would approve, on a case-by-case basis, additional days for payment of estimated duties, taxes, and fees due to the severity of disruptions caused by the novel Coronavirus. Due to what was presumably overwhelming response, the authorization was overturned only a few days later.

Due to the COVID-19 pandemic, local, state, and national restrictions have forced the closure of offices of the importing community and those businesses have limited their operations and procedures. Many importers of record will be receiving diminished or no revenue during this time while still incurring costs, including the duties, taxes, and fees associated with imported merchandise for their clients and supply chains. This emergency action is being taken in response to the extraordinary challenges U.S. individuals and businesses are facing during the COVID-19 national emergency, and is consistent with the Secretary of the Treasury's decision to postpone due dates for federal income tax payments.

Current Status

Below are five considerations for importers in assessing whether they may postpone import duty payments:

1. The rule applies only to merchandise that entered the U.S. from March 1 to April 30, 2020. The determinative date is the date of entry to Customs. For these shipments, importers can delay payment of duties, taxes, and fees by 90 days.
2. Importers cannot get refunds for payments already made. CBP will not refund paid duties for the purposes of deferring payment.

3. The rule excludes merchandise subject to antidumping duties, countervailing duties, or to Section 201, 232, or 301 tariffs. If any line on a particular entry includes merchandise that is subject to antidumping duties, countervailing duties, or Section 201, 232 (steel/aluminum), or 301 (China) tariffs, the importer must pay all duties, taxes and fees on time.
4. Importers can split future shipments into more than one entry to take advantage of the rule for qualified merchandise and segregate it from merchandise that is not eligible. Customs has advised that entries already filed should not be amended.
5. The importer must be subject to "significant financial hardship." An importer must have at least partially suspended its operations during March or April 2020 due to orders from a governmental authority limiting commerce because of COVID-19. In addition, the gross receipts for March 13-31 or the month of April must be less than 60% of the gross receipts for the same period in 2019. The importer does not need to provide CBP with evidence in its import documentation but must keep such information in its records.

Impact

Although the Customs Rule is not a blanket authorization, importers that want to take advantage of the program need to do so as soon as possible. The deferrals are only available on entries or statements through the end of April. Customs has not yet indicated whether the ability to defer duty payments will be extended past April 30, 2020.

RESOURCES:

[Temporary Postponement of Certain Duties, Taxes, and Fees](#) (Federal Register)
[90-Day Duty Postponement Frequently Asked Questions](#) (CBP)
[Executive Order Temporarily Extends Deadlines for Certain Payments](#) (WH.gov)