

## Federal Government Temporarily Postpones Certain Import Duties, Taxes, and Fees

By Mark A. Peasley

U.S. Customs and Border Protection (CBP) regulations were modified April 19, 2020 to temporarily postpone the deadline for importers of record who have suffered “significant financial hardship” to deposit estimated duties, taxes, and fees the importer is normally 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 have otherwise been due. No interest will accrue during the 90-day postponement period and no penalty, liquidated damages claim, or other sanction will be imposed for delayed deposits in accordance with this postponement. This postponement does not permit return of any deposits that have already been paid and does not apply to deadlines for payment of other debts to CBP due upon liquidation, certain fees for customs services, and any payment of penalties and damages due to CBP.

For those entries where time of entry is contingent upon the deposit of postponed duties, taxes, and fees, the CBP is waiving the requirement to deposit those duties, taxes, and fees to establish time of entry where otherwise required.

### Eligible Importers

Importers must demonstrate “significant financial hardship” to qualify for the temporary postponement, where such hardship is defined as those importers whose operation has been fully or partially suspended during March or April 2020 by orders of competent government authorities issued because of COVID-19. From March 13, 2020 to March 31, 2020 or from April 1, 2020 to April 31, 2020, the importer’s gross receipts must have been less than 60% of gross receipts for the same period in 2019. Documentation demonstrating eligibility does not need to be filed with CBP to be eligible for postponement; however, any eligible importer must maintain documentation proving that it meets the above criteria.

### Ineligible Merchandise

The postponement does not apply to any deposit of estimated duties, taxes, or fees for the entry, or withdrawal from warehouse, for consumption, where the entry summary includes any merchandise subject to one or more of the following:

1. Anti-dumping duties and countervailing duty orders;
2. Any merchandise where decreasing or eliminating duties would threaten to impair national security;
3. Any merchandise subject to duties assessed pursuant to Section 201 of the Trade Act of 1974; or
4. Any merchandise subject to duties assessed pursuant to Section 301 of the Trade Act of 1974.

If a shipment contains both merchandise that is eligible for the temporary postponement and merchandise that is ineligible because it is subject to duties listed above, the importer should file separate entries for the eligible and ineligible merchandise.

If you have any questions about this topic, please contact one of the listed Roetzel attorneys.

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