CLIENT ALERTS & INSIGHTS

Benesch COVID-19 Resource Center: UPDATE Customs Duty Payment Extensions Available For COVID-19 Emergency

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Benesch advised on March 21 that U.S. Customs and Border Protection ("CBP") was examining emergency measures to allow for the deferral of customs duty payments in response to the COVID-19 pandemic. On April 19 the White House released an Executive Order permitting the Secretary of Treasury, in consult with the Department of Homeland Security, to establish the temporary duty deferral program for those importers experiencing financial hardship due to the outbreak. The full-text Executive Order is available here.

Effective April 20, the Secretary of Treasury is instituting a 90 calendar day interest free extension for payment of certain estimated customs duties, taxes, and fees for importers facing significant financial hardship. Qualifying financial hardship requires that: (1) the importer's operations are fully or partially suspended during March or April of 2020 due to orders from a competent governmental authority limiting commerce, travel, or group meetings in response to COVID-19, and as a result (2) gross receipts for such importer for March 13-31 or the month of April are less than 60 percent of the gross receipts for the comparable period in 2019. Qualifying importers do not need to file documentation with CBP to establish relief but must maintain accurate documents, books, and records substantiating such hardship. CBP may conduct future reviews to ensure compliance.

This temporary postponement applies to formal entries of merchandise entered, or withdrawn from warehouse or Foreign Trade Zone, for consumption in March or April of 2020. The postponement does not apply to any entry or withdrawal for consumption where the merchandise is subject to: antidumping duties, countervailing duties, Section 232 duties, Section 201 duties, or Section 301 duties. Also, CBP will not refund any otherwise qualifying deposits of estimated duties, taxes, and fees that are already paid. Additional guidance from CBP regarding program requirements are found at the bulletins CSMS #42423171 and #42421561. CBP will publish a Temporary Final Rule in the Federal Register amending applicable regulations found at 19 CFR Part 24.

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Please note that this information is current as of the date of this Client Alert, based on the available data. However, because COVID-19's status and updates related to the same are ongoing, we recommend real-time review of guidance distributed by the CDC and local officials.

