



cbp authorizes duty payment deferral

Cybersecurity Concerns with Remote Work

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MSK Client Alert

April 20, 2020

Despite statements discounting the possibility, saner heads have prevailed and published late yesterday was an Executive Order issued permitting the Secretary of the Treasury to adjust the deadlines related to payment of duty.

Executive Order re Duty Payment Deferral. On that basis, CBP announced a 90 day postponement of duty payment is possible. First, in **CSMS 42423171**, CBP made clear the option to postpone duty payment for 90 days exists for many entries filed in March and April 2020. However, if the entry involves antidumping duty, countervailing duty, and/or Section 201, 232 or 301 duties, duty payment deferral is not available. While not obvious from the publications available to date, if your goods are subject to a 301 tariff but you have an exclusion, CBP has verbally advised you are not eligible for duty payment deferral. Many more questions are likely and CBP is holding a second briefing with the trade community this morning. The first such briefing took place yesterday evening. During that briefing, CBP indicated the duty deferral decision had to be made before 11:59 p.m. tonight. This is understood to refer to duty payments due today, April 20, 2020. Make sure to consult with your customs broker, but do not be surprised if many are unsure about the application of this newly announced program, due to the timing of its rollout.

To qualify for duty deferral, importers will not need to make any special application, but rather must maintain records to show financial hardship, which is defined as the importer's operation being fully or partially suspended during March or April 2020 due to orders from a "competent governmental authority limiting commerce, travel, or group meetings due to COVID-19," and that, as a result, the importer's gross receipts from March 13, 2020 onward are "less than 60 percent of the gross receipts for the comparable period in 2019." CBP has made clear it reserves the right to review such supporting documents "at a future date" for compliance reasons. This date range was further clarified in the pre-publication Federal Register notice which was later posted. See more details below.

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