



Bulletin 20-13 March 23, 2020

CIAA Bulletin

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Update**

Customs Providing Immediate Short-Term Duty Deferrals to Approved Importers - Working to Provide Longer Term Relief to the Importing Community.

Short term case-by-case relief to approved importers: On Friday, March 20, 2020 at 4:52 PM Customs issued the following message:

Due to the severity of Novel Coronavirus Disease (COVID-19), U.S. Customs and Border Protection (CBP) will approve on a case by case basis additional days for payment of estimated duties, taxes and fees due to this emergency. Please note we are working on a future message that will provide further information. Please watch your CSMS messages.

NOTE: CBP has confirmed that the March 20, 2020 debit authorizations for the Periodic Monthly Statements and the daily statements have been transmitted to the Department of Treasury. Please work directly with your financial institution if you wish to prevent these funds from being withdrawn

Requests should be directed to the Office of Trade, Trade Policy and Programs at OTentrysummary@cbp.dhs.gov.

We are advised that companies sending requests for "additional days" are receiving responses from CBP such as the following:

Thank you for your message. Yes, you are approved for additional days for payment due to the COVID - 19 emergency. Please note we are working on a future message that may provide an additional timeframe for payment. Please watch your CSMS messages. Please let me know if you have any additional questions.

Based on the above CBP Message and anticipated response, our comments and suggestions for companies seeking "additional days" for payment of duties are as follows:

- CBP does not specify the number of "additional days" in its Message or the response; however, we are advised that for the time being Customs is granting an additional 10 days to specifically approved companies.
- The Message does not specify the information to be provided in the request. At a minimum, companies requesting additional days for payment of duties, taxes and fees owing should include the exact company name and their Importer of Record (IOR) number with the request. Additionally, it may be prudent to include a brief statement specifying the company's need for the additional time requested and the harm that the company is currently facing.
- The CBP Message advises companies granted additional days to "work directly with your financial institution." Even if CBP grants the additional days requested, Customs at this time does not have the ability to stop its automated system from requesting the transfer of funds (duties, fees, taxes) from designated bank accounts for specific companies. As such, the company responsible for payment of the duties and fees will need to coordinate with its bank (i.e., its financial institution) in advance so that the bank will block incoming funds transfer requests from CBP. We are advised that CBP's system normally transmits electronic payment requests three times, so the bank should be prepared to block transfers in response to all three incoming CBP requests.
- CBP's system automatically generates liquidated damages notices for non-payment and late payment of duties, fees and other amounts owing. Companies receiving "additional days" for payment of amounts owing should expect to receive such notices. We understand that providing the CBP authorization message to the approved party should be sufficient to cancel any such notices in their entirety (assuming that the amounts owing were fully paid within the extension period).
- The CBP Message covers "estimated duties, taxes and fees." We are not aware that it provides additional time for the payment of penalties, liquidated damages or other amounts that may be owing CBP.
- We are aware that industry groups have identified different parties for the "additional days" request other than the party identified in the CBP Message (OTentrysummary@cbp.dhs.gov). At this time, we recommend that companies seeking additional days should use the email address specified in the CBP Message.

Likelihood of longer term (90-day) relief to the importing community: In response to ongoing discussions and requests by several trade organizations CBP is considering a 90-day extension that would be applicable to the larger importing community. Essentially, this would align duty payments with the 90-day extension currently granted by the IRS to tax filers. We expect CBP to issue a Federal Register concerning this broader extension policy in the near future and will provide updates accordingly.

We will continue to monitor developments related to duties deferral in light of COVID-19. Should you have any questions regarding this alert, contact the Husch Blackwell LLP team at CIAAGeneralCounsel@huschblackwell.com.

Dates to Remember

July 2, 2020

Last day for an exporting country that is not designating importers for calendar year 2020 to notify FAS

August 31, 2020

Last day to enter dairy products into U.S. Customs territory that may be used to qualify and establish eligibility for a calendar year 2021 license.

* If a deadline date falls on a Saturday, Sunday, or Federal holiday, the deadline will be the next business day (Section 6.36(a) of the Dairy Tariff-Rate Import Quota Licensing Regulation). This does not apply to dates of entry for eligibility.

Cheese Importers Association of America

Phil Marfuggi

President

email: president@theciaa.org

phone: 202-547-0899

Cheese Importers Association of America

515 2nd Street, NE

Washington, DC 20002

202-547-0899

Email: info@theciaa.org