



## Canadian customs and global trade alert

### Announcement of remission process respecting surtaxes levied on US goods

July 30, 2018

Effective July 1, 2018, surtaxes are being levied at the *ad valorem* rate of 10% or 25% on the value for duty of certain US goods. The surtaxes are levied in accordance with the Canada Border Service Agency (CBSA) Customs Notice 18-08, *United States Surtax Order (Steel and Aluminum)* and *United States Surtax Order (Other Goods)*. They apply to US goods within the meaning of Regulation SOR/94-23, [Determination of Country of Origin for the Purposes of Marking Goods \(NAFTA Countries\) Regulations](#).

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Canadian companies can apply for remission of these surtaxes. Remission refers to the cancellation of a surtax, duty, tax, charge, penalty or other Crown debt. Canada grants remission only in exceptional and compelling circumstances that warrant the granting of relief. In certain cases, remission is granted on a retroactive basis. In general, duty remission orders may be product-specific or company-specific. Surtax remission orders tend to be product-specific.

A recent government announcement states that, as a matter of policy, Canada will consider applications for remission only in the following instances:

- To address situations of short supply in the Canadian domestic market;
- To deal with contractual requirements which existed prior to May 31, 2018 involving the use of US steel or aluminum by Canadian businesses in their products or projects; or
- To address, on a case-by-case basis, other exceptional circumstances that could have severe adverse impacts on the Canadian economy.

Only companies registered in Canada are eligible to submit a remission application respecting these surtaxes. (The question of whether non-resident importers should be eligible to make surtax remission applications is currently under consideration.) A federal interdepartmental remissions committee will consider surtax remission applications, and will make recommendations to the Minister of Finance. Interested parties, including domestic producers, may be entitled to provide input. The Minister of Finance has the jurisdiction to recommend the granting of a remission order to the Governor in Council, pursuant to section 115 of the *Customs Tariff*. The Governor in Council may accept a favourable recommendation and grant remission by issuing an Order in Council.

Remission applications must be completed in a specified format and should be substantiated with references to relevant documents and information. Provision has been made for the filing of confidential information (which will be protected from disclosure) and non-confidential information, which would be made available to interested parties (such as domestic producers interested in any short supply issues that may be raised).

Before making a surtax remission application, it may be useful to consider whether either of the CBSA's duty drawback or duty deferral programs may apply.

Our Global Trade Advisory Group has extensive experience with making remission applications. If you would like to discuss this or any other customs or international trade matter, please contact one of the team members referenced in this Alert.

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