



## Canadian customs and global trade alert

### Canadian surtaxes imposed on certain products originating in the United States

July 5, 2018

Effective July 1, 2018, certain goods imported from the United States are subject to new surtaxes. The surtaxes apply to certain goods originating in the United States. In particular, the goods must be eligible for marking as goods of the United States in accordance with the Determination of Country of Origin for the Purposes of Marking Goods (NAFTA Countries) Regulations. The surtaxes will be levied pursuant to United States Surtax Order (Steel and Aluminum) and the United States Surtax Order (Other Goods).

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The surtaxes will be levied on the value for duty of both commercial and casual (i.e., non-commercial) goods. For certain imported steel goods, the surtax rate is 25%. For certain imported aluminum and other goods, the surtax rate is 10%. The surtaxes will be levied on goods released from a Customs Bonded Warehouse or Sufferance Warehouse on or after July 1, 2018 regardless of their date of importation.

Goods listed in Schedules 1 and 2 of the United States Surtax Order (Steel and Aluminum) and in the Schedule to the United States Surtax Order (Other Goods) are subject to the surtaxes even if they might otherwise be eligible for preferential tariff treatment under Chapter 99 (Special Classification Provision – Commercial) of the Schedule to Customs Tariff.

Similarly, goods listed in Schedules 1 and 2 of the United States Surtax Order (Steel and Aluminum) and in the Schedule to the United States Surtax Order (Other Goods) are generally subject to the surtaxes (with a few exceptions) even if they might otherwise be eligible to preferential tariff treatment under Chapter 98 (Special Classification Provisions – Non-commercial) of the Schedule to the Customs Tariff.

Examples of Chapter 98 exceptions, where the surtax orders would not apply, include goods classified under the headings: 98.01 (conveyances engaged in international commercial transportation), 98.02 (temporary importation of conveyances for non-commercial transportation), 98.03 (conveyance and baggage imported by non-residents), etc. This list is not exhaustive.

The surtax orders do not apply to goods that are in transit to Canada prior to July 1, 2018 (in such cases, proof of transit is required).

The onus is on importers to prove that goods imported into Canada should not be subject to the United States Surtax Order (Steel and Aluminum) and the United States Surtax Order (Other Goods). Importers may consider whether they can take advantage of duty relief programs (such as the duty drawback program) in relation to duties, including surtaxes, that may be levied on imported goods.

Further details regarding both Orders and the administrative procedures are set out in the Customs Notice 18-08 - Surtaxes Imposed on Certain Products Originating in the United States:

<https://www.cbsa-asfc.gc.ca/publications/cn-ad/cn18-08-eng.html>.

See also the Department of Finance, Canada document titled "Countermeasures in Response to Unjustified Tariffs on Canadian Steel and Aluminum Products":

<https://www.fin.gc.ca/access/tt-it/cacsap-cmpcaa-1-eng.asp>.

The surtax rates provided in Finance's document are 25% for steel products (Table 1), 10% for aluminum products (Table 2), and 10% for other products (Table 3).

Persons engaged in international trade should consider the degree to which increased U.S. tariffs and Canada's countermeasures will impact their businesses, as well as strategies and options for dealing with these changes.

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For more information on this matter, or on the many recent developments in international trade, please contact Deloitte Canada's Global Trade Advisory team.

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