

Exclusions From the Tariffs on Canadian and Mexican Goods Under HTS Chapters 98 and 99?

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As outlined in our [recent publication](#), the United States imposed a 25% additional tariff on all imports from Canada and Mexico starting March 4, with a 10% tariff specifically on Canadian energy products and potash (the Tariffs). However, President Trump amended previous executive orders to suspend these additional Tariffs until April 2, but only for goods that are eligible under the U.S.-Mexico-Canada Agreement (USMCA).

In response, U.S. Customs and Border Protection (CBP) issued updated guidance on imports from [Mexico](#) and [Canada](#) detailing how these new additional ad valorem tariffs will be implemented. CBP has updated the Harmonized Tariff Schedule of the U.S. (HTSUS) to include the following new tariff provisions, subject to the exclusions described further below:

- 9903.01.01, which applies a 25% tariff on all goods originating from Mexico.
- 9903.01.10, which applies a 25% tariff on all goods originating from Canada, except for certain energy products and potash.
- 9903.01.13, which applies a 10% tariff on energy products, such as oil and gas, originating from Canada.
- 9903.01.20, which applies a 10% tariff on potash originating from Canada.

Products from Mexico and Canada that do not qualify under the USMCA will be subject to the additional Tariffs listed above, as well as the general duties outlined in Chapters 1 through 98 of the HTSUS.

However, in addition to the temporary exclusion for USMCA-eligible goods, the following provisions within Chapters 98 and 99 of the HTSUS can provide exclusions to the Tariffs.

Exclusions Under HTSUS Chapter 98

The Tariffs do not apply to goods that are properly entered under Chapter 98 provisions, which allow certain goods to be imported under reduced or zero duty rates, such as temporary imports, goods returned to the U.S., or goods used for specific purposes like research or government use.

However, the Chapter 98 exclusions do *not* extend to the following subheadings applicable to goods imported

following repair, alterations, processing, or assembly performed in Canada or Mexico:

- 9802.00.40, 9802.00.50, and 9802.00.60 – The additional duties apply only to the value of repairs, alterations, or processing performed in Canada or Mexico, as described in the applicable subheading.
- 9802.00.80 – The additional duties apply only to the value of the article assembled abroad (in Canada or Mexico), less the cost or value of U.S. components incorporated into the product.

Exclusions Under HTSUS Chapter 99

The following items that are from Mexico or Canada are exempt from the Tariffs pursuant to the statutory exclusions in the International Emergency Economic Powers Act (IEEPA), which is the authority used to impose these unprecedented new duties:

- Donated articles such as food, clothing, and medicine.
- Informational materials such as publications, films, posters, photographs, compact disks (CDs), and artwork. There have been numerous court cases and government statements over the past few decades clarifying the scope of this IEEPA exclusion in the context of economic sanctions in particular.

To claim these exemptions, CBP requires importers to use specific HTSUS Chapter 99 codes (e.g., 9903.01.02 for donated articles from Mexico) when filing entries. CBP continues to issue guidance clarifying which products and corresponding HTSUS codes qualify for these exclusions.

Goods eligible for preferential duty treatment under the USMCA will be subject to the Tariffs on or after April 2, unless that broader exclusion is extended or if they qualify for an exemption under HTSUS Chapters 98 or 99.

To effectively leverage these exclusions, businesses should review their product HTSUS classifications and country of origin determinations. Given the dynamic nature of trade policies, staying informed and maintaining proactive communications with supply chain partners is essential to mitigate risks and capitalize on available relief.

This alert is intended as a guide only and is not a substitute for specific legal or tax advice. Things are rapidly changing by the day and hour, and our Tariff Task Force will do its best to provide timely and relevant updates as things progress. Please don't hesitate to reach out to us with questions.

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