

LEGAL UPDATES

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# Renewal of Import Duty Suspensions Awaits Congressional Action

The Miscellaneous Tariff Bill (MTB) is legislation that temporarily reduces or suspends import duties on materials that are not available domestically but are essential to U.S. manufacturing operations. These duty suspensions lower costs for manufacturers, encourage domestic production and increase the competitiveness of U.S. manufacturers. According to the National Association of Manufacturers, the last MTB, which affected goods imported in 2010, supported 90,000 jobs and expanded the gross domestic production by \$3.5 billion. MTB provisions are typically found in Chapter 99 of the Harmonized Tariff Schedule of the United States under Heading 9902.

The most-recent MTB was enacted on August 11, 2010. It provided retroactivity to January 1, 2010, and expired on December 31, 2012, but has not yet been renewed. Unless and until the duty suspension provisions in the MTB are renewed, American manufacturers will pay higher duties on a wide range of raw materials, increasing production costs and affecting the viability of associated manufacturing jobs.

## MTB Requirements

To be included in the MTB, a tariff modification must meet the following requirements:

The modification must be noncontroversial.

Lost revenue from the modification must not exceed \$500,000 per year.

The modification must be administrable.

To ensure that these requirements are met, each proposed modification is vetted by congressional committees and several agencies, including the

International Trade Commission, the Department of Commerce and U.S. Customs and Border Protection.

## **Current Status of the Bill**

Congress drafted a new MTB in 2012, and although the bill was introduced at the end of the term, it did not see final passage. The MTB has not been reintroduced in Congress in 2013 despite bipartisan backing in the House and broad support among Senate Democrats. The bill passed with unanimous support in previous years, but a congressional ban on earmarks (i.e., legislation directing public funds to specific projects) has made this legislation more contentious than in previous years. Some Republicans – including House Speaker John Boehner – have argued that MTB duty suspensions are simply earmarks disguised as tariff reductions. The bill's supporters contend that unlike typical earmarks, which benefit a specific enterprise, the MTB temporary tariff reductions are eligible for any company able to take advantage of them.

Individual duty suspension provisions that appeared in the 2012 MTB need not be resubmitted for inclusion in the 2013 MTB. Should the bill be reintroduced, prior provisions will be included, provided that the provision's sponsor has submitted a 2013 final disclosure form to refresh disclosure information. No new provisions are currently being accepted.

As with all revenue measures, the bill must originate in the House. However, because of controversy in the Senate, House members have refrained from introducing the bill. Discussions are currently taking place in the Senate to resolve the issue, but it appears that certain reforms necessary to reach a compromise have yet to be agreed upon. For example, one major reform proposal involves taking tariff-setting power away from Congress and delegating it to the International Trade Commission. A bill suggesting this reform was introduced to Congress on April 23, 2013, by Sen. Claire McCaskill of Missouri, Sen. Rob Portman of Ohio, and 18 co-sponsors. Although Senate Republicans may not support the MTB without some type of reform, it is unlikely that the McCaskill-Portman proposal, which calls for such a major delegation of congressional power to a regulatory agency, will pass.

## **Next Steps**

There is significant pressure from manufacturers and industry groups to get the MTB passed, given its importance to domestic manufacturing and its potential impact on jobs. According to a Senate aide, the bill would most likely be retroactive to January 1, 2013, although as with everything political in Washington, D.C., this is not a certainty. With most of the House and much of the Senate on board, it is likely that the bill will succeed if a compromise can be reached with Senate Republicans. Whether such a compromise can be reached remains to be seen.

## **Contact Information**

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For more information, please contact your Husch Blackwell attorney or Robert Stang at 202.378.2334.

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This Legal Alert was prepared by Robert Stang and Caitlin Garrigan-Nass in Husch Blackwell's Washington, D.C. office.