

GMS Flash Alert

Immigration Edition

2020-366 | August 21, 2020



United States - Border Restrictions with Canada, Mexico Extended Through September 21

As a result of the COVID-19 pandemic, the U.S. Customs and Border Protection (CBP) has announced a further one-month extension of restrictions on “non-essential” travel across U.S. land border with Canada and Mexico.¹ This latest extension is scheduled to last through September 21, 2020, with possible extensions beyond this date.

Restrictions on “non-essential” travel at land borders between the United States, Canada, and Mexico were originally implemented on March 21, 2020 for a period of 30 days, and have been extended each month since.² The restrictions are also applicable to international travelers seeking admission to the U.S. via ferry and passenger rail, however air travel remains unaffected at this time.

WHY THIS MATTERS

Employees traveling to the U.S. via land borders and ferries must be prepared to explain how their employment or business activities in the U.S. can be defined as essential. As CBP has wide discretion to inspect those seeking entry, travelers should make sure they have with them documentation—including valid travel documents—further evidencing their exemption from the border restrictions.

The border restrictions will likely continue to impact employers and their employees who frequently travel between the U.S., Canada, and Mexico as business visitors. It may be prudent for employers and their employees to limit business travels, if possible, to prevent complications and the possibility of being refused entry at the border, as the situation continues to be fluid and highly discretionary. Where travel is unavoidable, travelers should confirm the state of affairs at the particular port of entry through which they would be traveling, and anticipate increased scrutiny from CBP when seeking admission to the United States.

“Essential Travel” Defined

The United States, Canada, and Mexico have confirmed that normal operations and processes for entry will be limited to only those travelers engaged in “essential travel.” CBP defines “non-essential” travel as travel that is considered tourism or recreational in nature.

The Department of Homeland Security (DHS) has discretion to determine what qualifies as essential travel. Authorities can also determine that other forms of travel, such as those in furtherance of economic stability or social order, constitute essential travel. These determinations can extend to individual humanitarian services or other purposes in the national interest. The border restrictions will also continue to not impact trade between the countries or disrupt critical supply chains that help to ensure food, fuel, medicine, and other critical materials reach individuals on both sides of the border.

Exemption from Border Restrictions

The following is a non-exhaustive list of persons confirmed as exempt from the border restrictions on U.S. entry by land, ferry, and commuter rail:³

- U.S. citizens and lawful permanent residents returning to the United States;
- Individuals traveling for medical purposes (e.g., to receive medical treatment in the United States);
- Individuals in the Visa Waiver Program who are not otherwise subject to travel restrictions;
- Individuals traveling to attend educational institutions;
- Individuals traveling to work in the United States who hold valid travel documents (e.g., individuals working in the farming or agriculture industry who must travel between the United States and Canada in furtherance of such work);
- Individuals traveling for emergency response and public health purposes (e.g., government officials or emergency responders entering the United States to support federal, state, local, tribal, or territorial government efforts to respond to COVID-19 or other emergencies);
- Individuals engaged in lawful cross-border trade (e.g., truck drivers supporting the movement of cargo between the United States and Canada);
- Individuals engaged in official government travel or diplomatic travel;
- Members of the U.S. Armed Forces, and the spouses and children of members of the U.S. Armed Forces, returning to the United States; and
- Individuals engaged in military-related travel or operations.

Further communications have emphasized that those who work in a critical infrastructure industry, as defined by the DHS, have a special responsibility to maintain their normal work schedules.

Air Travel

Air travel continues to be unaffected at this time. However, those travelling by air should anticipate additional scrutiny from CBP officers and prepare accordingly with relevant documentation describing the critical nature of their activities in the United States.

KPMG NOTE

KPMG LLP Law in Canada is tracking this matter closely. We will endeavor to keep readers of *GMS Flash Alert* posted on any important developments as and when they occur.

FOOTNOTES:

- 1 The Department of Homeland Security (DHS)'s [Fact Sheet](#) announcing the extension of border restrictions between the United States, Canada, and Mexico through September 21, 2020.
- 2 For prior coverage of the U.S., Canada, and Mexico border restrictions, read the following issues of *GMS Flash Alert*: [2020-286](#) (June 17, 2020), [2020-240](#) (May 21, 2020), [2020-194](#) (April 23, 2020), and [2020-110](#) (March 25, 2020).
- 3 The DHS's Notification of Temporary Travel Restrictions Applicable to Land Ports of Entry and Ferries Services Between [the United States and Canada](#), and Between [the United States and Mexico](#).

* * * *

Contact us

For additional information or assistance, please contact your local GMS or People Services professional* or the following professional with the KPMG International member firm in Canada:



Sylvia Yong
Associate Attorney
U.S. Immigration

KPMG Law LLP – Tax + Immigration, Canada
Tel. +1 416-943-7894
sylviayong@kpmg.ca



Shameen Woods
Senior Manager / Senior Attorney
U.S. Immigration

KPMG Law LLP – Tax + Immigration, Canada
Tel. +1 416-943-7387
shameenwoods@kpmg.ca

** Please note that KPMG LLP (U.S.) does not provide any immigration services. However, KPMG Law LLP in Canada can assist clients with U.S. immigration matters.*

The information contained in this newsletter was submitted by the KPMG International member firm in Canada.

© 2020 KPMG Law LLP, a tax and immigration law firm affiliated with KPMG LLP, each of which is a Canadian limited liability partnership. KPMG LLP is a Canadian limited liability partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative (“KPMG International”), a Swiss entity. All rights reserved.

www.kpmg.com

kpmg.com/socialmedia



© 2020 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative (“KPMG International”), a Swiss entity. All rights reserved. Printed in the U.S.A. NDPPS 530159

The KPMG name and logo are registered trademarks or trademarks of KPMG International.

The KPMG logo and name are trademarks of KPMG International. KPMG International is a Swiss cooperative that serves as a coordinating entity for a network of independent member firms. KPMG International provides no audit or other client services. Such services are provided solely by member firms in their respective geographic areas. KPMG International and its member firms are legally distinct and separate entities. They are not and nothing contained herein shall be construed to place these entities in the relationship of parents, subsidiaries, agents, partners, or joint venturers. No member firm has any authority (actual, apparent, implied or otherwise) to obligate or bind KPMG International or any member firm in any manner whatsoever. The information contained in herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

Flash Alert is a GMS publication of KPMG LLP’s Washington National Tax practice. To view this publication or recent prior issues online, please click [here](#). To learn more about our GMS practice, please visit us on the Internet: click [here](#) or go to <http://www.kpmg.com>.