GMS Flash Alert

Immigration Edition

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United States - Restrictions Extended for Land Borders with Canada and Mexico

To limit the further spread of COVID-19, U.S. Customs and Border Protection (CBP) has announced that it will continue to enforce the restriction on "non-essential" travel across U.S. land borders with Canada and Mexico.[1] This latest extension is scheduled to be **in effect through October 21, 2020**, with possible extensions beyond this date if deemed necessary.

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 on a monthly basis 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, ferries, and passenger rail 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 expect detailed questioning on their intended activities in the U.S., and make sure they have 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. Such 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 non-exhaustive list of persons continues to be 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.

KPMG NOTE

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.

We Are Monitoring the Situation

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 To read the Department of Homeland Security (DHS)'s fact sheet announcing the extension of border restrictions between the United States, Canada, and Mexico through October 21, 2020, click here.

2 For prior coverage of the U.S., Canada, and Mexico border restrictions, read the following issues of GMS *Flash Alert*: 2020-366 (August 21, 2020), 2020-286 (June 17, 2020), 2020-240 (May 21, 2020), 2020-194 (April 23, 2020), and 2020-110 (March 25, 2020).

3 For further information, please see 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.

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Keeping Connected Globally Virtual Meeting Series: Interesting Information, Insightful Statistics, and Past Webinars

As businesses react to the challenges faced today, build resilience, identify opportunities for recovery, and adapt to a new reality, KPMG International hosted weekly webcasts from 24 March to 16 June to help tax, legal, and mobility leaders around the world successfully navigate the business impacts arising from the novel coronavirus (COVID-19). Over the course of 13 weeks, 10,000+ business leaders joined these webcasts and provided their valuable feedback through polling questions, post-session surveys, and Q&A sessions. This webpage offers you highlights of the series.

Contact us

For additional information or assistance, please contact your local GMS or People Services professional* or one of the following professionals 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

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