

temporary in nature and shall remain in effect until 11:59 p.m. EST on February 21, 2021. This Notification may be amended or rescinded prior to that time, based on circumstances associated with the specific threat.⁸

The Commissioner of U.S. Customs and Border Protection (CBP) is hereby directed to prepare and distribute appropriate guidance to CBP personnel on the continued implementation of the temporary measures set forth in this Notification. The CBP Commissioner may determine that other forms of travel, such as travel in furtherance of economic stability or social order, constitute “essential travel” under this Notification. Further, the CBP Commissioner may, on an individualized basis and for humanitarian reasons or for other purposes in the national interest, permit the processing of travelers to the United States not engaged in “essential travel.”

Peter T. Gaynor,

Acting Secretary, U.S. Department of Homeland Security.

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DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

19 CFR Chapter I

Notification of Temporary Travel Restrictions Applicable to Land Ports of Entry and Ferries Service Between the United States and Canada

AGENCY: Office of the Secretary, U.S. Department of Homeland Security; U.S. Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: Notification of continuation of temporary travel restrictions.

SUMMARY: This document announces the decision of the Secretary of Homeland Security (Secretary) to continue to temporarily limit the travel of individuals from Canada into the United States at land ports of entry along the United States-Canada border. Such travel will be limited to “essential travel,” as further defined in this document.

DATES: These restrictions go into effect at 12 a.m. Eastern Standard Time (EST) on January 22, 2021 and will remain in

effect until 11:59 p.m. EST on February 21, 2021.

FOR FURTHER INFORMATION CONTACT: Stephanie Watson, Office of Field Operations Coronavirus Coordination Cell, U.S. Customs and Border Protection (CBP) at 202-325-0840.

SUPPLEMENTARY INFORMATION:

Background

On March 24, 2020, DHS published notice of the Secretary’s decision to temporarily limit the travel of individuals from Canada into the United States at land ports of entry along the United States-Canada border to “essential travel,” as further defined in that document.¹ The document described the developing circumstances regarding the COVID-19 pandemic and stated that, given the outbreak and continued transmission and spread of the virus associated with COVID-19 within the United States and globally, the Secretary had determined that the risk of continued transmission and spread of the virus associated with COVID-19 between the United States and Canada posed a “specific threat to human life or national interests.” The Secretary later published a series of notifications continuing such limitations on travel until 11:59 p.m. EST on January 21, 2021.²

The Secretary has continued to monitor and respond to the COVID-19 pandemic. As of the week of January 4, there have been over 83.3 million confirmed cases globally, with over 1.8 million confirmed deaths.³ There have been over 20.7 million confirmed and

probable cases within the United States,⁴ over 587,000 confirmed cases in Canada,⁵ and over 1.4 million confirmed cases in Mexico.⁶

Notice of Action

Given the outbreak and continued transmission and spread of COVID-19 within the United States and globally, the Secretary has determined that the risk of continued transmission and spread of the virus associated with COVID-19 between the United States and Canada poses an ongoing “specific threat to human life or national interests.”

U.S. and Canadian officials have mutually determined that non-essential travel between the United States and Canada poses additional risk of transmission and spread of the virus associated with COVID-19 and places the populace of both nations at increased risk of contracting the virus associated with COVID-19. Moreover, given the sustained human-to-human transmission of the virus, returning to previous levels of travel between the two nations places the personnel staffing land ports of entry between the United States and Canada, as well as the individuals traveling through these ports of entry, at increased risk of exposure to the virus associated with COVID-19. Accordingly, and consistent with the authority granted in 19 U.S.C. 1318(b)(1)(C) and (b)(2),⁷ I have

⁴ CDC, COVID Data Tracker (accessed Jan. 6, 2021), available at <https://covid.cdc.gov/covid-data-tracker/>.

⁵ WHO, COVID-19 Weekly Epidemiological Update (Jan. 5, 2021).

⁶ *Id.*

⁷ 19 U.S.C. 1318(b)(1)(C) provides that “[n]otwithstanding any other provision of law, the Secretary of the Treasury, when necessary to respond to a national emergency declared under the National Emergencies Act (50 U.S.C. 1601 *et seq.*) or to a specific threat to human life or national interests,” is authorized to “[t]ake any . . . action that may be necessary to respond directly to the national emergency or specific threat.” On March 1, 2003, certain functions of the Secretary of the Treasury were transferred to the Secretary of Homeland Security. *See* 6 U.S.C. 202(2), 203(1). Under 6 U.S.C. 212(a)(1), authorities “related to Customs revenue functions” were reserved to the Secretary of the Treasury. To the extent that any authority under section 1318(b)(1) was reserved to the Secretary of the Treasury, it has been delegated to the Secretary of Homeland Security. *See* Treas. Dep’t Order No. 100-16 (May 15, 2003), 68 FR 28322 (May 23, 2003). Additionally, 19 U.S.C. 1318(b)(2) provides that “[n]otwithstanding any other provision of law, the Commissioner of U.S. Customs and Border Protection, when necessary to respond to a specific threat to human life or national interests, is authorized to close temporarily any Customs office or port of entry or take any other lesser action that may be necessary to respond to the specific threat.” Congress has vested in the Secretary of Homeland Security the “functions of all officers, employees, and organizational units of

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⁸ DHS is working closely with counterparts in Mexico and Canada to identify appropriate public health conditions to safely ease restrictions in the future and support U.S. border communities.

¹ 85 FR 16548 (Mar. 24, 2020). That same day, DHS also published notice of the Secretary’s decision to temporarily limit the travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border to “essential travel,” as further defined in that document. 85 FR 16547 (Mar. 24, 2020).

² *See* 85 FR 83432 (Dec. 22, 2020); 85 FR 74603 (Nov. 23, 2020); 85 FR 67276 (Oct. 22, 2020); 85 FR 59670 (Sept. 23, 2020); 85 FR 51634 (Aug. 21, 2020); 85 FR 44185 (July 22, 2020); 85 FR 37744 (June 24, 2020); 85 FR 31050 (May 22, 2020); 85 FR 22352 (Apr. 22, 2020). DHS also published parallel notifications of the Secretary’s decisions to continue temporarily limiting the travel of individuals from Mexico into the United States at land ports of entry along the United States-Mexico border to “essential travel.” *See* 85 FR 83433 (Dec. 22, 2020); 85 FR 74604 (Nov. 23, 2020); 85 FR 67275 (Oct. 22, 2020); 85 FR 59669 (Sept. 23, 2020); 85 FR 51633 (Aug. 21, 2020); 85 FR 44183 (July 22, 2020); 85 FR 37745 (June 24, 2020); 85 FR 31057 (May 22, 2020); 85 FR 22353 (Apr. 22, 2020). Both December notices contained typos with respect to the end date of the extension; as of December 23, 2020, correction notices were pending publication in the **Federal Register**.

³ WHO, Coronavirus disease 2019 (COVID-19) Weekly Epidemiological Update (Jan. 5, 2021), available at <https://www.who.int/publications/m/item/weekly-epidemiological-update-5-january-2021>.

determined that land ports of entry along the U.S.-Canada border will continue to suspend normal operations and will only allow processing for entry into the United States of those travelers engaged in “essential travel,” as defined below. Given the definition of “essential travel” below, this temporary alteration in land ports of entry operations should not interrupt legitimate trade between the two nations or disrupt critical supply chains that ensure food, fuel, medicine, and other critical materials reach individuals on both sides of the border.

For purposes of the temporary alteration in certain designated ports of entry operations authorized under 19 U.S.C. 1318(b)(1)(C) and (b)(2), travel through the land ports of entry and ferry terminals along the United States-Canada border shall be limited to “essential travel,” which includes, but is not limited to—

- 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 traveling to attend educational institutions;
- Individuals traveling to work in the United States (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.

The following travel does not fall within the definition of “essential travel” for purposes of this Notification—

- Individuals traveling for tourism purposes (e.g., sightseeing, recreation, gambling, or attending cultural events).

At this time, this Notification does not apply to air, freight rail, or sea travel between the United States and Canada,

but does apply to passenger rail, passenger ferry travel, and pleasure boat travel between the United States and Canada. These restrictions are temporary in nature and shall remain in effect until 11:59 p.m. EST on February 21, 2021. This Notification may be amended or rescinded prior to that time, based on circumstances associated with the specific threat.⁸

The Commissioner of U.S. Customs and Border Protection (CBP) is hereby directed to prepare and distribute appropriate guidance to CBP personnel on the continued implementation of the temporary measures set forth in this Notification. The CBP Commissioner may determine that other forms of travel, such as travel in furtherance of economic stability or social order, constitute “essential travel” under this Notification. Further, the CBP Commissioner may, on an individualized basis and for humanitarian reasons or for other purposes in the national interest, permit the processing of travelers to the United States not engaged in “essential travel.”

Peter T. Gaynor

Acting Secretary, U.S. Department of Homeland Security.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9946]

RIN 1545-BO67

Denial of Deduction for Certain Fines, Penalties, and Other Amounts; Related Information Reporting Requirements

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations providing guidance on section 162(f) of the Internal Revenue Code (Code), as amended in 2017, concerning the deduction of certain fines, penalties, and other amounts. This document also contains final regulations providing guidance relating to the information reporting requirements under new section 6050X of the Code with respect to those fines, penalties, and other amounts. The final

⁸ DHS is working closely with counterparts in Mexico and Canada to identify appropriate public health conditions to safely ease restrictions in the future and support U.S. border communities.

regulations affect taxpayers that pay or incur amounts to, or at the direction of, governments, governmental entities or certain nongovernmental entities treated as governmental entities relating to the violation of any law or investigations or inquiries by such governments, governmental entities, or nongovernmental entities into the potential violation of any law. The final regulations also affect governments, governmental entities, and nongovernmental entities subject to the related reporting requirements.

DATES:

Effective date: These regulations are effective on January 14, 2021.

Applicability dates: For dates of applicability, see §§ 1.162–21(g) and 1.6050X–1(g).

FOR FURTHER INFORMATION CONTACT:

Concerning the regulations on amended section 162(f), Sharon Y. Horn (202) 317-4426; concerning the information reporting requirement, Nancy L. Rose (202) 317-5147. The phone numbers above may also be reached by individuals who are deaf or hard of hearing, or who have speech disabilities, through the Federal Relay Service toll-free at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

Background

Prior to its amendment in 2017, section 162(f) disallowed an ordinary and necessary business expense deduction under section 162(a) for any fine or similar penalty paid to a government for the violation of any law. On February 20, 1975, the Treasury Department and the IRS issued final regulations under the prior version of section 162(f) (TD 7345, 40 FR 7437), which were amended on July 11, 1975 (T.D. 7366, 40 FR 29290) (together the 1975 regulations).

Section 162(f) was amended by section 13306(a) of Public Law 115-97, 131 Stat. 2054 (2017), commonly referred to as the Tax Cuts and Jobs Act (TCJA). Section 6050X was added to the Code by section 13306(b) of the TCJA.

As amended by the TCJA, the general rule of section 162(f)(1) provides that no deduction otherwise allowable under chapter 1 of the Code (chapter 1) shall be allowed for any amount paid or incurred (whether by suit, agreement, or otherwise) to, or at the direction of, a government or governmental entity in relation to the violation of any law or the investigation or inquiry by such government or governmental entity into the potential violation of any law. Section 162(f)(5) describes certain self-regulating nongovernmental entities that are treated as governmental entities for

the Department,” including the Commissioner of CBP. 6 U.S.C. 112(a)(3).