MILLER & COMPANY P.C.
ATTORNEYS AT LAW

SECTION 338 50% CANADA TARIFFS TAKE EFFECT
(August 24, 2026)

At 12:01 a.m. Eastern Time (ET) on August 22, the 50% additional duties on certain Canadian products imposed under Section 338 of the Tariff Act of 1930 (19 U.S.C. § 1338) went into effect. The duties were implemented following a three-day suspension announced in Presidential Proclamation 11056, which delayed the effective date from August 19 until August 22 while negotiations between the United States and Canada continued. These negotiations were ultimately unsuccessful.

The Section 338 duties originate from Presidential Proclamations 11046, 11047, and 11048, issued on July 20, addressing alleged Canadian discriminatory trade practices affecting U.S. alcoholic beverages, dairy products, and motor vehicles. Please see our July 21 What's New for more information about these proclamations.

U.S. Customs and Border Protection (CBP) issued CSMS Message #69606660 on August 21, providing the implementation guidance and publishing a consolidated Section 338 Canada HTS List of covered products:

- HTSUS 9903.03.12 – 50% Tariff – Alcohol Proclamation Annex II
- HTSUS 9903.03.13 – 50% Tariff – Dairy Proclamation Annex II
- HTSUS 9903.03.14 – 50% Tariff – Motor Vehicle Proclamation Annex II
- HTSUS 9903.03.15 – 0% – Exclusions from the above tariffs as provided in U.S. Note 51(c)
    - Articles of Aluminum, Steel, Copper, and their designated derivatives
    - Passenger Vehicles and Light Trucks (sedans, sport utility vehicles, crossover utility vehicles, minivans and cargo vans), and certain parts of such vehicles
    - Medium- and Heavy-Duty Vehicles and certain parts of such vehicles
    - Wood Products
    - Semiconductor Articles
    - Patented Pharmaceuticals Articles
- HTSUS 9903.03.16 – 0% – Civil Aircraft Articles as provided in U.S. Note 51(d)
    - All aircraft other than military aircraft and unmanned aircraft
    - Engines, parts, and components
    - Other parts, components, and subassemblies
    - Ground Flight Simulators and their parts and components

Chapter 98 Treatment – Imported articles classified in HTSUS Chapter 98 are excluded from these additional tariffs except for goods entered under subheadings 9802.00.40, 9802.00.50, 9802.00.60, and 9802.00.80. For subheadings 9802.00.40, 9802.00.50 and 9802.00.60, the additional duty applies to the value of repairs, alterations, or processing performed, as described in the applicable subheading. For subheading 9802.00.80, the additional duty applies to the value of the article assembled abroad, less the cost or value of such products of the United States.

Foreign-Trade Zones – Any product subject to the duties imposed in these proclamations that is admitted into a U.S. foreign-trade zone, except any product that is eligible for admission under "domestic status" as defined in 19 C.F.R. § 146.43, must be admitted in "privileged foreign status," and will be subject upon entry for consumption to any *ad valorem* rate of duty related to the classification under the applicable HTSUS subheading.

Duty Drawback – The Section 338 additional duties imposed by HTSUS 9903.03.12, 9903.03.13, and 9903.03.14 are subject to duty drawback.

HTSUS Sequence – When submitting an Entry Summary in which a HTSUS Chapter 98 and/or 99 provision is claimed on imported merchandise, the following instructions apply for the order of reporting on Entry Summary lines:

1. Chapter 98 (if applicable)
2. Chapter 99 number(s) for additional duties (if applicable)
3. For trade remedies:
   - First report the Chapter 99 HTSUS for Section 301;
   - Followed by the Chapter 99 HTSUS for Section 122;
   - Followed by the Chapter 99 HTSUS for Section 232;
   - Followed by the Chapter 99 HTSUS for Section 201 duties (if applicable); and
   - Followed by the Chapter 99 HTSUS for Section 201 quota (if applicable).

4.Chapter 99 number(s) for REPLACEMENT duty or other use (i.e., Miscellaneous Tariff Bill or other provisions)
5. Chapter 99 number for other quota (not covered by #3) (if applicable)
6. Chapter 1 to 97 commodity tariff classification

Canadian Retaliatory Tariffs – Canadian Prime Minister Mark Carney announced that Canada will implement retaliatory tariffs on U.S. imports beginning September 8.

Additional U.S. Tariffs on Canadian Vehicles – On August 24, President Trump threatened to impose 50% additional duties on Canadian cars, trucks, and vehicle parts on January 1, 2027.

Please contact Marshall Miller, Brian Murphy, Sean Murray, or David Ostheimer with questions.

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