

Client Alert

International Trade & Litigation Practice Group

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New Legislation Extends Trade Adjustment Assistance

On June 29, President Obama signed into law the *Bipartisan Congressional Trade Priorities and Accountability Act of 2015* and the *Trade Preferences Extension Act of 2015*. As King & Spalding **reported on June 26**, the *Bipartisan Congressional Trade Priorities and Accountability Act of 2015* provides the President with Trade Promotion Authority, and the *Trade Preferences Extension Act of 2015* extends the Trade Adjustment Assistance (“TAA”) program.

Through its trade agreements, the United States **seeks** “to unlock opportunities for American manufacturers, workers, service providers, farmers, and ranchers—to support job creation and wage growth.” There is a recognition, however, that certain sectors of the U.S. economy may suffer harm from increased import competition. Thus, an essential prerequisite to Trade Promotion Authority was extension of the TAA. Historically, TAA benefits have been provided to workers and firms negatively affected by trade agreements. Under the new legislation, TAA will provide benefits to workers who have been harmed by trade **regardless of whether the United States has a trade agreement** with the country in question. This means that workers negatively affected by trade with countries such as China and India will again be eligible for benefits under the program.

As King & Spalding has **reported previously**, the TAA Program was codified in the Trade Act of 1974 and enables workers who have been negatively affected by trade to apply for assistance. Manufacturing and service workers are provided with opportunities to obtain the skills, resources, and support they need to seek gainful employment. The TAA program also extends assistance to firms and farmers. Firms and agricultural commodity producers that meet certain criteria are eligible to receive technical assistance and funding designed to help develop and grow their businesses.

Extension and Revival of TAA Benefits

The *Trade Preferences Extension Act of 2015* extends the TAA program and revives provisions that lapsed in December 2013. TAA programs have now been extended to June 30, 2021, with assistance made available through June 30, 2022. The Department of Labor has **noted** that “{t}he delivery of program benefits and services under the 2015 Program is identical to the 2011

For more information, contact:

J. Michael Taylor
+1 202 626 2385
jmtaylor@kslaw.com

Joseph A. Laroski Jr.
+1 202 626 2647
jlaroski@kslaw.com

Bonnie Byers
+1 202 626 5507
bbyers@kslaw.com

Elizabeth Owerbach
+1 202 626 9223
eowerbach@kslaw.com

Enrique Molina
+1 212 827 4084
emolina@kslaw.com

King & Spalding
Washington, D.C.
1700 Pennsylvania Avenue, NW
Washington, D.C. 20006-4707
Tel: +1 202 737 0500
Fax: +1 202 626 3737

www.kslaw.com

Program,” which was in effect until the 2013 lapse. Key provisions of the extended and reinstated TAA program **include:**

- Reinstating the eligibility of service workers to apply for TAA benefits, and allowing them to reapply for benefits where they were denied after the 2013 lapse;
- Providing access for up to 130 weeks of income support for workers participating in training;
- Providing wage supplements for workers over 50 who obtain new employment;
- Providing case management services to workers to help them access training and employment opportunities;
- Extending a tax credit so that workers may purchase health insurance; and
- Extending the Trade Assistance to Firms and Trade Assistance to Farmers programs through June 30, 2021.

New Opportunities for Pending or Denied Group Certifications

The new TAA legislation provides an important opportunity for groups of workers who have petitioned for certification to be declared eligible to apply for TAA since the lapse of the 2013 program.

- For petitions filed on or after January 1, 2014 but before June 29, 2015, the following apply:
 - where a certification decision has not been made, the Secretary of Labor shall make that decision; and
 - where a petition was denied, the Secretary of Labor shall reconsider that decision. See the Department of Labor’s **guidance** for a list of Petitions that are automatically being reconsidered.
- Groups of workers who did not file a petition between January 1, 2014 and June 29, 2015 but who **file new petitions within 90 days of enactment** (by September 27, 2015) will be able to extend key TAA eligibility criteria for group members, *i.e.*, workers who were separated or threatened to be separated from employment back to January 1, 2014. For groups that file after September 27, this criteria only will extend back to “no more than one year prior to the date of the petition.”

The new TAA legislation also provides a mechanism for *firms* to seek a determination or redetermination for petitions filed between January 1, 2014 and June 29, 2015, and to apply for certification within 90 days of the legislation’s enactment.

The TAA Legacy Continues

Approximately 2.2 million workers reportedly have benefitted from TAA since the program’s inception in 1974. While TAA’s effectiveness has been questioned and **critiqued**, the White House **reports** that a majority of participants find and retain work upon completing the program. For instance, in 2014, approximately 80 percent of participants found a job within six months of completing the program, and 90 percent of those that found a job retained it six months later. Similarly, a 2012 report by the U.S. General Accountability Office **shows** that many firms that were negatively affected by trade experienced gains in sales as a result of participating in the TAA for firms program. The U.S. Government Accountability Office noted that these firms received personalized attention from TAA Center professionals, located throughout the country, who have assisted **dozens of industries**.

King & Spalding will continue to monitor developments in the Trade Adjustment Assistance program. Please contact us with any questions.

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