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Navigating tariff uncertainty: Insights for businesses facing proposed reciprocal tariffs

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One thing that's certain about the federal administration's proposed reciprocal tariffs is the uncertainty over when – and if – they will happen.

In the meantime, businesses are scrambling to find the best way to prepare and position themselves for what may come as a result.

"Right now, clients are looking at all possible ways to manage and mitigate the issue," said James Kevin Wholey, special counsel with Phillips Lytle LLP.

Wholey was one of two panelists who participated in the recent RBJ/Daily Record virtual panel discussion on tariffs. It was sponsored by Harris Beach Murtha and Phillips Lytle.

In addition to Wholey, Ross Hofherr of Harris Beach Murtha joined the panel.

The discussion focused on the evolving landscape and included a close look at what tariffs are currently being considered, how supply chains could be impacted and suggested strategies for businesses as they plan their next steps in the weeks ahead.

The 90-day pause on country-specific reciprocal tariffs expires on July 9. It was announced by President Donald Trump on April 9.

That means that higher reciprocal tariff rates on some countries, beyond the general 10% baseline, will resume.

Until then, the federal administration will negotiate – both with other countries as well as with industry groups inside the U.S. – over the tariff proposals.

Both panelists said the Trump administration has shown its willingness to utilize tariffs as part of its economic strategy, despite recent mixed signals. That includes using the proposals as a starting point for negotiations that may lead to a different result altogether.

Additionally, several legal challenges – from small businesses around the country and even from states – have arisen over the tariff proposals and have yet to be resolved, which could also impact the start


James Kevin Wholey


Ross Hofherr

date of some of the changes, the panelists said.

The biggest cost of the current tariff situation for businesses in the Rochester region is not just the price of duties, but also the uncertainty, Wholey said.

"If – as has been declared – one of the goals is to get businesses to restructure and rebalance trade commitments, or to re-shore manufacturing to the U.S., volatility itself has a cost – in purchasing withheld, hiring and investment slowed or paused," he said. "And businesses are understandably reluctant to disrupt established relationships or overhaul their business models if they can't know that the same rules will be in effect 60 days from now."

In addition, manufacturers aren't going to move their plants, equipment, labor or shift supply chains – or line up the financing to do that – if the advantages in doing so won't be still around by the time it's ready to turn out product, Wholey noted.

"In that sense, at least, a 'transactional' approach exhibited to tariffs can end up a bit self-defeating," he said.

Wholey added that pressure from certain sectors – and even voters – could also impact how the federal administration acts.

Increases on reciprocal tariffs could negatively impact American farmers, he said as an example.

And increases in food prices, coupled with a product scarcity at grocery stores because of the tariff increases, could also anger voters, Wholey added.

Hofherr agreed about the uncertainty and advises that businesses may want to take a wait and see approach.

"I don't think that now is the time to make any major shifts in anticipation of the reciprocal tariffs," he said, adding that the time from when the reciprocal tariffs were announced to when they are enacted "is anyone's guess."

Hofherr said one question that has come up in reaction to the tariffs is if the force majeure clause in a contract would apply.

While that likely wouldn't apply to a contract that has been drawn up within the past year when talks of tariff increases were publicly discussed, companies may have a better chance to renegotiate pricing terms with long-standing contracts – those 10-years in length that are automatically renewed, for example, Hofherr said.

He also cautions businesses about common legal pitfalls related to tariffs, namely reclassifying goods, which he said is something the government is cognizant of and could raise a red flag.

"I understand why a business may want to do that, but I caution against it," he said.

Businesses can take steps to prepare for whatever may happen with the issue, Hofherr said, adding a lot of it depends on a company's specific needs.

Hofherr also cautions against being unreasonable about the issue, which could damage long-standing business relationships.

"When it comes to renegotiating pricing terms, a lot of it comes down to practical discussions between businesses," he said.

And while there are some limited exemptions companies could pursue when it comes to tariffs, Hofherr believes they may be tough to secure.

"It's easy to look at a product and say, 'this is integral to the U.S. economy, or to this market, so I should get an exemption,' but every other business is thinking the same thing," he said.

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