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## **A Note on Tariffs and Tariff Refunds**

### **What's New?**

On February 20, the Supreme Court voted to strike down President Donald Trump's tariffs imposed under the International Emergency Economic Powers Act (IEEPA). Since then, companies across multiple industries have sought compensation for roughly \$175 billion in duties collected. While the ruling invalidated the duties, it was silent on how refunds would be handled.

That uncertainty narrowed somewhat on March 4 when the U.S. Court of International Trade ruled that companies that paid the tariffs are entitled to refunds.

Even with that ruling, the refund process remains complicated. Implementation will involve coordination among the U.S. Court of Appeals for the Federal Circuit, the Court of International Trade, and Customs and Border Patrol (CBP).

CBP has handled similar refunds in the past, but not to this degree, and trade experts note that the agency's systems were not designed for mass repayments, meaning the administrative process could take months to resolve.

### **What's next?**

For companies that were the importer of record, refunds may ultimately be obtainable, but the situation is likely to be more difficult for downstream businesses. Distributors, retailers, and manufacturers often

absorbed the cost of tariffs through higher prices, yet refunds will flow only to the importer listed on customs filings.

If an importer receives a refund from the government but had previously increased prices to cover the tariff, downstream buyers may argue they are entitled to a share of that refund because they effectively paid the duty through higher purchase prices.

However, downstream claims can only proceed after the importer actually receives the refund, making it important for buyers to monitor whether suppliers are pursuing tariff recovery through the refund process.

If downstream companies are seeking refunds, they may need to document evidence showing the tariff was incorporated into the price they paid. This may involve a supplier communicating explicitly, attributing price increases to tariffs, invoices listing tariff surcharges, cost-plus pricing arrangements where duties were included in the cost base, or pricing patterns that rose and fell with tariff changes.

These entities should also review contracts for provisions that could support recovery, such as duty-drawback sharing clauses, price-adjustment mechanisms, cost-plus definitions, or “most favored pricing” clauses.

## **Political Responses**

Politically, the path to refunds is likely to be just as difficult as the legal process. According to reporting from multiple Capitol Hill publications, administration officials are exploring legal and administrative options that could allow the government to retain at least some of the tariff revenue.

Those ideas reportedly include discouraging companies from filing claims and offering expedited, but reduced refunds to firms willing to accept less than the full amount owed.

Not surprisingly, some lawmakers are pushing back. Senator Ron Wyden (D-OR), the ranking member of the Senate Finance Committee, and Rep. Steven Horsford (D-NV) have introduced legislation that would explicitly require the government to refund tariffs imposed under IEEPA. Several members of Congress have also sent letters urging the Treasury Department to move quickly to repay affected companies.

However, Republican leadership has signaled little appetite for congressional intervention. Speaker Mike Johnson said the administration should be given “time and space” to address the issue, describing the situation as unprecedented and lacking a clear legislative playbook. Similarly, Jason Smith, chairman of the House Ways and Means Committee, said he does not see a viable path in Congress to mandate refunds.

Taken together, while the courts may determine the legal outcome, the politics surrounding refunds could significantly slow or limit how much money flows back to companies.

## **NAED Advocates for Certainty on Capitol Hill**

While the IEEPA ruling is unprecedented and is somewhat separate from other tariff policies that have been set in motion by the Trump Administration, NAED teamed with NECA, NEMA, and NEMRA last week to discuss, among other things, trade and tariffs with lawmakers in Washington.

Wes Smith and the other CEOs discussed the need for certainty and predictability in tariffs going forward and advocated for a novel approach to provide tariff relief for electrical products if manufacturing companies demonstrate they are making investments to move their manufacturing to the United States.