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## **Information and Updates on IEEPA Tariff Refunds**

### **Introduction**

The information provided below is of a general nature and is not intended to address the specific transaction or circumstances of any individual, business or other entity. In specific circumstances, it is necessary to obtain the services and counsel of a professional advisor. Additional general information on this subject is widely available from sources, including [www.bakertilly.com/insights/ieepa-faq](http://www.bakertilly.com/insights/ieepa-faq) (IEEPA FAQ: Tariff refund rules, eligibility and filing steps dated April 8, 2026)

### **Background**

The Supreme Court's February 20, 2026 decision in *Learning Resources, Inc. v. Trump* invalidated the broad International Emergency Economic Powers Act (IEEPA) tariffs, including the "reciprocal" tariffs and the fentanyl-related tariffs on Canada, Mexico, and China.

The ruling sharply limits the use of the IEEPA as a tariff statute, but it leaves tariffs imposed under other authorities in place. In response, the Administration has discussed replacing the invalidated tariffs with other measures, including Section 122 tariffs, though those actions remain a moving target.

The case was then remanded to the U.S. Court of International Trade (CIT), which has exclusive jurisdiction over tariffs imposed under IEEPA.

### **Latest Developments**

The February ruling led to the CIT ordering the U.S. Customs and Border Protection (CBP) to refund invalid IEEPA tariffs, and the CBP is currently developing an electronic refund mechanism known as the Consolidated Administration and Processing of Entries (CAPE) system. As of April 20, the CAPE refund system is live and operational.

The system will have a two-phase rollout. Phase One involves processing IEEPA refunds primarily for unliquidated entries, and for liquidated entries that fall within the 90-day voluntary reliquidation period. Consideration will also be given for entries where liquidation status is “suspended, extended, or under review”. Warehouse and warehouse withdrawal entries will also be processed. CBP estimates this phase covers about 63% of affected entries.

For phase two, CBP intends to develop the ability to process refunds for entries whose liquidation is final, and a protest is not filed. No deadline was offered by CBP for completing this phase.

### **Who is Entitled to Refunds?**

Eligible refunds will be issued to the “importer of record”. That is the party CBP will repay, even though tariff costs may have been passed through into pricing farther down the supply chain.

In general, wholesaler distributors do not have a direct customs claim simply because they already absorbed tariff-related costs from the importer. However, claims to refunds depend on the contract documents, surcharge language, and any agreements governing tariff pass-through or refund sharing.

For companies impacted by the tariffs, the practical refund question is twofold: who is legally entitled, and how fast can the money be recovered?

The primary assumption is that any importer of record that actually paid invalidated IEEPA duties should be positioned for a refund once CBP’s system is fully active. Importers will need complete entry data, proof of duty payment, and enrollment for electronic payment. The unresolved issues are timing, appeal risk, and whether a given entry has already become finally liquidated and therefore falls into a later processing phase.

Wholesalers and distributors generally do not have a direct CBP claim unless they were the importer of record. If they were only downstream buyers who paid tariff-inflated prices, their rights usually come from contract language, purchase orders, surcharge clauses, or side letters, not from customs law itself.<sup>1</sup>

For wholesalers and distributors, the key issue is commercial rather than customs law. If a supply agreement says tariff-related costs are provisional or refundable, then the importer may have an obligation to pass through some or all of the recovery. If the contract is silent, however, the importer may have no automatic duty to share the refund. That makes document review essential, especially where tariff surcharges were separately itemized or where pricing was built on a temporary duty assumption.

### **Alternative Avenues**

A secondary market has emerged around potential IEEPA refunds. Some companies are selling or financing their claims at a discount in exchange for immediate cash, rather than waiting for the full refund process to run its course. These transactions are typically structured more like litigation finance than simple claim transfers, with the buyer taking some or all of the recovery risk.

That market exists because the refund timeline is uncertain and the amounts may be material. For some businesses, a discounted payment today is preferable to waiting months for administrative processing, especially if they need liquidity. As confidence in the underlying refund path has improved, the discount in these transactions has generally narrowed, but the basic tradeoff remains the same: certainty and speed versus maximum recovery.

The main action items are straightforward. Importers should track liquidation dates, confirm ACH and ACE enrollment, preserve all entry and payment records, and review any contracts that may affect refund sharing. Wholesalers and distributors should check whether their pricing or surcharge provisions address tariff reimbursement. All parties should continue monitoring CBP's rollout, the CIT's next orders, and any appeal activity that could affect the scope or timing of refunds.

## **Conclusion**

The Supreme Court's February 2026 decision striking down broad IEEPA tariffs has triggered a complex refund process, now centered at the CIT and being implemented by the CBP.

CBP's phased rollout of the CAPE system prioritizes unliquidated and recently liquidated entries, with more challenging, fully liquidated claims deferred to a later stage.

While the legal pathway to refunds is now clearer, timing remains uncertain, and implementation details are still evolving. At the same time, the Administration is exploring alternative tariff authorities, underscoring that the broader trade policy landscape remains unsettled.

For businesses, the key distinction is between legal entitlement and commercial recovery. Importers of record are positioned to receive refunds directly, provided they maintain proper documentation and system readiness.

In contrast, wholesalers and distributors must rely on contract terms to determine whether they share in any recovered duties, making careful review of agreements essential. The emergence of a secondary market for discounted refund claims highlights the value of liquidity amid uncertainty, but also reinforces the tradeoff between speed and full recovery.

<sup>1</sup> Orrick - [What Importers, Retailers and Claim Purchasers Need to Know About Preserving Tariff Refund Claims Under International Supply Agreements](#)