

DENTONS

Client Alert:

Preserving and Recovering IEEPA Tariff Refunds

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This Alert summarizes action steps and target dates for U.S. importers to prepare for a potential tariff recovery opportunity for recent trade tariffs imposed under the International Emergency Economic Powers Act ("**IEEPA"**). The legality of these tariffs imposed under IEEPA is currently challenged before the U.S. Supreme Court ("**SCOTUS"**),[1] and importers who paid such duties may be eligible for refunds if SCOTUS determines those tariffs were unlawfully imposed.[2] Even if held to be illegal, SCOTUS must clear a path for importers to seek a refund remedy. Because the cases were expedited, a decision may reasonably be expected this winter, potentially before year-end. However, the exact timing remains uncertain. As detailed below, there are a few steps that importers should address at this time.

Why are we Publishing this Alert Now?

Customs generally liquidates (i.e. "settles") entries within 314 days after importation and after liquidation, protests may be filed within 180 days.[3] With the first liquidation date for the first imports subject to IEEPA tariffs (China 10%) approaching on **December 15, 2025,** importers should take prompt steps to preserve their refund rights and evaluate available recovery strategies.

Executive Summary

If the Supreme Court invalidates the IEEPA tariffs, importers will likely need to take targeted steps to preserve and realize their refund rights. Unfortunately, the procedural path forward is anything but clear and would require specific guidance from SCOTUS. The traditional route of claiming refunds for tariffs previously paid is through the procedures available through U.S. Customs and Border Protection ("**CBP**"), such as Post Summary Corrections ("**PSC**") (prior to liquidation) and protest after liquidation, filed for each entry involving IEEPA tariffs. These procedural mechanisms through Customs are clearly defined but can only be initiated after SCOTUS renders a decision on the merits of the IEEPA tariffs.

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[1] *Learning Resources, Inc. v. Trump,* No. 24-1287 (S. Ct. argued Nov. 5, 2025); *Trump v. V.O.S. Selections, Inc*., No. 25-250 (S. Ct. argued Nov. 5, 2025) *consolidated with* 24-1287.

[2] According to a number of published reports, across the bench, the justices appeared skeptical that IEEPA's power delegated by Congress to the Executive to "regulate importation" includes a Presidential power to unilaterally levy broad, revenue-raising tariffs, however even experienced observers who closely follow the Supreme Court seem to be uncertain as to how the justices will ultimately rule on this matter.

[3] Prior to liquidation, importers may amend entries through post-summary-corrections ("**PSC**").

At this time, importers should take inventory of their entries involving IEEPA tariffs to be ready to quickly file PSCs or protest. If SCOTUS determines that the Court of International Trade ("**CIT**") has jurisdiction over the matter, the most efficient path to preserve the full pool of entries is to promptly file a complaint at the CIT to seek an injunction enjoining liquidation. If SCOTUS determines that the CIT is without jurisdiction, then SCOTUS could direct importers to alternative forums at the Court of Federal Claims ("**CFC"**) or Federal District Court (detailed below). From a practical perspective, large importers with many entries involving IEEPA tariffs may want to pursue court filings, to avoid filing individual post-summary-corrections or protests for each entry.

Key Dates

The earliest liquidation dates for entries subject to IEEPA tariffs and corresponding protest deadlines (180 days after liquidation), assuming no injunction or extension is in place, are as follows:

- Trafficking (fentanyl) Tariffs:
  - China entries: earliest liquidation **December 15, 2025**; protests due beginning June 13, 2026.
  - Canada and Mexico entries: earliest liquidation **January 12–16, 2026**; protests due beginning **July 11, 2026**.
- Reciprocal Tariffs:
  - China and other countries: earliest liquidation **February 10–13, 2026**; protests due beginning **August 12, 2026**.

These dates reflect typical liquidation at 314 days post-entry. Importers must confirm actual liquidation dates via the Automated Commercial Environment ("**ACE**") portal and broker feeds as some entries may liquidate earlier or later depending on processing and any extension/suspension activity.[4]

Possible Refund Mechanisms

At this time, as the United States Court of Appeals for the Federal Circuit's prior stay of the CIT injunction remains in place, CBP continues to collect all IEEPA tariffs. If the IEEPA tariffs are ultimately deemed to have been improperly imposed by the President, the following refund procedures may be available:

- **CBP Protests filed**: If entries liquidate and protests are timely filed and sustained, CBP would issue refunds on protested entries. If protests are denied, importers may seek judicial review at the CIT.
- **CIT injunction or DOJ stipulation:** If the importer filed an action resulting in CIT enjoining liquidation (or Department of Justice ("**DOJ**") stipulates that liquidation will not bar recovery), CBP would process refunds on covered entries.
- **Alternative forum—Court of Federal Claims ("CFC"):** If the Supreme Court determines IEEPA does not confer tariff authority (and thus places refund litigation outside the CIT), importers may seek damages for illegal exaction in the CFC. Judgments are paid from the Treasury's Judgment Fund, not by CBP. Although the CFC lacks injunction power over liquidation, an unlawful exaction finding should support recovery regardless of liquidation status, subject to any government defenses.
- **Federal district court ("APA") hedge:** To prevent liquidation while jurisdiction is clarified, importers may seek temporary restraining orders and preliminary injunctions under the Administrative Procedure Act (**"APA**") in district court, as certain courts recognize restitution under the APA as an equitable remedy.

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[4] For example, liquidation may take longer in the event the CBP Center of Excellence and Expertise ("**CEE**") team is conducting a review and request importer actions or the entry involves extended anti-dumping or countervailing duty liquidation instructions.

Given the volume of affected entries and administrative constraints, the government may again agree to remedial structures that do not rely on entry-by-entry PSCs protests. Nevertheless, importers should take time now to consider their options.

Practical Implications for Businesses

- **Documenting is Key**. Importers who paid the reciprocal or trafficking tariffs should collect entry records and duty payment data, including entry summaries (CF 7501), duty payment records, broker statements, HTS lines, entry dates, and tariff types (Reciprocal vs. Trafficking) and organize this data by liquidation dates to track deadlines and status. Ensure bond sufficiency and confirm broker standing instructions regarding holds, extensions, and protests.

- **Request an Extension**. In case the Supreme Court decision is rendered after the liquidation deadline, submit written requests to the CBP CEE Team where the entry was filed to extend liquidation by one year.[5] File well in advance of the scheduled liquidation (ideally, 2 to 4 weeks). Even if CBP declines, the request supports equitable relief and shows diligence.

- **File Protest If No Injunction**. If liquidation occurs without an injunction, file protests for the lead entry, with associated entries attached to the lead protest. Subsequent protest filings associated with the lead protest entry may be filed while entries continue to liquidate. File protests within 180 days of liquidation alleging CBP's assessment of IEEPA tariffs was contrary to law. Monitor CBP responses and calendar CIT review deadlines if protests are denied. Because courts may determine that CBP's tariff collection is ministerial and therefore not subject to protest, importers should be prepared to treat protests as a fallback rather than the principal avenue for safeguarding refund claims.

- **Prepare CIT Filings**. Seek declaratory and injunctive relief, alleging IEEPA tariffs are unlawful and requesting refunds, with an immediate motion to enjoin liquidation of affected entries. For importers with China imports, entries involving IEEPA tariffs may begin liquidating around December 15, 2025. Allow the CIT to rule on the injunction (roughly 30 days for injunction or a DOJ stipulation is a reasonable expectation).

- **Coordinate Communications**. Centralize broker instructions and internal decision rights. Maintain litigation holds and audit trails. Align treasury and accounting teams to reconcile refunds and mitigate cash-flow impacts

- **Separate**. The ruling will not disturb tariffs imposed under certain IEEPA actions and other statutes, including:

    - IEEPA will continue to fully authorize restrictions on providing goods, services, technology, or support to sanctioned countries or parties, as well as outright import bans—such as embargoes or country- or sector-specific prohibitions—which are unaffected because the Supreme Court case concerns tariffs, not exclusion of goods.
    - The current challenge before SCOTUS does not include the change to the de minimis entries, additional 40% tariffs imposed on Brazil and tariffs imposed on countries deal in Russian and Venezuelan oil.
    - Section 232 national-security tariffs on steel, aluminum, autos, and related derivatives (LINK prior Alerts).
    - Section 301 tariffs on goods from China and other retaliation-targeted countries.
    - Section 201 global safeguard duties and all antidumping/countervailing duty ("AD/CVD") orders.

Importers should monitor CBP updates and Federal Register notices for any interim instructions. For further guidance on how this ruling may affect your business or trade compliance obligations, or to better understand CIT's reasoning, please contact your Dentons team.

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[5] Liquidation extensions may be granted for one-year increments with an extension not to exceed three years.

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Because these changes are ongoing, Dentons will continue to monitor these developments and provide additional updates. We provide our clients access to resources in Canada, Mexico, China, and globally to help navigate these rapidly changing trade measures.

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