

Recovering Unlawfully Imposed Tariffs: Navigating Refunds of IEEPA Duties

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Importers can recover unlawfully collected IEEPA tariffs, but only if they follow strict refund procedures.



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The U.S. Court of International Trade (CIT) in *V.O.S. Selections, Inc. v. United States* and the U.S. District Court for the District of Columbia in *Learning Resources v. Trump* both struck down tariffs imposed by the Trump administration under the International Emergency Economic Powers Act (IEEPA), holding that the tariffs exceeded presidential authority. The U.S. Court of Appeals for the Federal Circuit recently affirmed portions of the CIT's ruling, and within a week the administration petitioned the Supreme Court for expedited review. The Court granted certiorari and consolidated *V.O.S. Selections* with *Learning Resources*, setting oral argument for the first week of November. Until the Supreme Court issues its decision, importers who have paid IEEPA tariffs face significant uncertainty about their entitlement to refunds.

This piece examines the core legal obligation of the U.S. government to refund unlawfully collected tariffs, including (a) the statutory framework under [19 U.S.C. § 1514](#), governing the finality and correction of Customs and Border Protection (CBP) decisions; (b) judicial precedents confirming the government cannot retain illegally exacted duties; (c) administrative mechanisms available for importers seeking tariff refunds; and (d) procedural implications arising from recent and historical court decisions mandating refunds.

There is a strong legal basis for importers to recover duties unlawfully collected under IEEPA. However, importers must comply with statutory deadlines and administrative procedures—such as timely protests or claims—to preserve refund

rights. The government's obligation to refund such amounts, along with any applicable interest, will arise once courts definitively invalidate these tariffs, subject to any procedural bars under 19 U.S.C. § 1514.

Background: IEEPA Tariffs and Court Rulings

In early 2025, President Trump invoked IEEPA (50 U.S.C. §§ 1701 *et seq.*) to impose unprecedented tariffs on a wide range of imports. These included a 10 percent across-the-board "Liberation Day" tariff on virtually all U.S. trading partners and additional country-specific tariffs (escalating up to 25 percent or more) on imports from China and 56 other nations, justified by alleged unfair trade practices. Earlier, in February, the president also used IEEPA to impose tariffs of 20 percent on Chinese goods and 25 percent on most Canadian and Mexican goods (10 percent on certain Canadian products) in response to illicit fentanyl trafficking and illegal immigration, dubbing them "trafficking tariffs." These IEEPA tariffs marked the first time a U.S. president used emergency economic powers to levy broad import duties, rather than the more common trade authorities such as Section 232 (national security tariffs) or Section 301 (unfair trade practice tariffs).

Importers, businesses, and even state governments swiftly challenged the IEEPA tariffs in court. On May 28, a three-judge panel of the U.S. Court of International Trade ruled in *V.O.S. Selections, Inc. v. United States* that the president's IEEPA tariffs exceeded his authority and were unlawful. The CIT found that IEEPA did not authorize the imposition of "unlimited tariffs" absent a true "unusual and extraordinary" foreign threat, and that using IEEPA to address trade deficits or immigration issues violated separation of powers (an improper delegation of Congress's exclusive tariff power). The CIT issued a nationwide permanent injunction barring the government from enforcing or collecting these IEEPA tariffs against any importer and ordered the tariffs "will be vacated and their operation permanently enjoined."

The same week, a federal court in D.C. (*Learning Resources, Inc. v. Trump, D.D.C.*) also found the IEEPA tariffs unlawful, holding on the even broader ground that IEEPA *never* permits tariffs, and preliminarily enjoined their enforcement against the two plaintiff importers.

The government appealed both cases. In July, the Federal Circuit affirmed the CIT's ruling in *V.O.S. Selections*. The administration quickly petitioned for expedited Supreme Court review, and the Court granted certiorari, consolidating *V.O.S. Selections* with *Learning Resources* and scheduling argument for the first week of November.

As a result, importers must continue paying the IEEPA tariffs while the litigation proceeds. For discussion purposes, we assume that on final resolution (through the Supreme Court), the IEEPA tariffs are definitively struck down as unlawful. Must

the government refund IEEPA tariffs already paid, and how can importers recover those funds?

Obligation to Refund Illegally Collected Tariffs

Under established U.S. law, customs duties collected without proper statutory authority constitute an illegal exaction. Courts have long recognized that when duties or tariffs are later invalidated, the government cannot lawfully retain those amounts. The recent CIT decision in *V.O.S. Selections, Inc. v. United States* underscores this principle. There, the CIT declared the Trump administration's tariff proclamations under the IEEPA unlawful *ab initio*—that is, from the beginning. The court's ruling emphasizes that "if the challenged Tariff Orders are unlawful as to Plaintiffs they are unlawful as to all." Accordingly, if the Supreme Court affirms the CIT's ruling and it becomes final, CBP will have no authority to continue collecting the invalid duties, nor any legal basis for retaining amounts already paid. CBP is the federal agency responsible for enforcing U.S. customs laws at the border. When an importer files an entry for goods, CBP automatically applies the duty rate from the government's system. If the rate includes an unlawful tariff, CBP still collects the tariff because the system directs it to.

That said, even for improperly collected entries already liquidated, CBP may invoke the finality provisions of §1514 to bar refunds unless the importer filed a timely protest or the court's judgment expressly orders reliquidation of all affected entries. While some cases, such as *SKF USA Inc.*, have permitted reliquidation of "final" entries after an order is invalidated, those outcomes often rest on specific statutory or judicial mandates. This could be a contested issue if the judgment does not include explicit refund directives.

The CIT's May 28 judgment did not explicitly order refunds, which is consistent with the posture of a broad, facial challenge rather than individual refund suits. Instead, the court issued a nationwide injunction directing the government to take all steps necessary to "effectuate" its ruling. Given the judgment's language, the logical implication—and historical practice in similar circumstances—is that the government must return importers to the status quo ante, effectively placing them in the position they would have occupied had the unlawful tariffs never existed. In practice, this requires CBP both to halt prospective assessment of the invalid IEEPA tariffs and to refund all duties previously collected once the appellate stays expire and the judgment takes effect.

This refund obligation is firmly grounded in the customs statutes. Under 19 U.S.C. § 1514(a), CBP decisions become "final and conclusive" only as to "the classification and rate and amount of duties chargeable" as well as "the legality of all orders and findings entering into the same," unless timely protested. When a court subsequently invalidates the underlying order—in this case, the IEEPA tariff proclamations—the legal foundation supporting those assessments collapses.

Section 1514 further provides that, upon receiving a final judgment from the CIT, CBP “shall take action accordingly,” a directive that historically has required reliquidation of affected entries at the lawful duty rates and refunding any overpayments.

Additional statutory provisions reinforce this refund requirement. Pursuant to 19 U.S.C. §§ 1501 and 1505, CBP must reliquidate relevant entries and refund excess duties along with statutory interest calculated from the date of deposit. Importers can facilitate this process by filing timely Post Summary Corrections (PSCs) for entries that remain unliquidated and by lodging administrative protests within 180 days for those already liquidated. If CBP delays action on these protests, importers may invoke accelerated disposition under 19 C.F.R. § 174.22, which deems a protest denied if CBP fails to act within 30 days, thereby enabling swift judicial recourse.

Judicial precedent consistently supports this refund obligation. In United States v. United States Shoe Corp., the Supreme Court invalidated the Harbor Maintenance Tax as unconstitutional, explicitly ruling that the government must return all unlawfully collected payments, including interest. Similarly, in SKF USA Inc. v. United States, the court held that even liquidations previously deemed final must be reopened once the underlying duty order is invalidated. Likewise, the CIT has repeatedly ordered refunds of tariffs found to exceed executive authority, as exemplified by cases such as Transpacific Steel LLC v. United States and the long-standing precedent established in Star-kist Foods, Inc. v. United States.

Applying these principles here, once appellate proceedings conclude with the CIT’s decision affirmed, CBP will be obligated by law to cease further collections, reliquidate all affected entries, and issue refunds with statutory interest. CBP typically implements such court orders through formal guidance, instructing importers to submit PSCs or administrative protests to secure refunds. Should CBP fail to act promptly or deny relief, importers retain recourse to the CIT under 28 U.S.C. § 1581(a) (protest-denial jurisdiction) or § 1581(i) (residual jurisdiction for illegal exactions). In such cases, courts commonly compel compliance and award refunds with interest, and persistent delay or resistance by CBP may expose the government to liability for attorneys’ fees under the Equal Access to Justice Act.

In sum, the combination of statutory provisions, judicial precedent, and explicit directives from the CIT’s ruling leaves CBP no discretion in the matter. Once these tariffs are finally invalidated, the government will be legally required to refund the unlawfully collected IEEPA duties to importers, along with interest.

Mechanisms for Importers to Seek Refunds

If the IEEPA tariffs are ultimately struck down by the Supreme Court, importers will not receive refund checks automatically; they must affirmatively request refunds through the proper channels. The likely pathways are (a) PSCs for unliquidated entries; (b) protests for liquidated entries; and, if necessary, (c) litigation at the CIT to enforce refund rights.

Post Summary Corrections for Unliquidated Entries

Entries that have been imported but not yet “liquidated” can be adjusted via CBP’s administrative processes. A PSC is an electronic correction an importer files to amend its entry summary before liquidation (for example, to correct the declared duty rate). CBP has indicated that it may allow PSCs to remove some invalid IEEPA tariffs from entries once the injunction is effective. If an entry is still unliquidated when the tariffs are invalidated, the importer could file a PSC to retroactively correct the duty rate to what it should have been (excluding the unlawful tariff). CBP would then liquidate the entry without the additional 10 percent (or 25 percent, and so on) tariff, triggering a refund of any excess duties that were deposited. Indeed, in a recent analogous scenario involving overlapping “stacked” tariffs, CBP’s guidance specifically instructed that refund requests may be submitted by filing a PSC for unliquidated entries. This PSC route is typically the fastest and least contentious way to recover overpayments on entries that are still open, as it avoids the need for a formal dispute.

Importers should be mindful of liquidation timing. By statute, most entries liquidate within 314 days (approximately 10 months) of entry if not extended. Importers could request that CBP extend liquidation on their entries subject to these tariffs. CBP may agree to extensions (up to three years in increments) when litigation or uncertainty exists, which would keep entries unliquidated and eligible for PSC correction until the legal outcome is clear. Keeping entries in an unliquidated state can preserve the importer’s ability to correct and avoid needing protests.

Protests for Liquidated Entries

For entries that have already liquidated with the unlawful tariff included, the importer’s recourse is to file an administrative protest under 19 U.S.C. § 1514. A protest is essentially a request for CBP to review and overturn its decision on a particular entry—here, the decision to assess the additional IEEPA duty. The protest must be filed within 180 days of the date of liquidation (or reliquidation) of the entry. In the protest, the importer would cite the court’s invalidation of the tariff and argue that the duty was “collected illegally, in excess of what was lawfully due.”

If the court decision is final, CBP would have little basis to deny such protests on the merits—the tariff will have been nullified as contrary to law. Indeed, CBP headquarters will likely issue uniform guidance directing port directors to allow protests for refunds once the litigation is concluded in importers' favor (much as they did following the president's "de-stacking" [Executive Order 14289](#)). In the tariff-stacking context, Executive Order 14289 eliminated certain overlapping tariffs retroactively, and CBP's implementing notice directed that importers could seek refunds on entries back to the retroactive date. Specifically, [CBP's Federal Register notice](#) stated that "requests for refunds ... may be filed starting May 16, 2025" for covered entries, and subsequent guidance clarified that importers should file a PSC for unliquidated entries or a protest under 19 U.S.C. § 1514 for entries that have liquidated (within the protest period). CBP followed that approach rather than automatically refunding "stacked" tariffs—importers had to affirmatively claim the refund by correcting entries or protesting. We should anticipate a similar approach here: CBP will likely invite importers to file protests for any liquidated entries where IEEPA tariffs were paid, so that refunds can be processed.

It is important to note that only timely protests can be granted in the ordinary course. If an entry liquidated and the 180-day protest window expired before the tariffs were invalidated (for instance, an entry liquidated in March 2025 would become final by late September 2025 if not protested), the importer may be barred by § 1514's finality provision from obtaining a refund absent a court order specifically directing reliquidation. Although the CIT's injunction was nationwide, the Supreme Court could narrow its scope or limit relief to claimants who preserved their rights, as has occurred in other contexts involving universal injunctions.

One potential argument is that the CIT's nationwide injunction and declaration of illegality could justify reliquidating even final entries, since it essentially negates the legal basis for those liquidations. However, CBP [does not have general authority](#) to reliquidate final entries outside the protest process except within 90 days of liquidation on its own initiative or pursuant to a court order. Thus, importers should act diligently to protest recent liquidations within 180 days. Many importers have already been filing protective protests on IEEPA-duty entries to preserve their rights while the litigation is pending. If any protests are denied by CBP (for example, if filed before the court outcome and denied on the ground that the tariffs were "lawful" at that time), the importer can escalate the matter to the CIT.

Judicial Relief (CIT Actions)

If CBP were to deny a refund claim—or if an importer prefers to skip directly to court—the importer can bring a lawsuit at the CIT to recover the unlawfully exacted duties. There are two main avenues: (a) after protest denial (28 U.S.C. § 1581(a)) and (b) direct declaratory/refund suit (28 U.S.C. 1581(i)).

The typical route is to file a protest, wait for CBP's decision, and if denied, sue the government in the CIT to contest the denial. The CIT has exclusive jurisdiction to review protest denials and can order reliquidation of the entries and refunds due. Given that CBP is likely to allow refunds once the tariffs are struck down, this route would mainly be needed if CBP unreasonably delays or refuses relief.

Importers have a tool to prevent delay: a request for accelerated disposition of the protest under 19 C.F.R. § 174.22. If an importer files a protest and then requests accelerated disposition, CBP has 30 days to act on the protest; if it fails to decide in that time, the protest is deemed denied by operation of law on the 30th day. This deemed denial allows the importer to immediately sue in the CIT, rather than waiting (normally CBP has up to 2 years to decide a protest). The CIT has confirmed that this mechanism vests it with jurisdiction after 30 days of no action. In short, if post-litigation refunds bog down administratively, importers can force a timely day in court. Once in court on a protest denial, the CIT will apply the final court precedent (which by hypothesis declares the tariffs unlawful) and should order the entries reliquidated without the IEEPA duties, with a refund to the importer with interest (under 19 U.S.C. § 1505(b), importers receive interest on duty overpayments from the date of deposit to the refund date).

Alternatively, importers who have paid these tariffs could consider filing suit directly in the CIT without waiting for CBP, especially if they want a court-ordered refund concurrently with the legality determination. The CIT in *V.O.S. Selections* was a broad action with multiple plaintiffs, but it did not individually adjudicate refunds for each importer. An individual company could file its own CIT case and seek as relief not only a declaration that the tariffs are invalid but also an injunction or order that CBP refund any duties that company paid under the invalid tariff. This strategy could yield a faster refund for that plaintiff if the CIT (or, on appeal, Federal Circuit) agrees to couple the merits ruling with specific relief. Essentially, the company would be asking the court to enforce its rights to restitution at the time of judgment, rather than relying on a later administrative refund process.

The downside is that a separate lawsuit could be mooted if the government sets up a refund program; courts might also require the importer to have at least filed a protest or demonstrate that no adequate remedy existed through the normal process. In prior tariff litigations (for example, challenges to Trump's Section 301

China tariffs), thousands of companies filed CIT cases to preserve refund claims, but the CIT treated them as a consolidated action and did not require each to protest administratively.

Historical Precedents of Refunds

U.S. law has numerous examples where duties or taxes collected under an invalid rule were ordered to be returned. A notable case is *United States v. U.S. Shoe Corp.*, where the Supreme Court struck down a Harbor Maintenance Tax (HMT) on exports as unconstitutional. The government then refunded all the HMT payments that had been collected on exports (with interest) to the companies that had filed timely claims or suits. In that scenario, exporters first filed protests with CBP (which were denied), and then sued in the CIT, which led ultimately to the Supreme Court's decision. After the win, the CIT oversaw the refund process to ensure all claimants got their money back, and by 2005 the government confirmed that "all HMT claims have been paid pursuant to [the Supreme Court's decision]."

This illustrates that when a trade-related exaction is declared unlawful, the court's final judgment results in refunds to those who paid (provided they preserved their claim). Similarly, in *Transpacific Steel LLC v. United States*, the CIT held that an increase of Section 232 steel tariffs on Turkey was ultra vires and ordered CBP to refund to the plaintiff the additional 25 percent it had paid.

Although the Federal Circuit later reversed that decision on the merits, during the interim the CIT's judgment required and in fact led to a refund to the importer. Because *Transpacific Steel* was ultimately reversed, its value as precedent for refund entitlement is limited. Opponents may argue that *U.S. Shoe* is not perfectly analogous, as it involved a tax struck down as unconstitutional rather than a tariff deemed ultra vires under a statutory delegation. This distinction could be raised to argue against retroactive monetary relief absent a specific statutory refund mechanism.

These precedents underscore that the CIT has authority to grant monetary relief for unlawful duties, and importers who successfully challenge a tariff typically do recover the amounts paid.

Practical Considerations and Broader Implications

If the IEEPA tariffs are ultimately struck down by the Supreme Court, the scale of refunds could be enormous. Some observers estimate the U.S. might owe \$750 billion to \$1 trillion in refunds. Refunding these sums will be a complex administrative task. Importers should be prepared for a potentially lengthy timeline to actually receive refunds. Even with a straightforward process (PSC/protest), the sheer number of claims means backlogs are likely.

CBP may need to issue public guidance (through its Cargo Systems Messaging Service or the Federal Register) outlining the refund procedure, as it did for the tariff-stacking refunds. Importers will then have to compile documentation of the entries and amounts for which they seek refunds. It may take months or even years for CBP to liquidate or reliquidate all affected entries and disburse refunds, especially if appeals prolong the legal uncertainty. Importers can mitigate delays by acting promptly (filing necessary PSCs or protests as soon as permitted) and by using the accelerated protest disposition mechanism to nudge the process if needed.

If CBP were to resist granting refunds or if any legal question remained (for example, if the appeals court struck down the tariffs but on a narrower ground), further litigation could ensue. However, given the CIT's broad injunction and statements, if affirmed, CBP is expected to comply uniformly. Any refusal by CBP to refund lawfully owed money would almost certainly be overturned by the CIT, and likely with attorney fee consequences under the Equal Access to Justice Act, since there would be no substantial justification for withholding refunds after the tariff is declared illegal.

Nevertheless, CBP could delay refund processing by interpreting the judgment narrowly or awaiting further guidance from Congress or the president. In rare but high-dollar refund situations, Congress has enacted legislation to limit or structure repayment obligations, which could alter the timing, scope, or interest payable on such refunds.

Some may ask whether only the named plaintiffs in the test case get relief, or everyone who paid the tariff. Here, the CIT aimed to cover all importers with its injunction (a universal remedy). That indicates all importers who paid the IEEPA duties should be eligible for refunds, even if they were not parties to the lawsuit. This contrasts with some prior tariff litigations (for example, the Section 301 China tariff case) in which courts suggested importers needed to file their own claims to benefit. The CIT explicitly rejected a "narrowly tailored" remedy and treated the issue as the validity of the tariffs as a whole, not just as applied to certain parties.

Thus, assuming that position stands through the higher courts, any company that paid these unlawful tariffs can seek a refund. As discussed, they must still follow the process (filing the request or protest), but they shouldn't need to have been a plaintiff in the litigation. In any event, U.S. law does not allow the government to keep duties that a court has conclusively found to be collected without legal authority, so the money should ultimately flow back to the importers who bore the cost.

Importers may be entitled to statutory interest under § 1505(b) on excess duties from the date of deposit through the date of liquidation or reliquidation, calculated at the quarterly rate set by the secretary of the treasury. However, the

government could argue that interest is payable only where expressly authorized for the type of duty or exaction at issue, and may contest its application to certain IEEPA-based refunds.

This could be a substantial additional sum given the amounts at issue. For example, if an importer paid \$1 million in unlawful tariffs in April 2025 and gets a refund in, say, mid-2026, they would receive that \$1 million plus interest (the interest rate is tied to Treasury rates and changes quarterly). The government will be keenly aware of these accumulating interest obligations, which gives it an incentive not to unduly delay refund processing once the case is final.

However, interest is not payable on unliquidated entries that are corrected before liquidation (since no “overpayment” exists after correction). Thus, companies that can utilize PSCs to remove duties on still-open entries will simply avoid paying the excess duty rather than pay and reclaim interest; those that must await reliquidation of already-paid entries will get interest.

If the IEEPA-based tariffs are ultimately struck down by the appeals courts and the Supreme Court, importers will have strong grounds to recover all duties paid under those tariffs. The CIT’s ruling already indicates that the tariffs are void and unenforceable as to any importer, implying that the government cannot lawfully keep the funds collected. However, importers will need to follow the established procedures to obtain refunds: filing post summary corrections for entries that are still unliquidated, and filing timely protests (or refund suits) for entries that have liquidated with the illegal tariff. CBP is expected to implement a refund process (as it did with the tariff de-stacking executive order) to effectuate the court’s judgment, likely inviting importers to submit claims and then processing refunds with appropriate interest.

While the mechanics may be time consuming and require diligence by importers to meet deadlines, U.S. law and precedent firmly support the principle that illegally collected tariffs must be returned. Importers should stay vigilant in monitoring CBP guidance and court developments, ensure protests are filed within 180 days of liquidation where applicable, and be prepared to escalate to the CIT if necessary to enforce their rights. Ultimately, assuming the courts definitively invalidate the IEEPA tariffs, importers can indeed expect to get their money back—it is a question of “when and how” rather than “if,” subject to the administrative steps outlined above.



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