

Preserve Your Rights to Tariff Refunds Now in Light of the Ongoing Supreme Court Tariff Litigation

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On November 5, 2025, the US Supreme Court (SCOTUS) will hear the Trump administration's appeal of lower court decisions holding the president's imposition of the "fentanyl" and "reciprocal" tariffs under the International Emergency Economic Powers Act (IEEPA)¹ unlawful.

Given the importance of the issue and that the stay of the lower court decisions has allowed the US to continue collecting IEEPA duties, we expect the court to issue its decision expeditiously, most likely before the end of 2025.

If the court agrees with the lower courts and finds some or all of the challenged IEEPA tariffs unlawful, the US should in theory stop collecting IEEPA tariffs on future entries, but it may not voluntarily cease enforcement. There is no guarantee that the court will require US Customs and Border Protection (CBP) to refund duties to any importer other than those involved in the litigation. Nor is there a guarantee that CBP will voluntarily refund duties paid to importers not involved in the litigation. As such, all affected importers need to be prepared to take affirmative steps to obtain refunds of duties paid under the IEEPA.

Now is the time to prepare. We recommend importers take the following immediate actions:

1. Maintain paper and electronic records for all entries on which you paid IEEPA tariffs

- Ask your broker for a spreadsheet that includes the following information:
 - Entry number
 - Entry date
 - Country of origin
 - Tariff classification and description of merchandise
 - Type and amount of duties paid
 - Projected liquidation date
- Collect and maintain local copies of entry records (CF 7501 entry summary, commercial invoices, packing slips and bills of lading)

- Do not rely on the ability to download those documents at a later date from CBP's Automated Commercial Environment (ACE), and the Automated Broker Interface (ABI). Maintain back-up copies.

2. Preserve your right to a refund

- Track liquidation dates
 - Entries typically liquidate (become final) 314 days after entry²
 - Around mid-December 2025 is when the earliest entries with IEEPA tariffs begin to liquidate
- If liquidation date is approaching, consider asking CBP to extend liquidation³
 - Extension keeps the entry open (unliquidated) pending the outcome of the litigation
 - Keeping entries open could allow for a more expedited refund process (see below)
 - NOTE: Extensions are at CBP's discretion – historically CBP does not view pending litigation as basis for extension

3. If the court invalidates the IEEPA tariffs, the process of seeking refunds depends on the liquidation status of the entry:

- For unliquidated (open) entries⁴
 - Submit post-summary corrections (PSCs) to remove IEEPA tariffs
 - If accepted, the PSC process can result in expedited refunds
- For liquidated (closed) entries
- File protests challenging IEEPA tariffs no later than 180 days after liquidation⁵

¹ On May 28, 2025, the [U.S. Court of International Trade](#) (CIT) declared President Trump's universal *ad valorem* reciprocal tariffs and his Canada, China and Mexico illegal drug-trafficking and migration issues related tariffs (the "IEEPA Tariffs") unlawful. CIT also issued permanent injunctions against the IEEPA Tariffs. Following appeal by the government, on August 29, 2025, the [US Court of Appeals for the Federal Circuit](#) (the "Federal Circuit") agreed with the CIT's ruling that the tariffs are unlawful. The Federal Circuit stayed the effectiveness of its decision to allow the administration to seek review at the Supreme Court of the US (the "Supreme Court"). The Supreme Court granted *certiorari* on September 9, and expedited the timeline for hearing the case, setting the case for argument on November 5, 2025.

² Liquidation refers to "the final computation or ascertainment of duties on entries." See [19 CFR § 159.1](#). All entries, except entries in bonded warehouses, must be liquidated by CBP within 314 dates from the date the entry summary was submitted, unless an extension is requested. See [19 CFR § 159](#).

³ Liquidation extensions can be requested [per 19 CFR 159.12](#), and may be granted for up to three years at CBP's discretion. Importers may choose to submit an extension request via paper or electronic format to the appropriate CBP Center of Excellence and Expertise (CEE) for each industry. Liquidation extension requests can also be submitted via ACE. We recommend electronic submission of any liquidation extension requests and/or protests over paper submissions wherever possible.

⁴ Importers can use the PSC process to get refunds on entries that have not yet been liquidated. A PSC allows the importer or customs broker to electronically correct entry summary data presented to and accepted by CBP through the ACE system. Submission of a PSC is the sole method to electronically correct entry summaries prior to liquidation. See 19 USC 1484 and 1485.

⁵ After liquidation, importers (or customs brokers/attorneys) can file a protest within 180 days from liquidation to request a refund from CBP. A protest is filed to contest a decision made by CBP or to correct information previously entered on entry documents. See [19 CFR § 174 Subpart B](#).

- Consider requesting accelerated disposition of protests
 - If there is no decision within 30 days, the protest is deemed denied and importers/filers can seek immediate court review
- If CBP denies a protest, file a summons in the US Court of International Trade no later than 180 days after protest denial

The attorneys in our firm's International Trade & Foreign Investment Practice Group have extensive experience helping clients navigate issues before CBP and with protest litigation before the US Court of International Trade. Please contact the following individuals if you would like to discuss further.

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