

Policy Backgrounder

The Tariff Refund Process

Following the Supreme Court's decision in *Learning Resources v. Trump* overturning tariffs imposed under the International Emergency Economic Powers Act, the Court of International Trade (CIT) has been supervising a process of tariff refunds implemented through Customs and Border Protection (CBP). The first phase of the system is operational, and some refunds are now being paid, though questions remain and progress is uneven.

Trusted Insights for What's Ahead®

- All cases requesting tariff refunds were consolidated into a process overseen by the CIT (see CED Policy Backgrounder, [Tariff Refunds and Tariff Investigations](#)).
- CBP's new CAPE system for applying for refunds began accepting applications in late April. Only importers of record (those who actually paid the now invalidated tariffs) and Customs brokers may apply for and receive the refunds.
- Phase I of the refunds process has now begun, with some refunds already being distributed and others expected in 60-90 days. Phase II applications (which include a large number of more complicated cases) will be accepted later, though CBP has not yet announced a date for this.
- Because refunds apply only to importers of record, there is no obligation (unless by contract) for them to pay the refunds to their customers or for their customers to pass them on to final consumers. Whether refunds will be distributed further will differ from business to business.

Judicial Developments

In *Learning Resources v. Trump*, the Supreme Court ruled that the fentanyl-related tariffs on Canada, China, and Mexico and the “Liberation Day” tariffs all imposed under the International Emergency Economic Powers Act are unconstitutional. The Court stated that these tariffs are taxes, and the power to tax lies only with Congress, not the President. Because the tariffs are unconstitutional, importers of record are entitled to refunds.

While a large number of importers had already filed suit for refunds in anticipation of *Learning Resources*, the CIT ruled that importers of record would not have to file separate suits (at their expense) to obtain refunds to which they are entitled. (As many as 330,000 importers may have paid the tariffs.)¹ Instead, the CIT directed CBP to develop a process for near-automatic refunds on application and proof that the tariffs paid were actually covered by *Learning Resources*. The CIT held a series of hearings to ensure the CBP process is on track.

The CAPE system

In response to the CIT’s direction, CBP established the Consolidated Administration and Processing for Entries (CAPE)² for importers of record to file declarations applying for the tariff refunds. Importers of record and Customs brokers file CAPE declarations through CBP’s Ace Secure Data Portal,³ used for the overall Automated Customs Environment (ACE) that CBP uses for regulation of imports and exports in other contexts. CAPE opened to receive declarations on April 20.

The basic principle of the CAPE system is that only the importer of record may apply for the refunds. This makes sense: the entity that paid the unconstitutional tariffs is the entity to which the refunds should be made. Other importer businesses, therefore, must work with the importer of record to ensure that it has filed the proper application. As the name implies, the system is intended to consolidate refunds (including any interest), with up to 9,999 Customs “entries” in each declaration including any interest) rather than forcing a separate digital filing listing each entry for which refunds are due. The system will remove the affected IEEPA duties and recalculate any duties due in the revised liquidation. CBP will review every refund request, so the system is not fully automatic. Entries will be analyzed individually and in theory, an ineligible entry would be rejected separately (with an explanation) without rejecting the other entries in a declaration. Refunds, which are consolidated, can only be paid electronically to a US bank account and will include interest at about 6%. CBP estimates most refunds will take 60-90 days.

The system, which was constructed rapidly, will operate in phases. For Phase 1, CAPE will accept processing for Customs entries of duties that are either unliquidated (not finalized) or up to 80 days past the date of liquidation. Certain other types of entries, such as those under suspension or relating to goods in warehouses, may also be processed.

More complicated entries, including those for which a protest of duties is active, those not filed through ACE, and those liquidated more than 80 days ago, must be held for Phase 2. Perhaps most important, entries which also reflect different kinds of tariffs (for instance, antidumping and

countervailing duties or the steel and aluminum duties imposed under Section 232 of the Trade Expansion Act of 1962) as well as the invalidated IEEPA tariffs must be held until Phase 2. CBP has not yet announced a date to begin Phase 2.

According to a court filing from CBP,⁴ as of May 11, 126,237 declarations have been submitted through CAPE. However, only 86,874 declarations passed CBP's file validation process. The accepted declarations cover 15,123,221 entries that "were accepted for the removal of IEEPA duties through CAPE." Of these, 8,338,081 entries have been either "liquidated and/or reliquidated without IEEPA duties." CBP estimates the anticipated total refunds (including interest) for these entries at \$35.46 billion -- 21.36% of the approximately \$166 billion in IEEPA duties paid and potentially eligible for refunds. However, CBP notes that "[o]nly a portion" of these refunds has been sent to Treasury following another verification check by CBP before the request is sent to Treasury for actual payment.

Implications for Business

While large parts of the system have been rolled out rapidly following the decision in *Learning Resources* in February and the subsequent hearings at the CIT, it may be some time before the Phase 2 updates permit refunds of more complicated (or older) tariff payments. Questions also remain as to how importers may amend declarations that did not pass file validation and how CBP will process larger refunds across all submissions. The CIT's order of the refund system benefits small importers in particular, but (unless they are themselves importers of record) they may need to pay fees to customs brokers to file declarations on their behalf. However, many smaller importers will still likely believe that applying for refunds makes business sense for them.

Companies with large volumes of tariffed imports may wish to make multiple filings, with less complicated and clearer entries now to begin the refund process and later declarations once the Phase 2 process has begun rather than waiting to consolidate all entries on one declaration. Businesses will also need to consider the tax consequences of refunds. Because many importers paid the unconstitutional tariffs in 2025, they likely took a deduction for the cost of the tariffs in that tax year. If a business receives the tariff refunds now, this can count as income for 2026, even if offset by deductions taken for payment of other tariffs.

Passing on Refunds?

Once refunds have been paid, another question is whether they will be passed on to customers in the supply chain or even to the final consumer. Shipping companies including FedEx, UPS, and DHL have promised to pass on the refunds to consumers -- but these companies also have clear records of who received an imported product via the shipment, and passing on the refunds is easier in these cases. This should provide an important benefit for small businesses who paid tariffs via the shipping companies and for others using these services.

Other businesses will have to consider factors such as the nature of their relationships and contracts with their Customs brokers (and whether to amend these contracts to reflect the possibility of tariff refunds), how easy it is to identify final customers, and whether the precedent of refunds fits into an overall marketing and pricing strategy.

This final factor may be the most relevant in the medium term, as the Administration's tariff policy -- including the two major Section 301 investigations currently under way involving 76 separate potential determinations of tariffs -- will continue, with impacts on both US importers and exporters and shifts in global supply chains and, of course, on the final consumers of imported goods subject to tariffs.

About the Authors



David Young, President, CED



John Gardner, Vice President, Public Policy, CED

The Conference Board is the Member-driven think tank that delivers Trusted Insights for What's Ahead®. Founded in 1916, we are a nonpartisan, not-for-profit entity holding 501(c)(3) tax-exempt status in the United States. [TCB.org](https://www.conferenceboard.org/) | [Learn about Membership](#)

The Committee for Economic Development (CED) is the public policy center of The Conference Board. The nonprofit, nonpartisan, business-led policy center delivers trusted insights and reasoned solutions in the nation's interest. CED Trustees are chief executive officers and key executives of leading US companies who bring their unique experience to address today's pressing policy issues. Collectively, they represent 30+ industries and over 4 million employees.

© 2026 The Conference Board, Inc.

Endnotes

¹ Sean Noone, "[Which businesses qualify for tariff refunds, and how do you apply?](#)," The Hill. April 25, 2026.

² https://www.cbp.gov/sites/default/files/2026-04/ace_portal_-_cape_declarations_508c.pdf

³ <https://www.cbp.gov/trade/automated>

⁴ [Declaration of Brandon Lord Responding to Court Order](#), May 12, 2026