Policy Backgrounder

Tariff Refunds Update

A new filing from Customs and Border Protection (CBP) suggests that nearly $100 billion in tariff refund requests has been processed for refunds, although a surprisingly large number of requests has failed validation. This Backgrounder explains the refund process and discusses litigation in the Court of International Trade (CIT) that could narrow significantly the process for seeking refunds.

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- While nearly $100 billion has been processed for refunds, the government has not provided a figure of refunds actually issued by Treasury; the process is not automatic.
- CBP has rejected nearly 30% of filings in the refunds system; importers of record must be extraordinarily careful in making filings. Businesses working with them must be equally careful to provide accurate information that matches CBP filings of tariffs actually paid.
- The government now argues that the CIT's injunction establishing the refunds system is a nationwide injunction barred by the 2025 case of *Trump v. CASA*. Importers believe the Constitution's language that all Customs duties "shall be uniform throughout" the US required it. The case is likely headed to the Supreme Court.
- A decision against the CIT would force importers of record to file suit individually to obtain refunds, which would discourage litigation, particularly for medium-sized businesses.
- In the meantime, CBP is unlikely to begin processing more complex and older "Phase II" refunds as it had promised to do earlier this year, delaying many refunds for businesses.

Tariff Refunds After *Learning Resources*

Following the Supreme Court's decision in Learning Resources v. Trump, the CIT set up a national tariffs refund process (rather than limited to parties to the case), because the Uniformity Clause of the Constitution provides that "all Duties, Imposts, and Excises shall be uniform" throughout the US.

CIT then ordered CBP to adopt a system for automatic refunds of tariffs paid under the now-invalidated Executive Orders so that companies would not have to file suits to obtain refunds. The CIT then extended the refunds to all tariffs paid under the IEEPA tariffs the Court invalidated, including "fully liquidated entries" that had been paid earlier, because the Supreme Court invalidated the tariffs in their entirety. Only importers of record and brokers (those who actually paid the tariffs) may file in the CBP online claim portal (the Consolidated Administration and Processing of Entries (CAPE)[1] system) to receive the refunds. The CIT intends this to be a purely administrative process, far faster than litigation and much more favorable to smaller importers less able to bear the costs of litigation.

CBP's new filing

The CIT has kept close watch on the refunds process. A new CBP filing[2] raises a number of questions for importers. CBP stated that as of July 31, 252,496 CAPE declarations have been submitted, of which 178,213 (70%) passed file validation; CBP claims the principal reasons for this low figure are technical problems with the filings.

Of those that did pass file validation, 25.1 million separate Customs entries for which IEEPA duties were accepted for processing in CAPE. However, only 17.69 million (about 70%) have been "liquidated or reliquidated without IEEPA duties" (in other words, processed for refunds). Separately, 5.02 million entries failed because the entry date is further back than 90 days from liquidation, the entry "did not contain a Harmonized Tariff Schedule number" or were duplicates. (Older Customs entries are supposed to be addressed in a later, Phase II portion of the CAPE system, which would take the expected total refund amount to around $166 billion.)

In total, CBP stated that approximately $128.68 billion "in potential and certified refunds" have been accepted for processing in CAPE. Of this amount, CBP has certified refunds (duties plus interest) of approximately $100 billion and sent the requests to Treasury for disbursement.

This is not, however, a figure of refunds actually issued to importers: CBP states only that its "financial accounting system receives updates from Treasury that indicate these CBP certified refunds are being regularly disbursed." (Separately, the July Monthly Treasury Statement shows that Treasury issued $33 billion in Customs refunds in July, but this covers all refunds not just those for IEEPA tariffs).[3] In addition, CBP did not transmit $1.6 billion of the money to Treasury because of problems with account information. So some refunds have been delayed. The process is not automatic.

Implications for business

It is surprising that the CAPE system has rejected 30% of the filings. Importers of record and Customs brokers work with CBP routinely and have experience with the Automated Customs Portal. While the CAPE system is new and somewhat complex, these "Phase I" entries in the system are, relatively speaking, the easiest for both filers and CBP to process. Perhaps some filers have tried to file for refunds that are supposed to be held for the more complex "Phase II" period, but the overall acceptance rate seems lower than what many businesses expected.

In addition, the entries processed for refunds now reflect the most recent IEEPA tariffs paid. Importers and Customs brokers had time to adjust to those tariffs and would likely have kept detailed records in anticipation either of potential litigation or in the expectation of refunds once the Supreme Court heard oral arguments in *Learning Resources* on November 5, 2025.[4]

Whatever the cause of the problems, it is imperative that importers of record and Customs brokers making the filings must be exceptionally careful in doing so – and businesses which contracted with these filers should be very clear in providing their own records to assist with making a correct filing. For instance, the Harmonized Tariff Schedule number connected with the IEEPA duties should be clear to avoid rejection of the filing. General Counsels, CFOs, and CMOs should understand how to ensure the filings are processed correctly, whether their refund request has been accepted, and what further delays are anticipated.

Will *Trump v. CASA* Limit Refunds?

In June, the government appealed the CIT order. The Administration now wants every affected importer of record to file suit individually to receive refunds, on the ground that the CIT imposed a nationwide injunction in violation of the Supreme Court's decision in *Trump v. CASA*.[5] The Administration has now filed its brief in the Federal Circuit.[6] The brief states that "[t]he CIT's universal injunctions, requiring the government to refund IEEPA duties for all importers (including non-party importers), cannot possibly be squared with *CASA*."

This sets up a case pitting the Supreme Court's holding in *CASA* with the Uniformity Clause. By definition, with separate cases covering different judicial districts, then there is the possibility that duties would not be "uniform." Congress set up the CIT as a court of national jurisdiction so that its decisions would apply nationwide, following the Uniformity Clause. It also seems likely that a provision of the Constitution would take precedence over a Supreme Court ruling.

Should the government win, however, the need to file litigation to obtain refunds would likely discourage importers, particularly smaller and medium-sized businesses, from filing, in case litigation costs exceed their refunds due. This means the government would keep money which the Supreme Court has ruled was collected unconstitutionally – a disturbing result for business.

While this litigation continues, it also seems highly unlikely that CBP will move to adopt the Phase II process for more complicated entries, unless the CIT orders it to do so – which the Administration would likely appeal. In practical terms, those refunds are on indefinite hold.

However the Federal Circuit rules, questions surrounding tariff refunds seem likely to be headed to the Supreme Court, leaving many businesses waiting even longer for money. While about $100 billion in refunds (including interest) processed for payment is a large sum, many importers in more complex situations and older tariffs paid are still waiting to file and face even further delays before they can do so. Tariffs, and the tariff refunds process, will remain top of mind for many US businesses and C-suites.

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Endnotes

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

[2] https://storage.courtlistener.com/recap/gov.uscourts.cit.19175/gov.uscourts.cit.19175.24.0.pdf

[3] https://fiscaldata.treasury.gov/datasets/monthly-treasury-statement/summary-of-receipts-outlays-and-the-deficit-surplus-of-the-u-s-government

[4] https://www.supremecourt.gov/oral_arguments/audio/2025/24-1287

[5] https://supreme.justia.com/cases/federal/us/606/24a884/

[6] https://abcnews.com/Business/wireStory/government-fights-trade-judges-order-tariff-refunds-importers-135550378