



IEEPA Tariff Refunds: Clarity on Eligibility, Complexity in Recovery, and a New Wave of Disputes

Our perspectives feature the viewpoints of our subject matter experts on current topics and emerging trends.

This article builds upon our prior expert analysis related to tariffs and trade policy.

Business leaders should read this article to:

- Understand the issue of entitlement
- Recognize the administrative complexity of the refund process
- See how the nuanced mix of contractual language, pricing structures, and commercial conduct affect eligibility

Legal advisors should read this article to:

- Recognize the argument that passing along costs may have eliminated a claim for refund
- Learn why tracing the supply chain is just as important as financial analysis
- Understand how acquiring supply chain expertise is critical to building a defensible narrative

Executive Summary

The US Supreme Court recently determined that tariffs imposed under the International Emergency Economic Powers Act (IEEPA) were unlawful, triggering a refund process that could potentially total more than \$150 billion. The process, which has begun with the government creating a new online portal for refunds, is extremely complex. Companies must reconstruct years of customs data and navigate administrative hurdles.

However, the greater challenge is determining entitlement. Many firms absorbed, partially passed through, or embedded tariff costs in pricing, raising questions about whether refunds represent true losses or windfalls.

EXPERT VOICES

Andrea Korney



As a senior authority on tariffs, sanctions, and trade control risk, Andrea Korney brings practical insight from advising multinational clients on IEEPA, Section 301/232 tariffs, and cross-border sanctions.

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A former practicing attorney, John F. Peiserich brings decades of experience advising clients on regulatory compliance, enforcement risk, and dispute-driven strategy to this article.

These uncertainties are already driving disputes among customers, suppliers, and regulators.

J.S. Held’s multidisciplinary expertise can help companies with those challenges. Successfully addressing the refunds process requires an integrated approach that combines financial analysis, contract interpretation, and supply chain tracing to determine who ultimately bore the economic burden.

Introduction

Recent rulings in Learning Resources, Inc. v. Trump and decisions by the US Court of International Trade have fundamentally reshaped the conversation around tariffs imposed under the International Emergency Economic Powers Act (IEEPA). The courts have made one thing clear: these tariffs were unlawful and must be refunded. The refund process is now being recognized by the Administration and seems to be moving forward.

At first glance, this appears to be a straightforward outcome. Billions of dollars (potentially more than \$150 billion) are now subject to repayment. However, as many organizations are beginning to realize, clarity on eligibility does not translate into simplicity in execution. The real work is only just beginning with the opening of the government's online portal for businesses seeking tariff refunds.

Beyond the Refund: A Multidimensional Legal and Operational Challenge

At J.S. Held, we see this issue evolve rapidly into something far more complex than a refund exercise. What initially looks like a financial recovery opportunity is quickly becoming a multidimensional challenge involving financial reconstruction, contractual interpretation, supply chain tracing, and, increasingly, litigation.

The Mechanics of Recovery: Data Construction and Administrative Complexity

The process of fund recovery is far from straightforward. Organizations must revisit years of customs data, often spread across multiple systems and jurisdictions, to reconstruct the amount paid, the date it was paid, and the conditions under which payment was made.

The distinction between liquidated and unliquidated entries introduces further complications, as does the evolving administrative process that will ultimately govern how claims are submitted and processed. Even where refunds are clearly owed, calculating interest and validating claim accuracy requires a level of precision that many organizations are not currently equipped to deliver without support.

Yet, the most consequential issue is not the mechanics of recovery, it is entitlement - who can receive the refund.

Cost Pass-Through and Contractual Ambiguity: Where Risk Emerges

Over the past several years, companies have adopted a wide range of strategies to manage tariff costs. Some absorbed the impact internally, treating tariffs as a margin pressure. Others passed costs through explicitly via surcharges or line-item adjustments.

Still others embedded these costs into broader pricing strategies, making the impact less visible but no less real. In many cases, organizations used a combination of these approaches depending on the customer, product, or market. There is a very real argument that passing along costs have eliminated a claim for refund, as the claimant wasn't harmed by the tariff. Untangling the mixed bag of "relief" will be terribly complex.

This raises a critical and often uncomfortable question: if a company receives a refund, is it entitled to keep it?

The answer depends on a nuanced mix of contractual language, pricing structures, and commercial conduct. Agreements that include tariff-escalation clauses or cost-pass-through provisions may point in one direction, while invoicing practices and customer communications may suggest another.

In some cases, what was contractually permissible may not align with how costs were actually represented to customers. This disconnect is where risk begins to surface.

Emerging Disputes: Customer Claims, Supplier Allocation, and Litigation Risk

Unsurprisingly, this is already translating into disputes. Customers are beginning to question whether they are owed a share of any recovered tariffs. Suppliers are revisiting how costs were allocated across the value chain. In parallel, legal claims are emerging that challenge whether companies can retain refunds where costs were passed through, either explicitly or implicitly. Regulatory scrutiny is also likely to follow, particularly where public disclosures or pricing transparency come into question, including potential interest from agencies such as the Federal Trade Commission.

An Integrated Approach

What is becoming clear is that this moment sits at the intersection of finance, law, and operations. It is not enough to know what was paid; organizations must be able to demonstrate how those costs moved through their business and where the economic burden ultimately landed.

This is where a more integrated approach becomes essential, bringing together financial forensics, supply chain analysis, and expert witness capabilities to address these challenges holistically. Reconstructing tariff exposure requires more than pulling data. It involves building a defensible narrative around how costs were incurred, managed, and potentially transferred. Understanding entitlement requires not only contract interpretation but also a clear view of commercial reality. And where disputes arise, organizations need expert support that can translate complex financial and operational dynamics into clear, credible testimony.

Supply Chain Forensics: Tracing the Path of Economic Burden

In many respects, supply chain forensics has become just as important as financial analysis. Tracing the path of tariff costs, from importation through procurement, production, distribution, and ultimately to the end customer, often reveals a more accurate picture of economic impact than contracts alone. This level of visibility is critical when determining whether a refund represents recovery of a true loss or a potential windfall.

At the same time, the risk of litigation is growing. Organizations that fail to proactively assess their position may find themselves responding to claims rather than shaping their strategy. Establishing a clear, evidence-based understanding of tariff treatment can significantly strengthen a company's position in future disputes, whether in court, arbitration, or regulatory review.

Conclusion

Ultimately, while the courts have provided clarity on the legitimacy of IEEPA tariffs, they have also set the stage for a much more complex phase—one defined by recovery, reallocation, and, in many cases, contention.

For organizations, the imperative is clear: act early, build a defensible position, and understand not just what can be recovered, but what should be retained.

In this environment, those who approach tariff refunds as a purely administrative exercise risk missing the larger picture. Those who recognize it as a strategic, financial, and legal inflection point will be far better positioned to navigate what comes next.

Acknowledgements

We would like to thank our colleagues, Andrea Korney and John Peiserich, for providing insights and expertise in researching and writing this article.

Andrea Korney is Vice President of Supply Chain and Sustainability for J.S. Held's ESG & EHS Digital Solutions group. She provides an unrivaled depth, breadth, and rarity of expertise across sustainability, energy infrastructure, global supply chains, and trade-related regulatory risk. Andrea brings 25 years of experience to her role as an advisor to clients on climate and decarbonization strategies, greenhouse gas (GHG) accounting, resource and energy optimization, renewable energy transitions, sustainable finance, and Environmental, Social, and Governance (ESG) disclosure. She also leads advisory work on sustainable supply chains, human rights, labor-risk due diligence, and compliance with rapidly evolving global regulations.

A senior authority on tariffs, sanctions, and trade control risk, Andrea guides multinational clients on Section 301/232 tariffs, the International Emergency Economic Powers Act (IEEPA), and coordinated US, Canadian, European Union, and United Kingdom sanctions regimes by assessing implications across complex supply chains. Her work includes identifying tariff exposure, evaluating sanctions and country-of-origin risks, and advising on contract and force majeure issues. Legal counsel, investigators, insurers, and executives regularly rely on her expertise.

Her analyses are increasingly intertwined with ESG obligations, such as forced labor import bans, transparency laws, and the EU's Corporate Sustainability Reporting Directive (CSRD). She also strengthens J.S. Held's capabilities in tariff recovery, sanctions mitigation, supply chain restructuring, and trade-driven claims.

Andrea has led major energy and infrastructure initiatives and has been recognized for her regulatory engagement and Indigenous communities relations work.

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