

Supreme Court Decision Invalidates Tariffs Imposed Under IEEPA

Legal Alert
February 26, 2026

Last week, the Supreme Court struck down the Government's tariffs levied under the International Emergency Economic Powers Act (IEEPA). Importantly, the Court did not address how businesses that paid import duties can obtain a refund now that IEEPA tariffs have been held unlawful.

In *Learning Resources, Inc. v. Trump* (consolidated with *V.O.S. Selections, Inc. v. Trump*, the subject of our January 15, 2026, [legal alert](#)), the Supreme Court held that the text of IEEPA does not grant the President the power to impose tariffs. The Court explained that the power to impose tariffs is "very clearly" a branch of the taxing power. The Constitution gives Congress alone access to this taxing power, so the President's unilateral imposition of tariffs under IEEPA was unlawful.

The Supreme Court majority opinion did not address how businesses should obtain refunds. However, there is an existing statutory process to challenge tariffs paid to Customs and Border Protection. After tariffs are liquidated (i.e., finalized by Customs and Border Protection), an importer has 180 days to file a protest with Customs and Border Protection and seek a refund.

Pending lawsuits in the Court of International Trade address the risk that there are some instances when a business cannot protest an entry's liquidation, such as when Customs and Border Protection acts in a ministerial capacity (i.e., without discretion). While this is an open question, a business that does not protest liquidation may waive its right to obtain a refund.

Businesses that have paid import duties under the IEEPA tariffs should consult legal counsel to evaluate potential refund options. For additional information about this decision or its implications for your business, please contact a member of Foster Garvey's [Litigation](#) team.

Contact

Graham Fulton
Benjamin J. Hodges

Related Services

Business & Corporate
Finance
Litigation