

Overlooked: New Challenges For Businesses As The Government Fights to Stop Refunds, Keep IEEPA Tariffs

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Just when importers and businesses thought the dust was settling on tariff refunds, a new fight has emerged that involves tens of billions of dollars.

In a dramatic reversal, the federal government is now arguing that it's not required to repay tariff refunds in a key area. The change means that many businesses will now need to get legal help and go to court to protect their valuable refund claims.

To help importers understand this complex situation, Frost Law offers this overview of the situation. There are important steps for businesses to take in light of these new developments.

An Unexpected Development Follows a Landmark U.S. Supreme Court Decision

The U.S. Supreme Court's landmark 6-3 decision in February (*Learning Resources, Inc. v. Trump*) struck down the sweeping International Emergency Economic Powers Act (IEEPA) tariffs as unconstitutional. That put billions of dollars in refunds within reach for businesses. U.S. Customs and Border Protection (CBP) even launched a dedicated refund portal —the CAPE system (Consolidated Administration and Processing of Entries), that started processing what was expected to be over \$166 billion in claims.

But the federal government is digging in its heels. In a June 2026 hearing before the U.S. Court of International Trade (CIT), the Justice Department made a stunning new argument: The government believes it is not legally required to pay all those duties back. Notably, CIT Judge Richard K. Eaton was openly skeptical about the government's position.

While CBP has already processed some \$95 billion of refunds, the government is now arguing in court that these distributions were completely voluntary. In this



surprise twist, the government's new legal position is that the universal refund order issued by CIT Judge Eaton is unconstitutional and amounts to an impermissible nationwide injunction. Therefore, the administration contends that only the specific companies named as parties in active lawsuits challenging the tariffs are legally entitled to claw back their IEEPA money.

For the thousands of downstream businesses and Importers of Record (IORs) waiting in line, this means the fight to secure your refund is far from over.

The Government's Aggressive Defense Strategy Adds Risk for Businesses

The administration's latest legal maneuver hinges on a calculated limitation within the federal judiciary -- the restriction on federal district courts from issuing nationwide injunctions. Because a ruling in favor of one company does not automatically apply to all, the administration is using this jurisdictional boundary to contain the financial damage. And they point to federal law, which dictates that the CIT generally shares the same equitable powers and limitations as federal district courts. See 28 U.S.C. § 1585.

Crucially, the U.S. Supreme Court has grown increasingly skeptical of the authority of district courts to issue these sweeping remedies in cases like *Trump v. Hawaii* (2018) and *Trump v. CASA, Inc.* (2025).

As a former Trump administration official and trade lawyer close to the White House anonymously noted to Politico in June, the strategy is unyielding: "The message from the government is straightforward: we don't have the authority

to issue these refunds, and unless a court orders us to repay a specific company, we're not going to do it. They're ready to claw back what they know they legally can."

By exploiting this framework, the government is effectively trying to box out many American businesses that carried the economic brunt of these unconstitutional taxes. Rather than issuing blanket refunds based on the U.S. Supreme Court's broader constitutional ruling, the Treasury intends to keep billions of dollars in its pockets unless a judge explicitly forces the administration's hand for every single claimant.

Consequently, this dramatically increases the stakes for businesses that have yet to formally protect their IEEPA tariff claims.

If the U.S. Court of International Trade accepts the government's narrow standard, companies that sat on the sidelines and relied on the government to "do the right thing" will likely find themselves permanently locked out of a refund. Judge Eaton has flagged a class action suit as a potential path for companies with finalized liquidations, though he stated he would be "disappointed if we find our way into class action," saying he would prefer the government simply "let CPB be CBP" and provide refunds on all entries.

What This Means for Impacted Businesses

In Frost Law's previous [update](#), we highlighted the complex hurdles downstream businesses faced —specifically, ensuring that primary importers didn't pocket the refunds through "unjust enrichment." Now, the stakes have increased. A much larger hurdle has re-emerged — ensuring the government releases the funds at all.

For companies with entries currently excluded from CAPE Phase I for refund payments —either because they have been liquidated for more than 80 days or were flagged for reconciliation—there is still a path forward.

In a declaration filed prior to the June 9 hearing, CBP confirmed that upcoming phases of the CAPE system are on the horizon. Specifically, entries flagged for reconciliation will become eligible for processing on June 29, 2026 (**CAPE Phase II**). Following that, entries liquidated for more than 80 days will become eligible on or about July 29, 2026 (**CAPE Phase III**)—but there’s a big caveat. This Phase III is strictly limited to companies that have filed lawsuits. CBP indicated it will address all other remaining excluded entry categories after Phases II and III are fully implemented.

Businesses Should Look to Protect Claims

What does this mean? If your business paid these unconstitutional IEEPA tariffs, either directly to CBP or passed on via your shipping providers, you cannot afford to wait and see how the government's voluntary refund processing plays out. The administration’s aggressive stance means that proactive legal positioning is no longer optional; it is required to protect potential refunds.

Businesses should immediately take the following steps to protect tariff refunds:

1. **Audit Your Historical Shipments:** Pinpoint exactly how much you paid in IEEPA duties between April 2, 2025, and February 20, 2026.
2. **Preserve Open Claims:** Ensure your custom brokers or primary importers have active, unliquidated, or protested entries tied to these duties.

3. **Evaluate Direct Legal Intervention:** Given the government’s argument that only active litigants are safe, businesses must evaluate whether joining ongoing consolidated actions or filing independent protective claims is necessary to secure their spot at the table for refunds.

Frost Law Is Monitoring This Complex, Evolving Tariff Landscape

The trade landscape is shifting by the day, and the administration’s latest push to hold onto your money complicates an already complex recovery process. But a U.S. Supreme Court ruling cannot be brushed aside easily, and Frost Law is prepared to help businesses navigate this next wave of litigation to protect their financial interests.

The government is counting on businesses staying silent or assuming the process will resolve itself automatically – while the legal clock continues to run. Taking steps now will protect businesses from the government keeping what is rightfully yours.

Contact Frost Law at [\(410\) 862-4220](tel:4108624220) or visit the [**Frost Law tariff refunds**](#) page to set up a consultation about our Tariff Refund services. Given tight legal deadlines, it’s important to act quickly.

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