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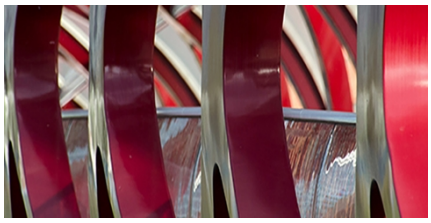

News & Types: Commercial, Competition & Trade Update

IEEPA Tariff Update: What to Do for Each Entry Category

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Practices: Commercial, Competition & Trade

Following *Learning Resources, Inc. v. Trump*, IEEPA tariffs have stopped and the refund and replacement regimes are now taking shape. Practically, the key question is how to treat different categories of entries.

First, understand the new landscape. IEEPA duties are no longer collected on entries made on or after February 24, 2026. Those entries instead incur a 10% global duty under Section 122 of the Trade Act, through July 24, 2026, on top of any existing duties under the Trade Expansion Act Section 232 and the Trade Act Section 301. On May 7, 2026, the Court of International Trade held that the Section 122 tariff exceeded the statute, but the relief was limited and the government promptly sought review. On May 12, the Federal Circuit issued an administrative stay of that ruling, so importers that are not part of the successful test case should continue to assume that the 10% remains payable unless and until there is a final contrary outcome or specific relief in their favor. Meanwhile, USTR has continued to pursue the broad Section 301 investigations announced in March aimed at imposing more tailored tariffs before Section 122 expires, likely covering Japan and other major manufacturing jurisdictions. From a planning standpoint, treat Section 122 as a bridge into a new Section 301 world, not as a temporary blip.

On the refund side, CBP has turned on the CAPE module in the ACE portal. For most importers, CAPE is now the only practical route to IEEPA refunds. Phase 1 covers (1) unliquidated entries and (2) entries within 80 days of liquidation that meet CBP's Phase 1 criteria. For these, the basic approach is:

- Identify all eligible entry summaries (with IEEPA duty paid).
- Prepare CBP's required CSV template with those entry numbers.
- File a CAPE declaration through the ACE portal.
- Monitor CBP validation and refund processing (including interest).

If you filed protests solely to preserve IEEPA refund rights on entries now covered by CAPE, CBP guidance generally expects those protests to be withdrawn so the entries can flow through CAPE. Before withdrawing, confirm there are no other issues (classification, value, origin) that you would be abandoning.

For entries that have liquidated over 80 days ago but are still within the 180-day protest period, and not yet in a CAPE phase, the safest course is to file a timely protest citing IEEPA unlawfulness to keep options open. Those entries may be brought into a later CAPE phase or may need to ride on the outcome of broader test cases.

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For entries that are fully final (protest period expired), the path is more complex and may require direct CIT litigation under the court's residual jurisdiction. Those should be triaged with counsel now, using targeted sampling to decide whether the amounts at stake justify test-case participation or individual suits.

Finally, keep in mind carve-outs. CAPE Phase 1 does not cover entries subject to anti-dumping/countervailing duty orders or entries with active protests raising broader issues. For those, maintain existing protest/litigation posture and track later CBP phases or court orders.

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