

# The Economics of Tariff Refunds

by Jan Jindra and Andrew O'Brien-Penney

Reprinted from *Tax Notes International*, December 22, 2025, p. 2001

## The Economics of Tariff Refunds

by Jan Jindra and Andrew O'Brien-Penney



Jan Jindra



Andrew O'Brien-Penney

Jan Jindra and Andrew O'Brien-Penney are principals with The Brattle Group.

In this article, Jindra and O'Brien-Penney explain the complexities involved in refunding tariffs to the parties that originally bore their cost, should the Supreme Court invalidate them.

Copyright 2025 Jan Jindra and  
Andrew O'Brien-Penney.  
All rights reserved.

In fiscal 2025 the United States collected approximately \$195 billion in trade tariffs,<sup>1</sup> mainly from new tariffs imposed earlier in 2025. On November 5 the Supreme Court heard arguments in two consolidated cases — *Learning Resources v. Trump* and *V.O.S. Selections v. United States*<sup>2</sup> — that could have implications for the tariffs recently imposed on U.S. trading partners.

If the Court invalidates the tariffs, those already collected may need to be reimbursed. As Justice Amy Coney Barrett asked in oral

arguments (and counsel for the private parties admitted), the initial reimbursement process likely would be a “complete mess.”<sup>3</sup> However, this discounts the complexity of who is economically entitled to the tariff refund.

Determining who bore the economic burden of these tariffs — and thus who should receive a refund — is not simply a legal or administrative question, but also an economic one. A rigorous economic analysis is needed to trace how tariff costs were absorbed or passed through by different parties in the supply chain.

In this article, we examine the complexity of answering the simple question: Who is entitled to receive the potential tariff refund? We first present a few practical examples illustrating the principles behind who bore the economic cost of the tariffs and how an economist would likely analyze who is owed a tariff refund. We then highlight the increased complexity introduced by supply chain changes that occurred in response to tariffs and discuss what economic data and analyses may be helpful in addressing this question.

Our article highlights the complexity of the refund process and the risks it poses to the parties responsible for distributing tariff refunds. Given the large tariff refund amount at issue, and absent some other mechanism, we expect that customers or entities in the supply chain may disagree over what constitutes a fair amount that each affected party should receive.

### A Few Simplistic Examples

Consider an example in which an imported product has many perfect substitutes whose prices are not affected by trade tariffs (illustrated in Table 1). Further, if the price of the perfect

<sup>1</sup>Committee for a Responsible Federal Budget, “Tariff Revenue Soars in FY 2025 Amid Legal Uncertainty” (Oct. 27, 2025).

<sup>2</sup>*Learning Resources Inc. v. Trump*, No. 24-1287; and *V.O.S. Selections Inc. v. United States*, No. 25-250.

<sup>3</sup>Transcript of Oral Argument at 153-155, *Learning Resources*, Nos. 24-1287 and 25-250 (U.S. Nov. 5, 2025).

**Table 1. Importer Did Not Pass Along Tariffs Through Higher Prices to Customers**

		Pre-Tariffs	Post-Tariffs
Price to Customer	[a]	\$100	\$100
Import Cost (Goods Only)	[b]	\$60	\$60
Tariff Paid	[c]	\$0	\$15
Selling Costs	[d]	\$20	\$20
Profit for Importer	[a] - [b] - [c] - [d]	\$20	\$5

substitutes is the same as the price of the imported product, the U.S. customer has a choice of purchasing the product from suppliers unaffected by the tariff.

In this example, the cost of the trade tariff will be fully absorbed by the importer (assuming it is unable to receive a discount from the foreign supplier), because to remain competitive, the importer would have to maintain the same sales price despite the increased cost. This is what economists refer to as perfectly *elastic* demand. If the importer changed the price to the customer at all, then the quantity sold would decline significantly, even to zero.

Table 1 shows the profit calculation for the importer for this perfectly price-elastic product sale. In this example, the importer absorbed the entire tariff because it was unable to obtain a lower price from the supplier and could not pass along the tariff cost through higher prices to customers.

In the Table 1 example, if the government refunds the importer \$15 (the tariffs paid), the importer appropriately keeps the full refund amount.

Now consider an alternative hypothetical example (shown in Table 2). In this scenario, the imported product has no substitutes, and because the U.S. customer requires this product, they are willing to pay any reasonable increase in costs. In this case, the tariff will be fully passed onto the customer through a higher sales price. This is what economists refer to as perfectly *inelastic* demand. Further, the quantity sold is not affected at all despite the increase in price.

**Table 2. Importer Passed Along Tariffs Through Higher Prices to Customers**

		Pre-Tariffs	Post-Tariffs
Price to Customer	[a]	\$100	\$115
Import Cost (Goods Only)	[b]	\$60	\$60
Tariff Paid	[c]	\$0	\$15
Selling Costs	[d]	\$20	\$20
Profit for Importer	[a] - [b] - [c] - [d]	\$20	\$20

In the Table 2 example, because the price to the U.S. customer was increased to fully account for the tariffs, the importer earned the same profit before and after the imposition of the tariffs and is thus not worse off. Consequently, economic logic dictates that any tariff refund should go to the customer, not the importer. However, it was the importer who initially paid the tariff. Therefore, if the government simply sends the tariff refund to the importer, the importer should pass that refund along to its customers. But will it?

Absent a regulatory requirement to ensure the tariff refund is distributed to the parties that suffered economic harm (in this example, the customers), the importer could receive and keep the refund despite not suffering any economic harm. A potential recourse for the affected customers may be class action litigation, suing importers for tariff refunds.

In reality, there are very few products for which the demand is either perfectly elastic or perfectly inelastic. Nevertheless, it is the elasticity of demand that ultimately determines who pays the tariff. In most cases, the cost of the tariff was likely borne by more than one party, and therefore the right answer would fall somewhere between the first and second examples above.

### Supply Chain Considerations for Tariff Refund

Many companies made changes to their supply chains to mitigate the effect of the newly imposed tariffs. For example, some importers switched suppliers from a low-cost but newly high-tariff Country A to a somewhat higher-cost

**Table 3. Importer Changed Supplier From Country A to Country B**

		Pre-Tariffs (Country A Supplier)	Post-Tariffs (Country B Supplier)
Price to Customer	[a]	\$100	\$110
Import Cost (Goods Only)	[b]	\$60	\$65
Tariff Paid	[c]	\$0	\$5
Selling Costs	[d]	\$20	\$20
Profit for Importer	[a] - [b] - [c] - [d]	\$20	\$20

but low-tariff Country B. The example in Table 3 illustrates this potential supply chain effect.

As this example illustrates, the importer decided to switch to a supplier from Country B who could deliver the product for \$5 more. However, the product from Country B was subject to a tariff of only \$5, rather than the \$15 tariff that would have been applied if the product had been sourced from Country A. To keep its profit unaffected, the importer therefore only raised prices by \$10. Hence, the importer's profit is not affected by the imposition of tariffs for two reasons: (1) switching suppliers; and (2) passing the increased costs to U.S. customers.

The example in Table 3 assumes a fairly (but not perfectly) inelastic demand that allows the producer to pass on the \$10 (but not \$15) increase in costs onto the consumer. There may be some decrease in quantity sold as well.

If the importer in the Table 3 example is refunded the \$5 in tariffs, should that all go to the U.S. customers? After all, the supplier from Country A lost the business it previously had with the importer. Is the Country A supplier entitled to some of the refund? Can Country A's supplier avail itself of the U.S. legal system to seek remedies? This is where Justice Barrett's characterization of the tariff reimbursement process as a "complete mess" becomes apparent.

This third example presents only one simplistic instance of the many commercial decisions that companies along the supply chain

— such as producers, importers, distributors, and retail companies — made in response to the 2025 tariffs. In reality, many different entities at different stages of the supply chain implemented several commercial changes to mitigate the effects of the tariffs.

### How a Potential Tariff Refund May Be Implemented

As our simplistic hypothetical examples above imply, given sufficient data and reliable economic analysis, it may be feasible to design an approach that refunds the tariffs equitably among the affected parties. Product-specific data on prices and quantities, as well as factors unrelated to tariffs that may have affected the prices of, demand for, and supply of a particular product during the relevant period, are likely a good first step toward assembling the information necessary to address the question of equitable tariff refunds.

Rigorous and principled economic analysis rooted in well-established theory can then attempt to disentangle the impact of various factors on the price of products subject to tariffs. This analysis can also help economists assess the fair amount of tariff refund to be distributed to each affected party.

If there is an effort to distribute the trade tariffs collected by the U.S. Treasury Department in 2025 equitably among affected parties, a careful economic analysis grounded in rigorous theory and relevant data will be paramount. This is because it is likely that any proposed refund distribution scheme will be challenged as unfair by at least one party in the supply chain directly or indirectly affected by the tariffs.

The primary role of economic analysis in this space will be to establish the degree of disparity between statutory incidence (the remitted tariff payment) and economic incidence (the actual economic burden borne) for each market participant to justify fair refunds. A robust economic analysis can provide a foundation to understand how tariffs affect prices, profits, and purchasing decisions along the supply chain. This in turn helps regulators allocate refunds equitably and defend those decisions against future challenges. ■