

TARIFFS, TURMOIL AND TAX REFUNDS

Turning Uncle Sam's IOU
Into Cash in Bankruptcy



THE PAST EIGHTEEN MONTHS HAVE BEEN A WILD RIDE FOR ANYONE WITH EVEN A PASSING INTEREST IN U.S. TRADE POLICY. THE TRUMP ADMINISTRATION'S AGGRESSIVE RELIANCE ON THE INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT (IEEPA) TO IMPOSE SWEEPING TARIFFS SENT SHOCKWAVES THROUGH GLOBAL SUPPLY CHAINS, SQUEEZED MARGINS AND CONTRIBUTED TO A WAVE OF CORPORATE BANKRUPTCIES. THEN, IN FEBRUARY 2026, THE SUPREME COURT INVALIDATED ALL TARIFFS IMPOSED UNDER IEEPA IN A LANDMARK 6-3 DECISION. THE RESULT? OVER \$166 BILLION IN POTENTIAL IEEPA TARIFF REFUNDS.

The U.S. Customs and Border Protection (CBP) disclosed that as of May 22, 2026, they have already accepted for processing \$85 billion in tariff refunds and that of this total, about \$20.6 billion in duties plus interest have been sent to the Treasury Department for payment. If a customer paid significant sums in now-unlawful tariffs, their tariff refund claims could be a significant additional asset that could affect credit decisions by their sellers. And if that customer finds itself in bankruptcy, the tariff refund claim becomes an asset of the estate that can be monetized. This played out in the Chapter 11 cases of American Signature, Inc., where the Debtors sold their IEEPA tariff refund claims for approximately \$7.25 million in an unopposed private sale approved by the Delaware Bankruptcy Court. The transaction offers a fascinating case study in how the bankruptcy process can extract value from the tariff chaos—and a preview of what may become a growing trend.

THE TARIFF POLICY ROLLERCOASTER: A BRIEF (AND BUMPY) HISTORY

Beginning in early 2025, the Trump Administration relied on IEEPA to impose two broad categories of tariffs: reciprocal tariffs on imports from nearly all countries, and “trafficking” tariffs aimed at fentanyl and migration concerns. Trafficking tariffs were charged on Canadian, Mexican and Chinese imports. Additional tariffs were imposed under other statutes on imported steel, aluminum and copper and on derivative products, like auto parts and home appliances. China retaliated with tariffs on U.S. imports and export controls on rare earth materials. By early 2026, the average tariff on Chinese imports had climbed to roughly 34%.

TARIFFS MAY NOT HAVE BEEN THE *SOLE* CAUSE OF FINANCIAL DISTRESS, BUT THEY COMPOUNDED **PRE-EXISTING VULNERABILITIES, SQUEEZING MARGINS, PRESSURING LOAN COVENANTS AND RESTRICTING ACCESS TO CREDIT FOR ALREADY-STRUGGLING COMPANIES.**

These tariffs caused increased prices, contributed to increased inflation, caused enormous uncertainty and disrupted supply chains. Small businesses were hit particularly hard, since they generally lack the pricing power, bargaining leverage and financial resources to absorb the blow. This environment caused bankruptcy filings across retail, manufacturing, construction, agriculture, energy and trucking—including well-known companies such as At Home Group, Marelli Holdings, Del Monte Foods, Wolfspeed, Claire's Stores, Saks, Eddie Bauer, QVC and American Signature. Tariffs may not have been the sole cause of financial distress, but they compounded pre-existing vulnerabilities, squeezing margins, pressuring loan covenants and restricting access to credit for already-struggling companies.

THE SUPREME COURT SPEAKS: IEEPA DOES NOT AUTHORIZE TARIFFS

The legal challenge to the IEEPA tariffs reached the Supreme Court of the United States (SCOTUS) in *Learning Resources, Inc. v. Trump and Trump v. V.O.S. Selections*. SCOTUS had to decide whether IEEPA grants the President authority to impose tariffs without explicit Congressional approval.

SCOTUS answered “no” in a 6-3 decision issued on February 20, 2026. SCOTUS relied on Article I, Section 8 of the United States Constitution in concluding that tariffs are a form of taxation reserved for Congress, and the Administration exceeded presidential authority by imposing sweeping unilateral tariffs of unlimited amount and duration. SCOTUS rejected the Administration’s argument that two words in IEEPA—“regulate” and “importation” (separated by sixteen other words)—granted the Trump Administration unlimited tariff power. As SCOTUS said, “Until now, no President has read IEEPA to confer such power.”

Immediately after the decision, the IEEPA tariffs were terminated by executive order. In their place, the Administration imposed a 10% global tariff set to expire July 24, 2026 under Section 122 of the Trade Act of 1974 and turned to Sections 232 and 301 as a basis to impose future additional tariffs to replace lost revenue.

Meanwhile, impacted companies are left mulling the status of IEEPA tariff refunds.¹ Over \$166 billion in now-invalidated IEEPA tariffs were collected, over 3,000 refund lawsuits are pending, and the United States Court of International Trade (CIT) ordered the government to facilitate the refund process. CBP launched an online refund portal, though the *Wall Street Journal* has predicted the process will be “messy and slow.”² For companies in bankruptcy, tariff refund claims are estate assets that can be sold to generate immediate cash rather than waiting years for the government processing payment.

AMERICAN SIGNATURE: MONETIZING TARIFF REFUNDS IN CHAPTER 11

American Signature, Inc. and its affiliates filed Chapter 11 in Delaware on Nov. 22, 2025. American Signature was a residential furniture retailer and sold its business during the Chapter 11 case. The IEEPA and other tariffs contributed to American Signature’s financial woes that led to its Chapter 11 filing.

As the importer of record, American Signature had directly paid \$9,348,081.78 in IEEPA tariffs to CBP. Following SCOTUS’ decision, the Debtors believed they were entitled to refunds—but was concerned that “the process and timing of any refunds is uncertain, and there is a risk of recovery.”

So, the Debtors decided to sell their IEEPA tariff refund claim. With assistance from Berkeley Research Group, the Creditors’ Committee’s professionals and industry contacts, the Debtors identified six potential buyers, received three term sheets and gave each finalist the opportunity to increase its offer. Vectigal LLC eventually won with a bid of 77.53% of face value—the Debtors’ IEEPA tariff refund claim amount—agreeing to pay a purchase price of \$7,247,567.80.

The Claim Sale and Purchase Agreement (dated May 18, 2026) contained several noteworthy features. The sale transferred all rights, title and interest in the refund claims, free and clear of all encumbrances. There was no breakup fee, though the Agreement included an expense reimbursement capped at 3% of the purchase price.

The parties intended a true sale. But if the transfer of legal title is challenged and not recognized, the buyer is automatically granted a 100% participation interest in the IEEPA tariff refund claim. And if a court recharacterized the transaction as a loan or the transaction were otherwise voided, the buyer received a first priority security interest in the claims and all distributions. Three layers of protection—true sale, participation, security interest—ensured the buyer got the benefit of its bargain regardless of legal characterization.

FOR COMPANIES IN BANKRUPTCY, TARIFF REFUND CLAIMS ARE ESTATE ASSETS THAT CAN BE SOLD TO GENERATE IMMEDIATE CASH RATHER THAN WAITING YEARS FOR THE GOVERNMENT PROCESSING PAYMENT.

The Claim Sale and Purchase Agreement also included the following notable provisions:

- The Debtors must maintain the corporate existence of American Signature, Inc. (the importer of record) until the buyer received the IEEPA tariff refund proceeds, notwithstanding confirmation of a Chapter 11 plan or conversion of the case to Chapter 7; and
- The buyer received power of attorney and exclusive post-closing control over all litigation and settlement decisions, and the Debtors remained as the named party in any proceedings at the buyer's expense.

NO "MONEY-BACK GUARANTEE"?

One feature is conspicuously *absent* from the Agreement: there is no contingency allowing the buyer to withhold or recover the purchase price if the tariff refund is never received, is deemed unrecoverable, or is otherwise voided. The claims were sold "as is, where is," and the buyer acknowledged it was a "sophisticated investor" that independently evaluated the risks, is "able to bear the risks attendant to the Transactions," and received no investment advice from the Debtors.

Once the purchase price was paid, the risk of collection shifted entirely to the buyer. If the refund process proves as slow and messy as predicted—or if the refund is reduced, denied, or impaired—it is the buyer that bears the loss. For the Debtors, the sale converted a speculative, illiquid asset into immediate, certain cash. For the buyer, the 22.47% discount from the face value of the refund was the price of assuming that risk.

On Apr. 30, 2026, the Debtors filed their motion to approve the sale of the Debtors' tariff refund claim. On May 20, 2026, the Delaware bankruptcy court entered an unopposed order approving the sale, finding the Agreement was negotiated in good faith at arm's length and that the purchase price represented fair value.

CONCLUSION

The American Signature tariff refund bankruptcy sale may be among the first of its kind. But it likely won't be the last. With over \$166 billion in IEEPA tariffs now subject to refund and a protracted, uncertain collection process, a secondary market in tariff refund claims has emerged. Chapter 11 debtors that filed bankruptcy cases during or following the tariff turmoil of 2025 and early 2026 may discover that

their IEEPA refund claims are a meaningful asset that can generate real recoveries for creditors. For those monitoring customers in financial distress, IEEPA tariff refund claims are worth tracking, particularly where a distressed customer has filed for bankruptcy. In light of the *American Signature* case, these potentially overlooked assets may be a source of significant value for bankruptcy estates.

Stay tuned for more developments on the tariff legal landscape. More twists and turns may lie ahead, particularly because the federal government is now seeking to halt tariff refund payments. **BC**

1. *The United States Department of Justice has appealed from the CIT's order directing payments of IEEPA tariff refunds and is seeking an immediate halt of refund payments.*

2. *See Tariffs Put Businesses in Crisis. Waiting for the Refund Could Be Worse., The Wall Street Journal (Mar. 30, 2026), available at (subject to paywall): <https://www.wsj.com/business/tariffs-put-businesses-in-crisis-waiting-for-the-refund-could-be-worse-473d9387>.*



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