



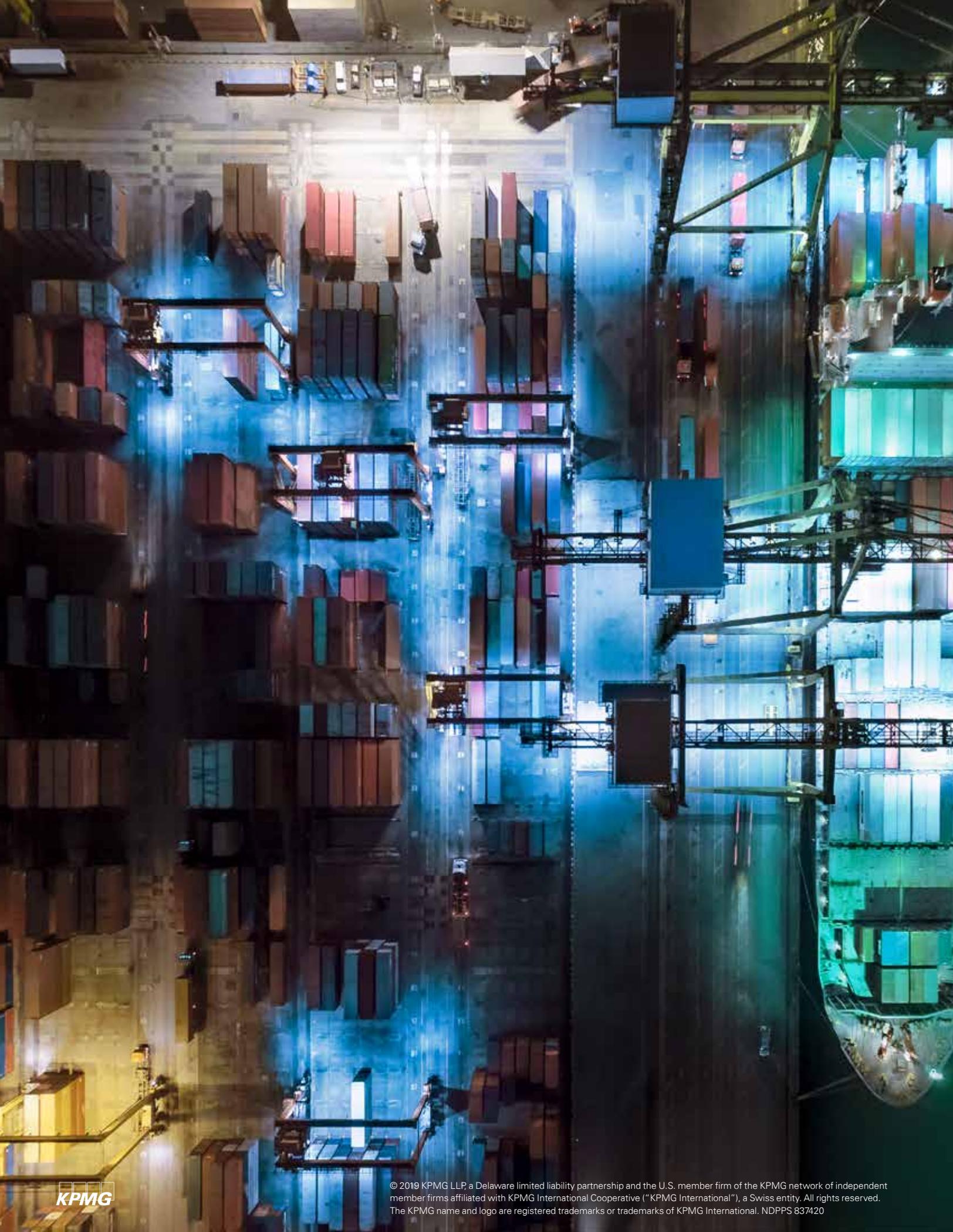
Duty drawback

Industry benchmarking

2019

kpmg.com

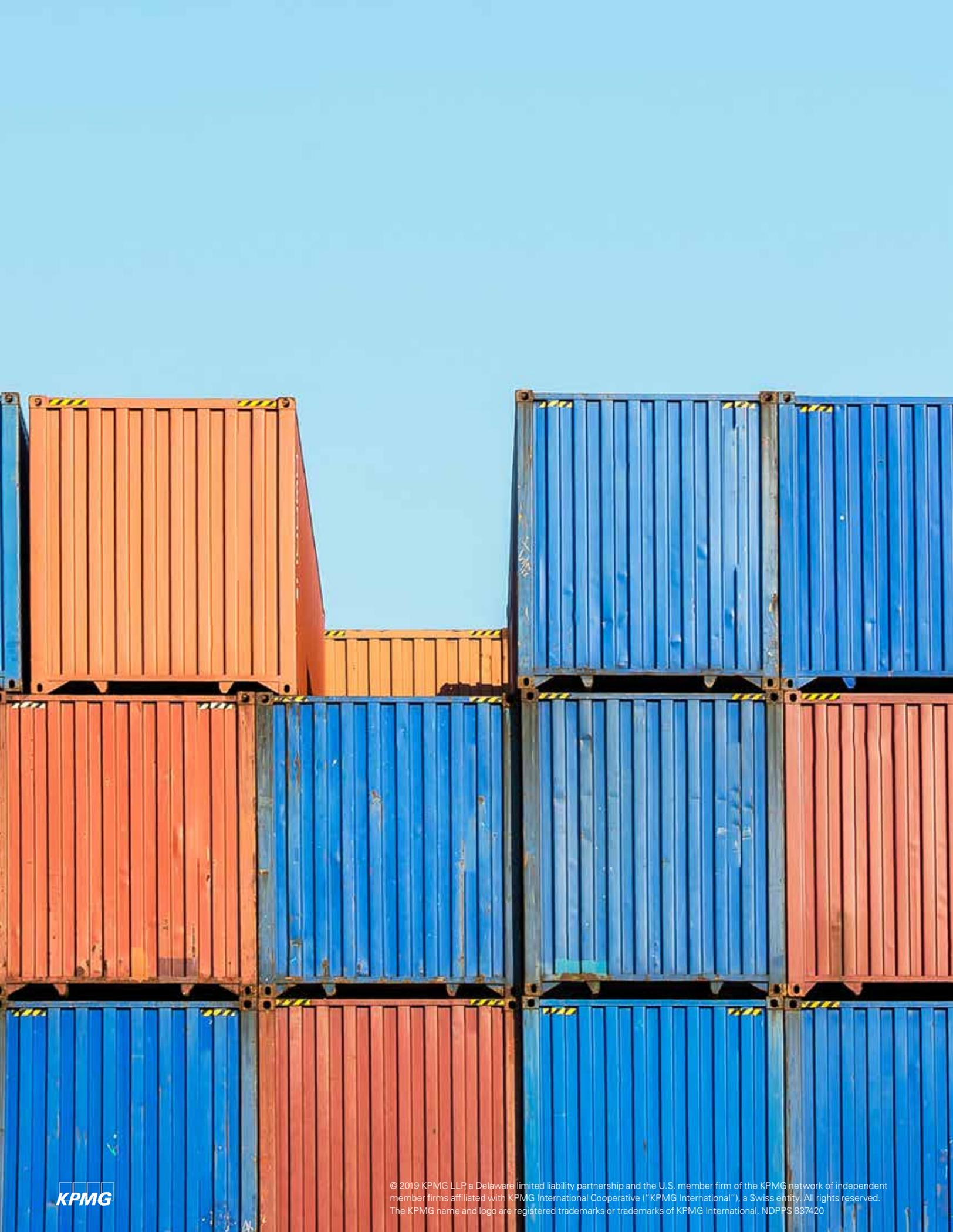






Contents

1. Duty drawback in the current marketplace	3
2. Leveraging duty drawback	5
3. Navigating common drawback challenges	8
4. Duty drawback industry trends	12
5. Conclusion	16



1. Duty drawback in the current marketplace

Companies worldwide are realizing the economic and business pressures caused by an increase in protective U.S. tariff measures compounded by an unpredictable and constantly changing regulatory trade environment. Many companies are mitigating this exposure through participation in duty savings programs when importing into and exporting products from the United States.

The Duty Drawback program administered by U.S. Customs and Border Protection (CBP) allows for a refund of 99 percent of duties, fees, and taxes generating significant annual savings for many US importers. Especially in this challenging trade environment, duty drawback poses a quicker, simpler alternative for cost savings in comparison to alternative considerations such as changes to a company's supply chain or sourcing structure. A company may be eligible for participation in the duty drawback program if they are a party to the flow of merchandise from import through export or destruction within five years of the date of importation. The most common types of drawback privileges available are as follows:

1. **Unused merchandise:** This applies when goods are imported into the U.S. and exported (or destroyed) without material changes. The two methods of claiming unused merchandise duty drawback are:
 - **Direct identification:** Requires a direct identification match from import to export either by explicit

identification (i.e., lot number, Vehicle Identification Number, serial number, etc.) or via an inventory methodology such as first in first out, last in first out, and low to high. This method also utilizes item codes, not Harmonized Tariff Schedule of the United States (HTSUS) matching.

- **Substitution:** Allows for items imported under the same eight-digit HTSUS provision to be substituted for the purposes of claiming drawback. Note that substitution of unused merchandise exported to NAFTA¹ countries is not permissible.
2. **Manufacturing:** This applies when imported goods are further processed or used to manufacture an item in the U.S. that is subsequently exported. The two methods of claiming manufacturing duty drawback are:
 - **Direct identification:** Similar to the unused provision, this requires direct identification of the component products from import to manufactured finished good or the use of an approved inventory methodology.

¹ Please note that the regulations on duty drawback for exports to Canada and Mexico are not expected to change under the United States-Mexico-Canada Agreement (USMCA).



– **Substitution:** Similar to the unused provision, this allows for items imported under the same eight-digit HTSUS provision to be substituted for the purposes of claiming drawback. However, unlike unused, manufacturing substitution is permissible when exporting to NAFTA countries.

3. **Rejected merchandise:** Applies to goods not conforming to specification, shipped without consent, or defective at the time of import for which a refund can be sought after export or destruction.

While the program has been available to importers dating back to the Tariff Act of 1930, Duty Drawback has gained significant prominence among companies in recent years. This may be attributable to the recent regulatory changes implemented by the Trade Facilitation and Enforcement Act (TFTEA) of 2015, which greatly expanded the scope of items applicable under drawback as well as modernizing the corresponding requirements. Further, the recent uptick in safeguard tariffs under Sections 201 and 301, affecting more than \$250 billion of imported products, have sent importers dashing toward readily accessible mitigation strategies. As a result, many companies have been able to leverage duty drawback, allowing for significant import duty and fee savings.

The objective of this report is to identify and document the industry's survey responses in regard to current drawback trends, navigating common drawback challenges, and identifying leading-practice processes in implementing a compliant drawback program.

KPMG LLP (KPMG) conducted this survey in 2018 with more than 75 participants from leading importers in the United States that are presently considering or utilizing the Duty Drawback program. As part of this study, KPMG examined risk areas and other issues companies may encounter when considering and implementing the savings opportunity.

2. Leveraging duty drawback

When considering whether your company's global trade transactions may be eligible for duty drawback, it is important to take into account the various regulatory requirements by submission type in conjunction with the potential savings opportunities.

When assessing and sizing the duty drawback potential for your company, the following parameters should be considered:

- Import/Export volume and duty spend by HTSUS
- Applicable product categories and inventory lifecycle
- U.S.-based manufacturing processes
- Export destination
- Use of third-party Entities in the supply chain process

The above considerations serve to determine the type of drawback program your products and processes may apply as well as to provide further insight into the level of regulatory and submission complexity involved. For illustrative purposes, the following scenarios highlight such requirements:

- **Scenario 1:** Company A imports finished goods into the U.S. for distribution to its Canadian entity. The merchandise undergoes no further processing other than packaging prior to export.

Drawback considerations: While unused drawback may potentially apply, the direct identification provision must be used since the exports are to a NAFTA country.

As such, a company may need to track its merchandise through serialized identification or leverage an approved accounting methodology (i.e., i.e. first in first out; low-high; etc.). This may call into scrutiny further capabilities such as the company's ability to track serialized products or inventory lots, identify domestic shipments, or establish average inventory turn rates, as applicable.

- **Scenario 2:** Company B imports component goods into the U.S. for further manufacture into a finished product. The merchandise is then sold to domestic customers and subsequently exported by Company B's domestic customers.

Drawback considerations: Interestingly enough, the right to claim drawback rests with the exporter of the applicable merchandise rather than the duty-paying importer. As such, Company B would be required to obtain a signed "Waiver of Right to Claim Drawback" from each of its exporting customers in order to be eligible. Careful consideration of meeting recordkeeping requirements and accessibility of necessary export data elements would need to be assessed prior to moving forward.

In addition to weighing the regulatory requirements, the following opportunities present in today's unique trade environment should be equally considered and leveraged:

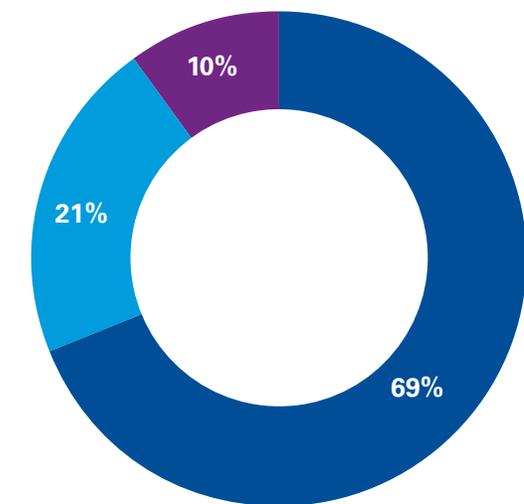
- Expanded eight-digit HTS substitution
- Streamlined documentation requirements
- Modernized submission processes
- Simplified and aligned five-year limit for imports, manufacture, and exports
- Applicability of entry fees for all drawback types (with the exception of antidumping and countervailing duties)
- Duty recoverability under Section 201/301.

The above changes to the Duty Drawback program truly present new opportunities to enhance savings in a time when it counts the most. From the respondents of our survey, it is clear that while the majority are affected, not all are currently leveraging this potential.

And the survey says:

- **Sixty-nine percent of respondents who currently utilize duty drawback and 64 percent of respondents who do not currently utilize duty drawback indicated that they are directly impacted by the additional 301 tariff.**
- **Of the respondents who currently claim drawback, only 33 percent indicated that they are presently leveraging the TFTEA regulatory changes for their submissions.**

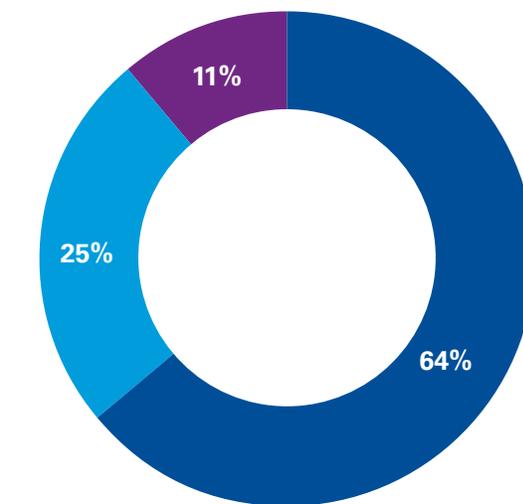
Do you plan to use duty drawback as a mitigating strategy to the impact of the 301 tariffs?



■ Yes ■ No ■ N/A – I am not impacted by the 301 tariffs.

n=42

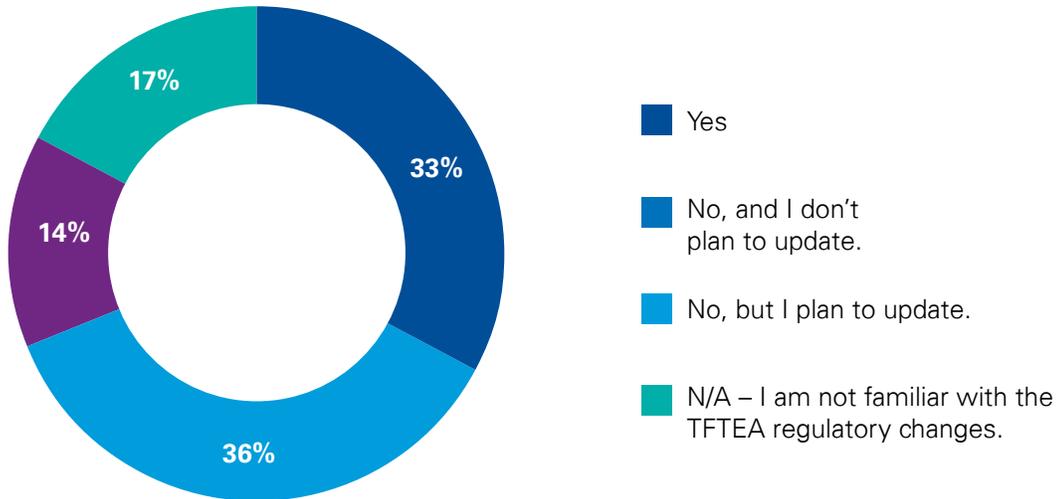
Have you considered drawback as a mitigating strategy to the impact of 301 tariffs?



■ Yes ■ No ■ N/A – I am not impacted by the 301 tariffs.

n=36

Have you leveraged the Trade Facilitation and Trade Enforcement Act (TFTEA) regulatory changes for your drawback claims?



n=42

As indicated by the data, there is untapped opportunity to expand drawback privileges among those already claiming drawback as well as those looking to implement a program in the near future. In considering how best to fully leverage duty drawback for your company, evaluate the following next steps:

- Conduct an analysis of each supply chain stream that can benefit from drawback
- Quantify scope of program and identify drawback types that are applicable
- Gather necessary information and documentation to apply for drawback privileges and/or rulings
- Determine data sources that will support drawback claim filing, keeping in mind the business partners, customs brokers, and freight forwarders involved in the process
- Develop a robust drawback compliance program that includes pre-filing integrity reviews, a record-retention protocol, and an approach to drawback claim and documentation auditing
- Evaluate and engage a drawback filer to assist with claim submissions, with an emphasis on data and documentation quality review and established communication protocol with your team and CBP
- Set up a filing schedule for ongoing claims and annual reviews of the drawback program.

3. Navigating common drawback challenges

In a time of increased opportunity comes the equal challenge of implementing or adapting your duty drawback program to stay ahead of the needs of a changing regulatory trade and business environment.

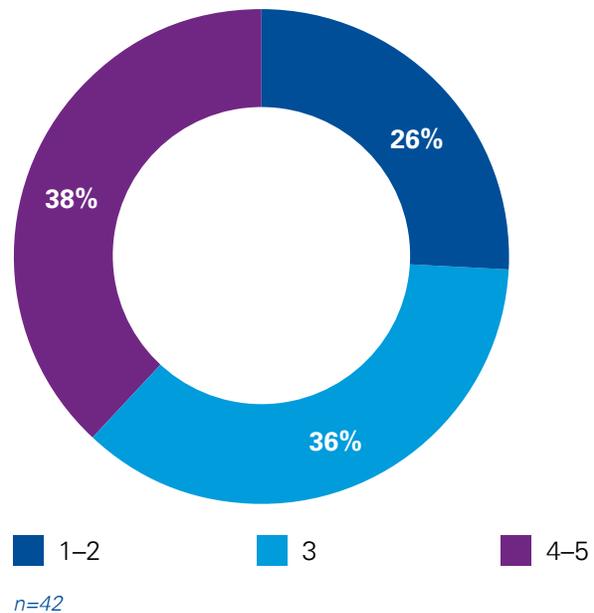
In aggregating the responses from our benchmarking study, it was clear that the following areas presented the most difficulty for those currently utilizing duty drawback:

Seventy-four percent of respondents found “understanding and applying the regulatory changes and updates” to be moderately to extremely challenging.

It comes as no surprise that within the transition year of fully implementing TFTEA drawback that a majority of importers struggled to keep up with the regulatory requirements and operational implications of these changes. Although CBP had recently issued final regulations as well as supplemental guidelines to instruct the trade community, it has been a piecemeal effort to understand and apply these changes within the data collection, documentation, and submission process. A few examples of these include, but are not limited to:

- Eligibility of import/export transactions between CORE (CORE refers to pre-TFTEA regulations) and TFTEA drawback
- Assessing applicability of import entries under the first-filed rule
- Delay of accelerated payment for TFTEA claims
- Revised basis of refund for substitution claims including applicability of per-unit average value method and comparative values for lesser-of method
- Transferring and updating of existing privileges/rulings for TFTEA
- Understanding applicability of items falling into the other – other HTSUS provisions.

Understanding and applying regulatory changes/updates



Sixty-seven percent of respondents found “visibility and oversight of their drawback claims” to be moderately to extremely challenging.

Visibility is a consistent issue for importers with a standing duty drawback program. Common concerns among the industry include the following:

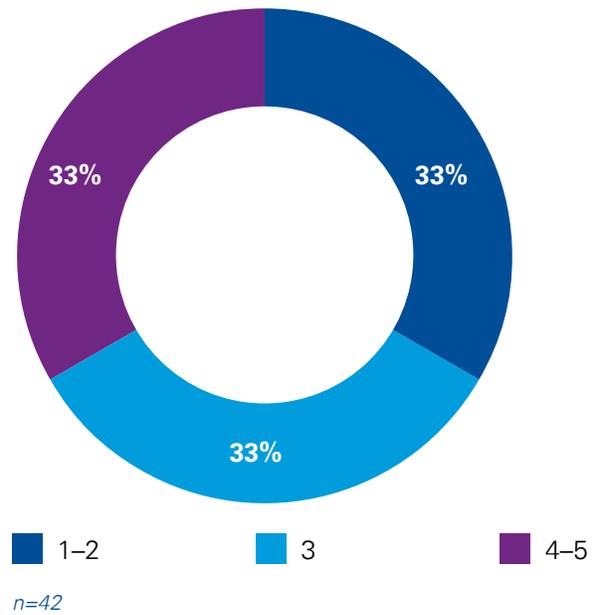
- Level of oversight and communication with their drawback filer regarding claim submissions
- Unresponsiveness or lack of clarity from CBP regarding drawback inquiries, status of claims, or anticipated timeframe for refund payout.
- Difficulty in managing data and documentation requirements from third-party entities associated with the supply chain
- Lack of drawback expertise to ensure all applicable standards and requirements are met.

Sixty-two percent of respondents found “obtaining the required import/export data elements electronically” to be moderately to extremely challenging.

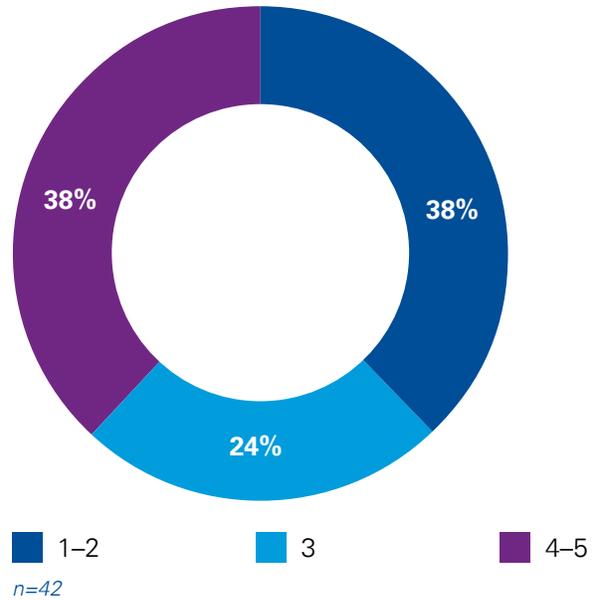
As has been one of the perennial struggles of submitting a drawback claim, having access to accurate import and export data with all required elements from one centralized source is often times not readily obtainable. Whether it be an apparel company attempting to match items based upon style, size, and color or a manufacturing company with hundreds of material components to track from various suppliers and brokers, it is generally an aggregated effort to develop an all-encompassing drawback report. Commonly seen sources range from a company’s ACE (Automated Commercial Environment) data, broker data, ERP (Enterprise resource planning) data, receipt or withdrawal data to the exporting country’s import data. A blended approach to ensure that accurate information is submitted to CBP at time of claim processing is essential.

It is important to note that the eased substitution drawback requirements do allow for claims to be submitted at an eight-digit HTSUS level rather than at a part-specific level, thus allowing an importer to truly leverage their ACE data. Further, the transition to electronic ACE filing for all TFTEA claims requires a claimant to report and submit at the entry line level, thus mandating that all data elements and metrics match exactly what is within ACE rather than invoice level as required in the past.

Visibility and oversight of drawback claims



Obtaining the required import/export data elements electronically





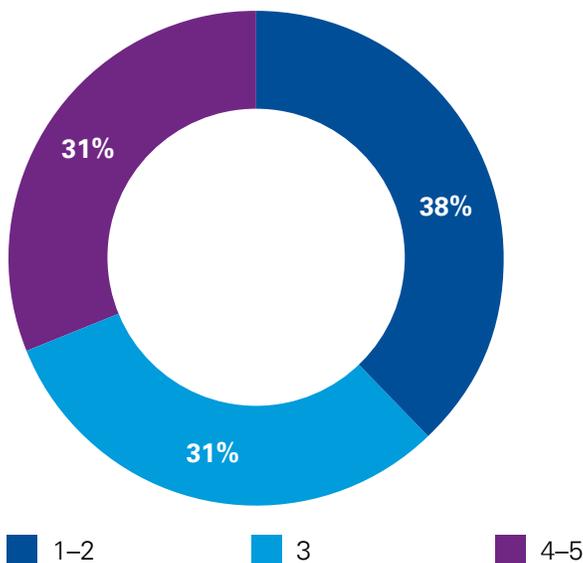
Sixty-two percent of respondents found “record retention of the necessary import, inventory, and export documents” to be moderately to extremely challenging.

To substantiate a drawback claim and remain compliant with CBP standards, it is essential that all recordkeeping requirements are met. This includes readily available access to all import entry packages and inventory movement documentation as well as export packages and proof of export. This may present a challenge to some claimants who are not always the importer or exporter of record, may not have full visibility into all inventory movements within their ERP system, or are exporting merchandise to NAFTA countries requiring additional documentation.

With the transition to TFTEA, a number of recordkeeping requirements have changed, including the following:

- Recordkeeping timeframe expanded to three years after the date of claim liquidation
- CBP Drawback Entry Form 7551 and the Certificate of Delivery Form 7552 are no longer required
- Supplemental export recordkeeping documentation expanded to include electronic export information (EEI) filings submitted via ACE.

Record retention of the necessary import, inventory, and export documents



n=42

Sixty percent of respondents found “submitting [drawback claims] under ACE to be moderately to extremely challenging

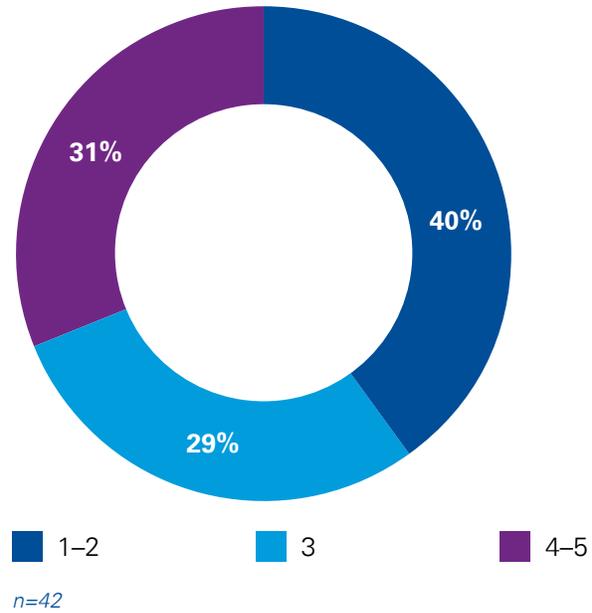
The mandatory transition to electronic filing within ACE occurred February 2017. With it came a number of changes and challenges, a few of which we have captured below:

- 5,000 line limit on the number of records per claim
- Import line level verification of quantity and unit of measure (UOM) (with the exception of “UOM X” and Unused Direct ID)
- Electronic upload of all supporting documentation to CBP’s Document Imaging System (DIS).

Accommodating to the above changes has seen a sharp increase in the time required to properly prepare, submit, and substantiate a claim. For many claimants with very high volumes, this has resulted in a manual process of submitting hundreds of claims that previously would have been one submission.

As illustrated above, the changing regulatory and trade landscape poses a unique opportunity as well as an increased responsibility to stay ahead of the challenges at hand. While the onus may ultimately land on the claimant to affirm and maintain integrity of their drawback program, it is essential to choose a trusted duty drawback advisor that can facilitate your company’s process in a knowledgeable, communicative, and compliant manner, thereby allowing you to truly harness your full savings potential.

Submitting under ACE (Automated Commercial Environment)



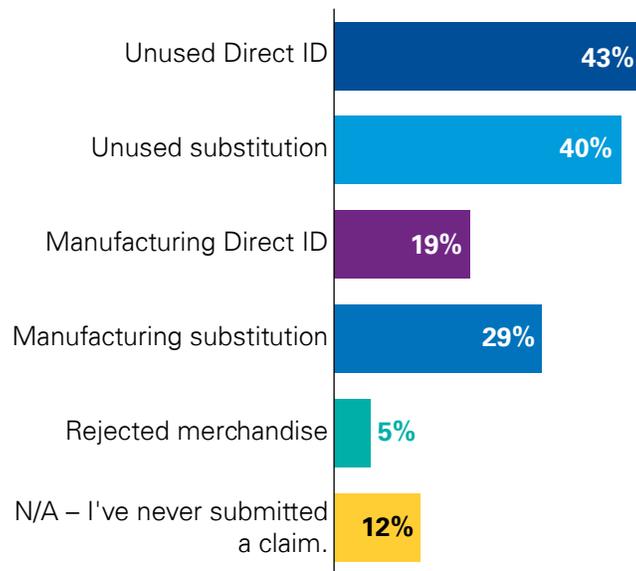
4. Duty drawback industry trends

In an effort to maximize savings, more importers have considered or begun utilizing duty drawback, as demonstrated in our survey results. Of the 78 respondents, 54 percent are currently utilizing the program while 56 percent of the remaining respondents anticipate leveraging duty drawback within the next 12 months.

Frequency and type of drawback provision(s) claimed

For those with an active drawback program, the majority appear to have processed claim submissions within the past three months. The majority of claimants utilize an unused merchandise provision (as opposed to manufacturing or rejected) as well as a substitution claim type (as opposed to Direct ID). One explanation for this result is that these methods may be the simplest and most encompassing drawback provisions available to an importer. This often prevents the need to obtain ruling approvals or trace part-specific data. Ultimately, this allows a company to move from feasibility and implementation to actual savings that much quicker.

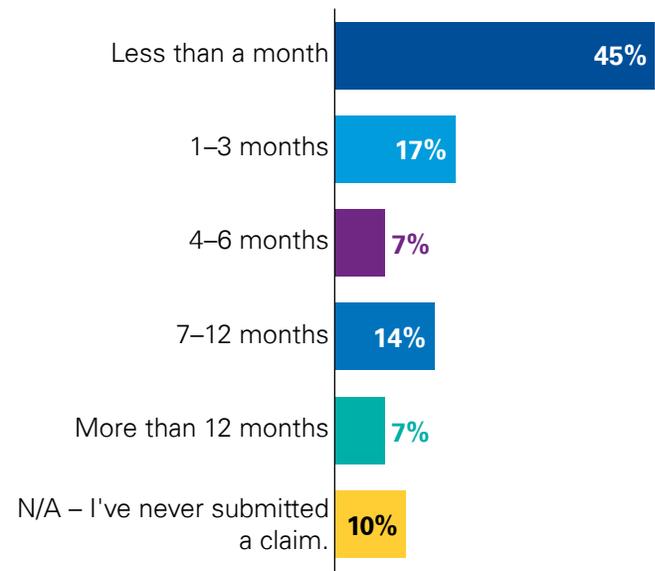
What drawback provision do you currently claim under? (Select all that apply)



n=42



How long has it been since you submitted your last claim?

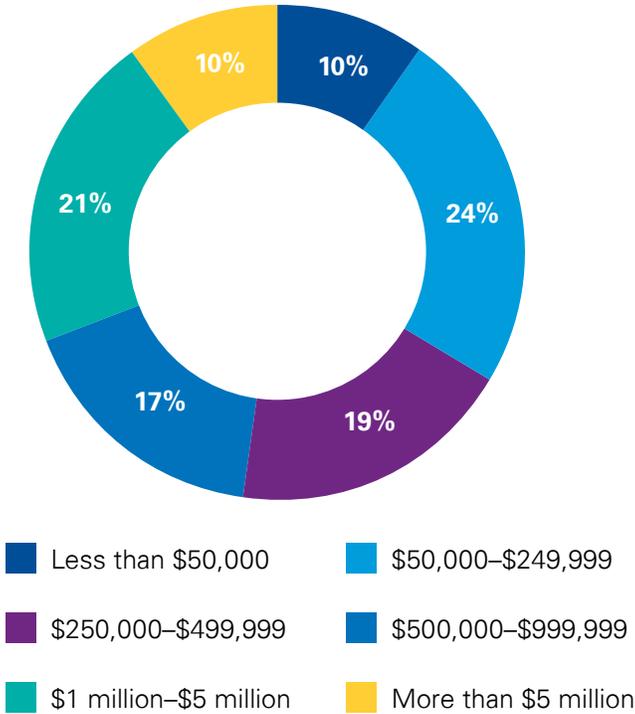


n=42

Annual savings expected versus realized

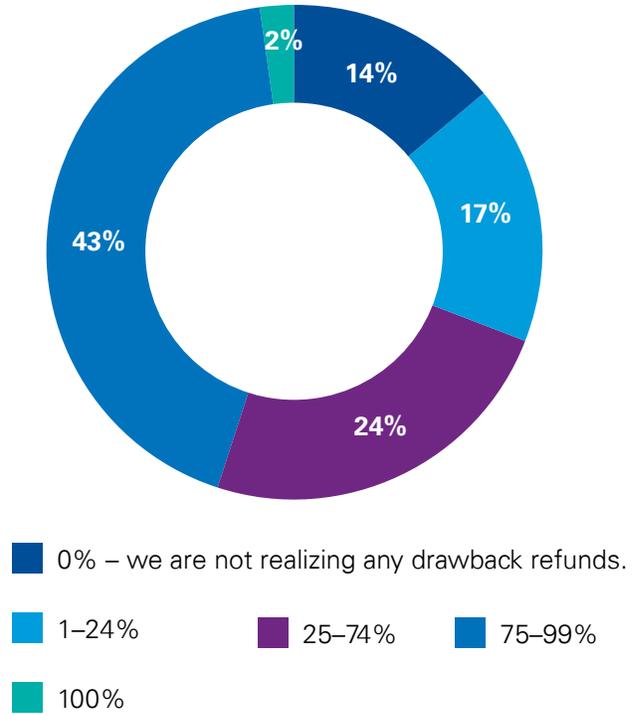
As depicted in the corresponding graph, there is a consistent spread of expected annualized savings among current drawback claimants. However, 55 percent of the same respondents indicated that they are only realizing up to 74 percent of their available refund potential. This suggests that in many instances, a company’s current drawback program does not fully cover or does not move fast enough to realize all eligible drawback savings.

How much do you save annually or have the potential to save with duty drawback?



n=42

What percentage of drawback refunds are you currently realizing in comparison to your available potential?

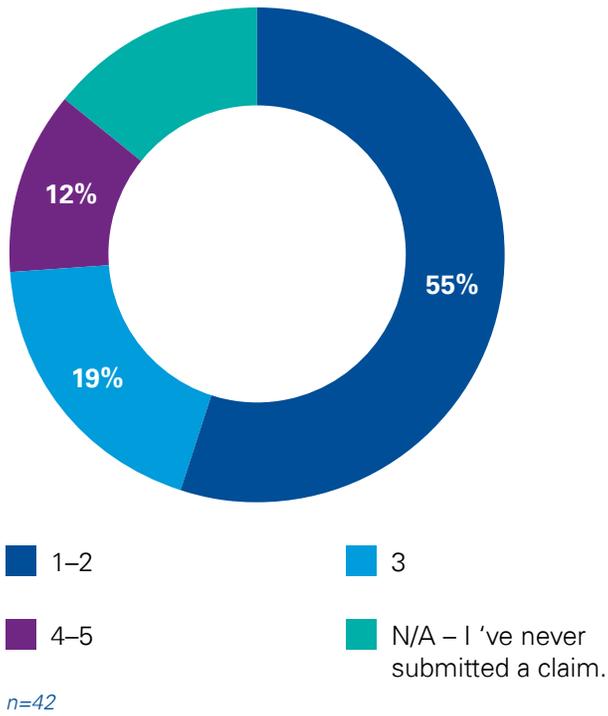


n=42

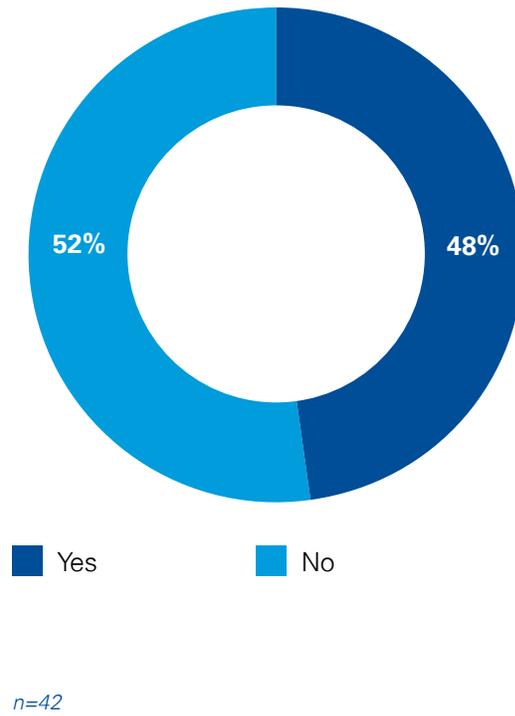
Frequency of CBP and self-audits

Drawback claimants reported that 31 percent have frequently or always received a CBP desk audit or further inquiry into their drawback claims. In comparison, 48 percent report conducting regular drawback compliance self-audits. While these numbers may not immediately appear significant, it is a leading-practice element of any comprehensive drawback program to routinely verify the integrity of its data, documentation, and record-retention processes. Those who fail to do so are exposed to risk of CBP invalidating their claim refunds or even expulsion from the Duty Drawback program.

How often do you receive desk audits or other inquiries regarding your drawback claims? Rate on a scale from 1-5, where 1 = Never and 5 = Always.



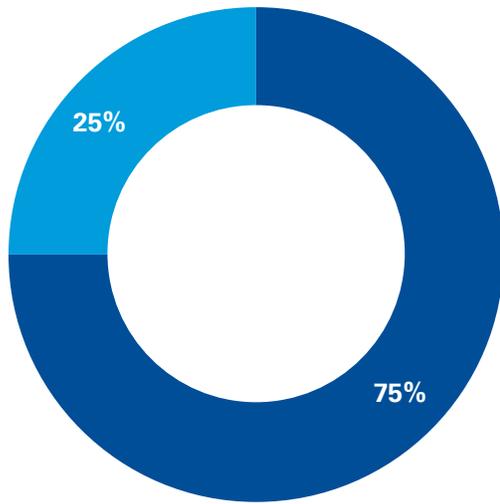
Do you conduct regular drawback compliance self-audits?



For those without a current Duty Drawback program

Seventy-five percent reported that they have considered utilizing duty drawback in the past. Of the remaining 25 percent, the majority found the process to be too complex or lacking internal resources or budget to move forward.

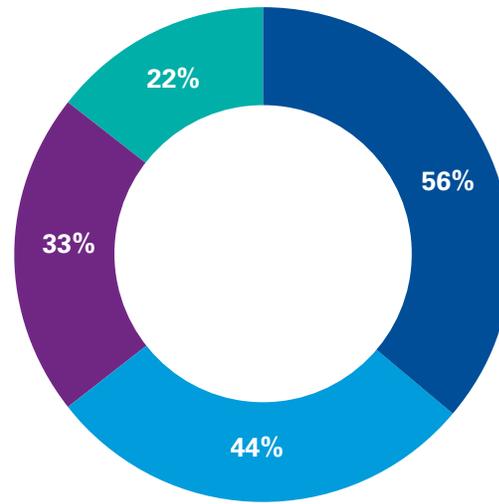
Have you considered utilizing duty drawback in the past?



■ Yes ■ No

n=36

What stopped you from moving forward with duty drawback? (Select all that apply)



■ Too complex/difficult ■ Not enough budget/resources
■ Not enough potential ■ Other benefit

n=9



5. Conclusion

As importers experience increasing costs and business pressure, it is critical to realize the importance of duty savings opportunities such as duty drawback. Given the uniquely changing trade and regulatory environment at hand, now more than ever is the best time to incorporate drawback into your overall trade strategy.

Through analysis of the results from the benchmarking study, KPMG found that a majority of importers within the industry are not truly leveraging their full drawback potential despite sizable opportunities created by expanded and modernized regulatory requirements and ability to recover punitive tariff measures such as those implemented by Section 201 and 301. Digging deeper, a majority of importers have found common challenges in navigating the current trade landscape due to the regulatory changes and level of complexity involved.

Ultimately, benchmarking importers with active drawback programs, as well as those interested in leveraging the program in the future, allows us to learn about leading practices, common struggles, and prospective opportunities for growth. Benchmarking further allows trade professionals to gain valuable insight and knowledge to bridge the gaps for efficiency in future processes.

If you have questions about this study or KPMG's duty drawback services, contact one of **KPMG's Trade & Customs Services** professionals listed at the end of this document.

Thank you to all who participated in the survey.



Contact us

Douglas Zuvich

**Partner and Global Practice Leader
Chicago, IL**

T: 312-665-1022

E: dzuvich@kpmg.com

Andrew Siciliano

**Partner and U.S. National Practice Leader
Long Island (Melville), NY**

T: 631-425-6057

E: asiciliano@kpmg.com

Steven Brotherton

**Principal and U.S./Global Export Controls &
Sanctions Leader
San Francisco, CA**

T: 415-963-7861

E: sbrotherton@kpmg.com

John McLoughlin

**Principal and East Coast Leader
Philadelphia, PA**

T: 267-256-2614

E: jlmcloughlin@kpmg.com

Luis Abad

**Principal
New York, NY**

T: 212-954-3094

E: labad@kpmg.com

Amie Ahanchian

**Managing Director
Tysons Corner (McLean), VA**

T: 202-533-3247

E: aahanchian@kpmg.com

Irina Vaysfeld

**Principal
New York, NY**

T: 212-872-2973

E: ivaysfeld@kpmg.com

George Zaharatos

**Principal
Atlanta, GA**

T: 404-222-3292

E: gzaharatos@kpmg.com

Christopher Young

**Principal
Chicago, IL**

T: 312-665-3229

E: christopheryoung@kpmg.com

Gisele Belotto

**Managing Director
Miami, FL**

T: 305-913-2779

E: gbelotto@kpmg.com

Jessica Libby

**Managing Director
Minneapolis, MN**

T: 612-305-5533

E: jlibby@kpmg.com

Andrew Doornaert

**Managing Director
Detroit, MI**

T: 313-230-3080

E: adoornaert@kpmg.com

Some or all of the services described herein may not be permissible for KPMG audit clients and their affiliates or related entities.

[kpmg.com/socialmedia](https://www.kpmg.com/socialmedia)



The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act upon such information without appropriate professional advice after a thorough examination of the particular situation.

© 2019 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. Printed in the U.S.A. The KPMG name and logo are registered trademarks or trademarks of KPMG International. NDPPS 837420