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Accounting Method Implications of *Learning Resources*

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The U.S. Supreme Court invalidated certain tariffs, creating both the possibility of refunds and uncertainty for importers. How might income tax accounting methods apply to the variety of potential outcomes triggered by the decision?

U.S. Supreme Court Decision

On February 20, 2026, the Supreme Court of the United States (“SCOTUS”) ruled in the consolidated cases of *Learning Resources v. Trump* (Docket No. 24-1287) and *V.O.S. Selections v. United States* (Docket No. 25-250) that the tariffs President Trump’s administration imposed under the International Emergency Economic Powers Act (“IEEPA”) are illegal. While the SCOTUS’s majority opinion does not address how refunds will be handled, taxpayers would seemingly have a right to demand a refund for tariffs previously paid to the U.S. government that are later deemed illegal. For its part, the Trump administration has given mixed signals on refunds. In a motion filed with the U.S. District Court for the District of Columbia, attorneys for the Justice Department argued against a preliminary injunction order staying the imposition of the tariffs on the grounds that there would be no injury to taxpayers because taxpayers would “assuredly receive payment on their refund with interest” if the tariffs were ruled unlawful. However, after the SCOTUS’s decision, President Trump said his administration would fight any claims for refunds and may attempt to impose a new 15 percent global tariff under other authority.

Under U.S. customs law, the “importer of record” is liable for the payment of any duty on goods imported into the United States. U.S. Customs and Border Protection (“CBP”) determines the appropriate rate of duty applicable at the time of importation and collects tariffs from the importer. Importers may file an administrative “protest” to contest CBP’s assessment of duties within a 180-day protest window. An importer may also challenge a CBP action by commencing a civil action at the U.S. Court of International Trade (“CIT”), which has exclusive jurisdiction over any civil action concerning tariff matters. However, the CIT has generally required litigants to exhaust any available administrative protests prior to seeking relief through litigation.

Possible Scenarios

Given the uncertainty around refunds, there are a number of possible scenarios that taxpayers could experience at this point in time, as outlined in [KPMG report: U.S. Supreme Court IEEPA decision unlocks potential tariff refund opportunities but not without uncertainty](#).

Scenario 1: *Importers that filed civil actions at the CIT prior to the SCOTUS opinion seeking to preserve tariff refund opportunity pursuant to subsection 28 U.S.C. § 1581(i)*

It is expected that the CIT will order CBP to issue refunds for plaintiffs’ affected entries under this scenario.

Scenario 2: *Importers that file protests after the SCOTUS opinion on eligible entries that are still within the 180-day protest window*

It is uncertain how CBP will respond to protests under this scenario because arguably CBP has not made a decision or taken an action that is protestable.

Scenario 3: *After the SCOTUS opinion, importers that file a civil complaint directly with the CIT seeking refunds, bypassing the protest mechanism*

Should a court determine that there is in fact an actionable protest available to the importer after the SCOTUS opinion, there is the potential that the CIT may reject the claims in this scenario on jurisdictional grounds.

Scenario 4: *Importers that file a civil complaint directly with the CIT seeking refunds because the 180-day protest period lapsed prior to the SCOTUS opinion*

There is the potential that the government may contest whether plaintiffs in this scenario are in fact “similarly situated plaintiffs” to those described by Scenario 1, and this may result in prolonged litigation to resolve refunds for these importers.

Scenario 5: *The CIT may have authority to fashion a broader equitable remedy to direct refunds*

It is difficult to anticipate the breadth of any such relief or any court-mandated alternative administrative process.

Scenario 6: *Congress can authorize IEEPA refunds for importers*

The precise details of any final legislation are difficult to anticipate.

Accounting Method Considerations

FAQ 1: What are the general rules for the accrual of a liability for tariffs?

A liability is accrued under section 461 when (i) all events have occurred that fix the fact of the liability, (ii) the liability can be estimated with reasonable accuracy, and (iii) economic performance has occurred with respect to the liability.¹ A liability for tariffs is fixed and determinable when tariffed goods are imported to the United States. Tariffs are a tax within the meaning of section 1.461-4(g)(6), which means that economic performance generally occurs as payment is made. Generally, payment is required to be made within the tax year to satisfy the economic performance requirement, but a taxpayer can also elect the recurring item exception (“RIE”) for taxes. The RIE permits the taxpayer to treat the liability for a tariff as incurred if the taxes are paid within 8½ months following year-end or by the tax return filing date, whichever comes first, if the liability is fixed and determinable by year-end. Therefore, a liability for tariffs is accruable in the tax year when tariffed goods have entered the country (e.g., in 2025) and the tariff on those goods has been paid within the prescribed timeframe (e.g., before the earlier of September 15, 2026, or the filing of the 2025 tax return (in the case of a calendar year taxpayer)).

As noted above, the rules of section 461 dictate when the liability is incurred and taken into account. If a tariff is imposed on imported goods that are inventoriable, section 263A requires the tariff to be capitalized and included in inventory and taken into account as cost of goods sold when the goods are sold. Tariffs imposed on the import of non-inventory items would also be capitalized to the property to which they relate and recovered in the same manner as the underlying property (e.g., depreciation for assets used in the business, or section 162 in the case of materials or supplies).

¹ Unless otherwise indicated, section references are to the Internal Revenue Code of 1986, as amended (the “Code”) or the applicable regulations promulgated pursuant to the Code (the “regulations”).

FAQ 2: How does the contest of a tariff affect the general rules for accruing a liability?

A contested liability is a contingent liability. While contingent liabilities are generally not deductible by a taxpayer, section 461(f) allows a contested liability to be accrued if a transfer is made by the taxpayer within the tax year to satisfy the liability while the contest is being resolved and the liability would be otherwise accruable without the contest (i.e., the fact of the liability is fixed and determinable with reasonable accuracy and economic performance has occurred without application of the RIE). Therefore, a taxpayer who paid contested tariffs to the U.S. government may accrue a tariff liability actually paid during the tax year even while contesting the legality of the tariffs. Additionally, taxpayers who are not themselves contesting a liability are generally allowed to accrue a liability that is being contested by a third party.²

FAQ 3: What are the general rules for including a refund of tariffs in income?

The tax benefit rule requires the inclusion of income when events occur after an earlier deduction that are fundamentally inconsistent with the deduction. Therefore, a refund of a previously taken deduction for tariffs paid or accrued would necessitate the refund being treated as an item of gross income (or a downward adjustment to cost of goods sold, or other expense, as the case may be, depending on the character of the original recovery of the liability). In other words, if no deduction or reduction to gross receipts was claimed for a tariff liability in a prior year (e.g., the taxpayer considered the tariff liability a contingent liability that was not fixed and determinable under section 461), the extinguishment of the liability by reason of the resolution of the contest does not result in an income inclusion.

Section 451 provides the rules for determining the tax year of inclusion. An accrual method taxpayer generally includes income in the year when all events have occurred that fix the right to receive income and the amount can be determined with reasonable accuracy. For a taxpayer with an applicable financial statement (“AFS”), this happens no later than when an item of income is included in revenues in the taxpayer’s AFS. However, this AFS inclusion rule does not apply in situations where the income right is unenforceable based on facts at the end of the year. With respect to refunds in the similar context of tax liabilities, the IRS in Revenue Ruling 2003-3³ concluded that approval by the state or local authority was a necessary event before a refund of taxes subject to approval could be included in income. This determination was based on the fact that state and local authorities actively reviewed refund claims and at times denied them. Therefore, a refund of state or local income or franchise taxes was not includible in income until the taxpayer received payment or notice was received by the taxpayer that the refund claim had been approved. Generalizing this ruling to tariffs, the determination of the year of income inclusion is based on whether all non-ministerial events (i.e., there is uncertainty whether the event will occur) have occurred for a taxpayer to earn the right to receive a refund.

FAQ 4: How would a refund be taken into account in the year of income inclusion?

Regardless of what year the refund is includible in income, tariffs that were paid or accrued in 2025 and which are subject to a potential refund in 2026 or later create a mismatch in tax years that has important implications. Depending on how the tariff liability is taken into account in 2025, a refund may be recognized in gross income either as an adjustment to gross receipts or as a separate item of income. If the tariffs are treated by a taxpayer as an inventoriable cost, then the refund of the tariffs will be reflected as (i) a decrease to cost of goods sold for any inventory already sold prior to the refund year (or gross income if the amount of refund exceeds the amount of inventory sold in the refund year) and (ii) a decrease in beginning inventory for any inventory remaining on hand from 2025 in the refund year.⁴ To determine the adjustments to COGS and beginning inventory, a taxpayer will apply its accounting methods for identifying and allocating inventoriable costs under sections 263A and 471.

² Lutz v. Commissioner, 396 F.2d 412 (9th Cir. 1968), *rev’g* 45 T.C. (1966).

³ 2003-1 C.B. 252.

⁴ Pittsburgh Milk Co. v. Commissioner, 26 T.C. 707 (1956); Rev. Rul. 88-95, 1988-2 C.B. 28; and Rev. Rul. 2001-8, 2001-1 C.B. 726.

Besides the cost of acquiring inventory, tariffs may also affect the price of materials and supplies and other tangible property a taxpayer uses or consumes in its trade or business. The refund would be reflected as a separate item of gross income in the refund year if the tariffs were treated by the taxpayer as a deductible cost in 2025. On the other hand, to the extent tariffs paid or accrued in 2025 are capitalized to the basis of a depreciable asset because, for example, tariffs were imposed on a new piece of equipment the taxpayer acquired, the basis of the asset will be adjusted to disregard the refunded tariffs in the refund year. This adjustment will change the amount of depreciation deductions allowable for the asset starting with the refund year as a redetermination. If the amount of refund exceeds the adjusted basis in the asset in the refund year, the amount in excess will be treated as a separate item of gross income.⁵

FAQ 5: How do these rules apply to the six scenarios?

The treatment is summarized at a high level below for a calendar year taxpayer. Note that these are general cases for informational purposes. Discussions should occur with a member of the WNT Methods group before making taxpayer specific conclusions.

Tariffs Fixed and Determinable in the Year Prior to SCOTUS Decision				
Scenario	Taxpayer Paid Liability Under Protest		Taxpayer Paid Liability Without Protest	
	Liability	Refund	Liability	Refund
Scenario 1	Accrue only what is paid by year-end	Includible in year of decision	Apply RIE or accrue only what is paid by year-end	Includible in year of decision
All other scenarios	Accrue only what is paid by year-end	Not includible until future event(s) fixing the refund occurs	Apply RIE or accrue only what is paid by year-end	Not includible until future event(s) fixing the refund occurs

Tariffs Fixed and Determinable in the Year of SCOTUS Decision				
Scenario	Taxpayer Paid Liability Under Protest		Taxpayer Paid Liability Without Protest	
	Liability	Refund	Liability	Refund
Scenario 1	Accrue tariffs fixed and determinable as of 2/20/26 and payment made by year-end	Includible in year of decision	Accrue tariffs fixed and determinable as of 2/20/26 and payment made by year-end or apply RIE	Includible in year of decision
All other scenarios	Accrue tariffs fixed and determinable as of 2/20/26 and payment made by year-end	Not includible until future event(s) fixing refund occur	Accrue tariffs fixed and determinable as of 2/20/26 and payment made by year-end or apply RIE	Not includible until future event(s) fixing refund occur

⁵ Kilgroe v. United States, 664 F.2d 1168, 1170 (10th Cir. 1981).

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