

November 21, 2025

The Honorable Kelly Loeffler
Administrator
U.S. Small Business Administration
409 3rd Street, SW
Washington, DC 20416

The Honorable Howard Lutnick
Secretary
U.S. Department of Commerce
1401 Constitution Avenue, NW
Washington, DC 20230

The Honorable Jamieson Greer
Ambassador
U.S. Trade Representative
600 17th Street, NW
Washington, DC 20006

Mr. Pierre Yared
Acting Chair
Council of Economic Advisers
1650 Pennsylvania Avenue, NW
Washington, DC 20500

Dear Administrator Loeffler, Secretary Lutnick, Ambassador Greer, and Acting Chair Yared,

As the holiday season approaches, Main Street small businesses aren't asking for gifts from this Administration, they're simply demanding the return of tariff dollars that President Trump wrongfully took from them. These are the same small, family-run firms that have borne the brunt of the President's legally dubious tariffs, paying billions in extra costs. Now, with the Supreme Court openly questioning the tariffs' legality and poised to strike them down, the Administration must be prepared to offer small businesses a simple and straightforward process to seek and receive tariff payment refunds. During this make-or-break shopping season, their very survival depends on it.

To date, the Trump administration has extracted more than \$100 billion in tariff payments using a highly questionable invocation of the International Emergency Economic Powers Act (IEEPA).¹ It is estimated that American small businesses have paid for roughly one-third of that total.² President Trump is now openly musing about using that money — tax revenue, really — to give \$2,000 “rebate” checks to Americans and to pay down the national debt.³ If the President

¹ Mike Snider, *Trump says potential \$2,000 tariff dividend checks could come mid-2026. See latest.*, USA Today (Nov. 18, 2025), <https://www.usatoday.com/story/money/2025/11/18/trump-tariff-checks-2026-update/87333616007/>.

² U.S. Senate Committee on Small Business & Entrepreneurship (2025), *The Trump tariffs: A small business crisis*, https://www.sbc.senate.gov/public/_cache/files/a/7/a760a470-5f3b-40ca-b728-634359e07490/DB068FE37D91B435A2A5129F16312542E67F495E3EE68150167EF9FCC14ADE1A.the-trump-tariffs-a-small-business-crisis.pdf

³ Megan Cerullo, *Trump proposes \$2,000 dividend funded by tariffs. Here's what experts say about the plan*, CBS News (Nov. 17, 2025), <https://www.cbsnews.com/news/trump-2000-tariff-rebate-check-what-to-know/>.

wants to finance pie-in-sky economic policies, he should do it by reversing disastrous tax policies that shower trillions of dollars in tax breaks on large corporations and the wealthiest Americans, not on the backs of small businesses through tariff revenue that it will likely have to refund to them.

That's because the tariffs are in serious legal jeopardy. On November 5, 2025, the Supreme Court heard oral arguments in *Learning Resources, Inc. v. Trump*, the case brought by small business owners challenging Trump's tariffs. In the arguments, the Court voiced skepticism of their legality and appeared ready to strike them down. The Court also grappled with how the Administration would pay back the billions of dollars in tariff payments collected. Referring to the potential refund process, Justice Amy Coney Barrett asked one lawyer arguing the case: "How would this work? It seems to me like this could be a mess."⁴ Indeed, if the Administration fails to prepare an equitable refund process, it will be a mess of your own making.

On August 21, 2025, nearly three months ago, I urged Administration officials to prepare a refund process if Trump's tariffs are struck down. Lower courts have already ruled the tariffs unlawful, and the Supreme Court's skepticism sets up the prospect that the Administration will be required to repay small businesses more than \$30 billion, something the Administration has already recognized it would be obligated to do. Before the U.S. Court of Appeals for the Federal Circuit in the tariff case, the U.S. Department of Justice said that "the companies that brought the lawsuit would receive a refund, including interest, for tariffs paid if they ultimately prevail in the litigation,"⁵ and later Treasury Secretary Scott Bessent said that the Administration "would have to" issue refunds if the Supreme Court struck the tariffs down.⁶

For the small businesses leading the litigation challenging the tariffs, this isn't about politics, it's about survival. The Administration's tariffs have brought pain to main street, threatening to shutter decades-old, family-run small businesses. Small businesses don't have Mar-a-Lago memberships, golden gifts, or ballroom invitations granting them special access to tariff exemptions. Their only remedy is justice in federal court. If, as expected, the Supreme Court strikes down Trump's tariffs, it will be the Administration's job to and refund small businesses what they are owed.

The Administration must therefore immediately commit to a plan to ensure small businesses receive the refunds they deserve, without bureaucratic obstruction, given that many cannot afford

⁴ Transcript of Oral Argument, *Learning Resources, Inc. v. Donald J. Trump*, President of the United States, No. 24-1287 (U.S. Supreme Court Nov. 5, 2025),

https://www.supremecourt.gov/oral_arguments/argument_transcripts/2025/24-1287_b07d.pdf

⁵ Jan Wolfe and Alex Leary, *Tariff Ruling Is Put On Hold While Trump Administration Appeals*, Wall St. J. (May 29, 2025), https://www.wsj.com/politics/policy/trump-administration-races-to-stop-bombshell-tariff-ruling-4501e4fe?gaa_at=eafs&gaa_n=AWetsqco-XJ2K9ZJ2Gu2VMW-_g26aCGnHx91D4G737_J14rc5ahqckiYOLP7VQ22hp4%3D&gaa_ts=691ce6eb&gaa_sig=fVAVq-tvprhYt-QQvDEQK7IhiD81_CdtLvzxApZ7r98ZtSF7-D3Q-2fAcpXeht8IiYhFQdTVYLMCD5IFhE_g9w%3D%3D

⁶ Ben Berkowitz, *Treasury Would Face "Terrible" Tariff Refund Hit on SCOTUS Loss, Bessent Says*, Axios (Sept. 7, 2025).

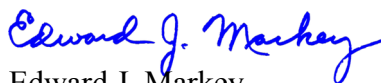
to hire lawyers to vindicate their rights. If the Administration fails to provide a straightforward process, it will advantage large, sophisticated businesses over smaller ones.

To understand how you are preparing for this refund process, I ask that you answer the following questions in writing by November 29, 2025:

1. Has the Administration made plans to refund tariff payments if the Supreme Court declares the tariffs imposed under IEEPA unlawful? Please provide any plans, guidance, or memos the Administration has prepared regarding repaying tariff costs to affected businesses. To the extent that a tariff refund process may already exist, will the Administration modify or expand it to handle any refunds required if the Supreme Court strikes down the Trump tariffs?
2. Will the Administration issue tariff refunds even if a federal court does not specifically order refunds for all affected businesses? If not, why not?
3. If the Administration decides to issue tariff refunds, how does it plan to ensure a smooth and equitable process that small businesses can easily navigate?
4. What actions does the Administration intend to take to ensure that all small businesses clearly understand any available refund process? How does the Administration intend to address the high volume of refund requests? Has the Administration allocated any resources to handle the anticipated volume of refunds?
5. How will the Administration prevent large corporations that passed tariff costs onto consumers from unduly enriching themselves through refund windfalls?

Thank you for your attention to this serious issue.

Sincerely,



Edward J. Markey
United States Senator