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The $800 Free Pass Is Gone: CIT Confirms President Can Eliminate *De Minimis* Tariff Exemption

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KEY POINTS

- The U.S. Court of International Trade held in *Axle of Dearborn, Inc. v. Department of Commerce* that IEEPA authorizes the president to rescind the *de minimis* exemption for goods valued at $800 or less.
- The court distinguished rescission of the *de minimis* exemption from tariff imposition, ruling it does not create new duties but rather subjects low-value goods to existing congressionally authorized rates.
- The court held that agency implementation of the president's *de minimis* directive is ministerial and therefore not reviewable under the Administrative Procedure Act.
- Following the Supreme Court's invalidation of IEEPA tariffs in *Learning Resources, Inc. v. Trump*, the president issued Executive Order 14388 to maintain the *de minimis* suspension on an independent legal footing; the One Big Beautiful Bill Act separately terminates the exemption by statute effective July 1, 2027.
- Businesses that built supply chains or e-commerce models around duty-free treatment for sub-$800 shipments need to adapt now by re-evaluating shipping and logistics strategies, customs compliance infrastructure, and pricing models.

On August 13, 2026, the U.S. Court of International Trade held that the president has the legal authority, under the International Emergency Economic Powers Act (IEEPA), to eliminate the *de minimis* tariff exemption. The court's decision means that goods valued at $800 or less — previously eligible for duty-free entry into the United States — will remain subject to applicable duties for the foreseeable future. Businesses that rely on low-value shipments should treat the *de minimis* exemption as effectively dead.

WHAT WAS THE *DE MINIMIS* EXEMPTION?

Under Section 321 of the Tariff Act of 1930, the U.S. government had long permitted goods valued under $800 to enter the country duty-free. Congress created this exemption on the theory that collecting small amounts of duty cost the government more than the revenue it generated. Over the decades, Congress raised the threshold — from $1 in 1938 to $200 in 1993 to $800 in 2016 — reflecting a policy goal of facilitating trade and reducing administrative burden for businesses and consumers alike. In practice, the exemption became the backbone of direct-to-consumer e-commerce shipping from overseas, particularly from China.

WHAT HAPPENED?

Beginning in February 2025, the president issued executive orders invoking IEEPA to suspend the *de minimis* exemption for goods from China and Hong Kong. After a brief reinstatement of the exemption, it was eliminated for China/Hong Kong effective May 2, 2025. The president subsequently expanded this action worldwide, suspending *de minimis* treatment for all countries effective August 29, 2025, pursuant to Executive Order 14324.

On February 20, 2026, the Supreme Court held that IEEPA does not authorize the president to impose tariffs. That ruling did not, however, address or disturb the *de minimis* suspension. On the same day as the decision, the president issued Executive Order 14388 to maintain the suspension on a separate legal footing, independent of the invalidated IEEPA tariffs. U.S. Customs and Border Protection (CBP) confirmed it would continue rejecting entries claiming the *de minimis* exemption. The suspension has since been codified in regulation at 19 C.F.R. § 10.151, and the One Big Beautiful Bill Act terminates the *de minimis* exemption by statute, effective July 1, 2027.

Against this backdrop, a family-run auto-parts distributor that had structured its business around shipping low-value packages duty-free from Mexico challenged the president's authority to eliminate the exemption pursuant to his IEEPA authority prior to July 1, 2027.

WHAT DID THE COURT DECIDE?

The court ruled in the government's favor on two key questions.

- **The president has authority under IEEPA to rescind the *de minimis*** The court found that IEEPA grants the president power to "nullify or void…exercising any…privilege" with respect to property in which a foreign country or national has an interest. The *de minimis* exemption qualifies because Congress itself labeled it a "privilege" in the statute's text — twice. The court rejected the argument that IEEPA's reference to "privilege" covers only common-law property rights, holding instead that the word "any" means what it says.

- **This is not the same as imposing tariffs.** The court drew a sharp distinction between this case and the Supreme Court's decision striking down IEEPA tariffs. Eliminating the *de minimis* exemption does not create new duties — it simply makes low-value goods subject to the same duties that already apply to higher-value goods under the existing tariff schedule. The court also held that this action does not violate the separation of powers because the president is executing a specifically enumerated power Congress gave him, not legislating or exercising the power of the purse.

- **Agency implementation is not reviewable under the Administrative Procedure Act (APA).** The court further held that CBP and other agencies were simply carrying out the president's directive and had no independent discretion in the matter. Because the agencies' role was purely ministerial, their actions cannot be challenged as arbitrary or capricious.

KEY TAKEAWAYS FOR BUSINESSES

Companies that built supply chains or e-commerce models around duty-free treatment for shipments under $800 need to adapt now. This includes re-evaluating shipping and logistics strategies, ensuring customs compliance infrastructure can handle formal or informal entry procedures for all shipments, and accounting for duty costs in pricing models.

For guidance on navigating de minimis compliance, tariff exposure, and supply chain restructuring, contact the attorneys listed above or a member of Troutman Pepper Locke's Tariff + Trade Task Force.

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