



This Week in State Tax (TWIST)

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Florida: Appellate court holds interest due on overpaid fuel taxes

A Florida appellate court recently ruled that a taxpayer who successfully petitioned for a refund of overpaid motor fuel taxes is owed interest on the refund despite objection from the Florida Department of Revenue. This determination concerning interest is the second proceeding related to the taxpayer's refund claim for overpaid motor fuel taxes dating back to 2011 to 2014. In the first proceeding, the taxpayer, a wholesaler of gasoline, purchased fuel from a Florida distributor and paid roughly \$3 million in motor fuel taxes directly to the distributor; it later paid the same amount of tax directly to the Department. The double payment was discovered by the Department during a subsequent audit of the taxpayer. The taxpayer filed a claim for a refund of the double payment and, after the refund claim was denied, filed an appeal in which a Florida appellate court ruled that the taxpayer was due a refund under Fla. Stat. § 215.26(1) (allowing for refunds for an overpayment of tax, a payment of tax where no tax is due, and any payment of tax made in error). The court instructed the Department to issue the refund. Shortly thereafter, the Department issued a refund for only the tax amount not including interest.

In this, the second proceeding, the court specifically states that Fla. Stat. § 213.255 is clear in requiring that taxpayers be paid interest on payments of overpaid taxes, payments of taxes not due, or taxes paid in error, with such interest to begin running 90 days after a timely and complete refund application is submitted. In the opinion, the court noted that the Department did not set forth an argument in the initial proceeding that the taxpayer's refund application, submitted in 2019, was incomplete and was thus precluded from arguing on appeal that no interest was warranted. The court also addressed a trial court ruling that denied the request for interest on the basis that Florida law restricts a taxpayer's ability to bring further action related to a tax refund claim when an appellate court has already ruled on it. Here, the appellate court held that the taxpayer's claim for interest is wholly separate from the action seeking the refund and only became actionable once the refund was issued without applicable interest.

Note that while this case specifically covered overpaid motor fuel taxes, the statutes under which the taxpayer made its claim, Fla. Stat. §§ 215.26 and 213.255, apply to other types of taxes administered by the Department of Revenue. Please contact [Henry Parcinski](#) with questions on [SEI Fuel Services, Inc. v. State of Fla. Dep't. of Rev.](#)

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