



TaxNewsFlash

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Federal Circuit: Butane not eligible for alternative fuel mixture tax credit

The U.S. Court of Appeals for the Federal Circuit today held that butane is not an “alternative fuel” for purposes of section 6426 that can be mixed with a “taxable fuel” to qualify for the “alternative fuel mixture” tax credit under section 6426(e).

The case is: *Philadelphia Energy Solutions Refining and Marketing, LLC v. United States*, No. 2022-1834 (January 3, 2024). Read the Federal Circuit’s [decision](#) [PDF 133 KB]

Summary

In 2005, Congress enacted two new tax credits under section 6426 for producers of alternative fuels and alternative fuel mixtures to offset the excise taxes imposed on taxable fuels.

The taxpayer sought refunds for the years 2014, 2015, 2016, and 2017, claiming that during those years, it produced, sold, and paid excise taxes on alternative fuel mixtures of butane and gasoline that were entitled to the alternative fuel mixture credit. When the IRS did not respond to its refund claims, the taxpayer filed suit in the Federal Claims Court arguing that, because butane is a liquefied petroleum gas (LPG), it is an alternative fuel that, when mixed with gasoline, qualifies for the alternative fuel mixture tax credit.

The Claims Court granted summary judgment in the government’s favor, holding that the statute’s terms make clear that butane is not an alternative fuel for purposes of the alternative fuel mixture tax credit.

The Federal Circuit affirmed, finding that because butane is a taxable fuel, it cannot also be an alternative fuel that can be mixed with a taxable fuel (i.e., gasoline) to qualify for the alternative fuel mixture tax credit under section 6426(e). The court found that even though butane is commonly understood to be LPG, and section 6426(d) defines alternative fuel as including LPG, because butane is a taxable fuel, it cannot qualify as an alternative fuel for purposes of the alternative fuel mixture tax credit.

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