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Sixth Circuit: Section 4261 "ticket tax" applies to flight usage charges only, and not to fees for overhead and management

The U.S. Court of Appeals for the Sixth Circuit yesterday held that the 7.5% excise tax imposed under section 4261 on the "amount paid for" domestic "transportation by air" only applies to usage charges for each flight and did not apply to fixed fees charged by the taxpayer for overhead and management of its clients' private jets.

The case is: *Flight Options, LLC v. United States*, No. 25-3582 (May 27, 2026). Read the Sixth Circuit's **decision**

Summary

The taxpayer, a fractional-share jet company, determined that the tax under section 4261 applied only to usage charges for each flight a client took, not to fixed fees it charged its clients for overhead and management of its fractional jet business.

The IRS disagreed with the taxpayer's position and assessed $24 million in uncollected taxes for the tax years at issue (2009 through 2012) on the fixed fees charged by the taxpayer to its clients, plus interest and penalties, for a total of about $39 million. The district court agreed with the IRS, holding that the taxpayer was required to collect the tax on both the usage charges and the fixed fees for overhead and management.

The Sixth Circuit reversed, finding that "[t]his excise tax, enacted in 1956 and applicable to fractional-share jet operators until 2012, does not extend to the fixed overhead and management fees that [the taxpayer] charged its owners during the relevant time period, as opposed to the usage fees that the company charged for each flight. All indicators of meaning—the text of the excise tax, the context in which it appears, the regulations, and the relevant canons of interpretation—lead to the same conclusion: The tax does not apply."

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