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Federal Circuit: Alcohol fuel mixture credit reduces gasoline excise tax

The U.S. Court of Appeals for the Federal Circuit today affirmed a decision of the U.S. Court of Federal Claims and held that a section 6426 alcohol fuel mixture credit must be treated first as a reduction of the taxpayer's section 4081 excise tax liability, with any remaining mixture credit amount treated as a section 6427 tax-free payment.

The case is: *Sunoco, Inc. v. United States*, 2017-1402 (Fed. Cir. November 1, 2018).
Read the Federal Circuit's [decision](#) [PDF 143 KB]

Summary

The taxpayer filed income tax returns for 2004 through 2009 and claimed the mixture credit under section 6426 as a credit against its section 4081 gasoline excise tax liability for the years 2005 through 2008. The net gasoline excise tax liability was included in taxpayer's cost of goods sold.

The taxpayer subsequently changed its position and claimed an income tax credit of over \$300 million on the grounds that it was entitled to include in cost of goods sold the gross amount of section 4081 gasoline excise tax, without regard to the mixture credit.

The IRS rejected the taxpayer's claim, the taxpayer filed suit in the Court of Federal Claims, and the claims court granted the government's motion for judgment on the pleadings.

The taxpayer appealed, and today the Federal Circuit affirmed. The appellate court held that the mixture credit must first be applied to reduce the taxpayer's gasoline excise tax liability. Any remaining mixture credit is treated as a tax-free payment to the taxpayer.

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