

Contact**Houston**

1200 Smith Street, Suite 1400
Houston, Texas 77002-4310
Tel: 713.658.1818
Fax: 713.658.2553

Atlanta

191 Peachtree Street, N.E.,
Forty-Sixth Floor
Atlanta, Georgia 30303
Tel: 404.659.1410
Fax: 404.659.1852

Philadelphia

50 South 16th Street, Suite
1700
Philadelphia, PA 19102
Tel: 610.772.2300
Fax: 610.772.2305

San Antonio

112 East Pecan Street, Suite
1450
San Antonio, Texas 78205
Tel: 210.253.8383
Fax: 210.253.8384

"IRS Lands Another Victory in Fuel Mixture Credit Case"

Peter Lowy quoted in article on "IRS Lands Another Victory in Fuel Mixture Credit Case"

Tax Notes

January 27, 2021

In a recent *Tax Notes* article, Pete Lowy, co-chair of our SALT practice, discusses the shortcomings of plain meaning analysis in a recent *Delek US Holdings Inc. v. Commissioner* decision. In that decision, the U.S. District Court for the Middle District of Tennessee held that fuel mixture credits aren't treated as payments of the excise tax liability, and therefore don't reduce excise taxes included in the company's cost of goods sold.

With the *Delek* court being "another passenger on the Sunoco bandwagon," along with no contrary appellate court decision, "we should expect other courts will jump on, too," Peter Lowy told *Tax Notes*. Lowy noted that the *Delek* court didn't "reconcile how Congress could have intended the same tax credit to have more value under Section 6427 (which provides the credit as a nontaxable payment) than under Section 6426 (which provides the credit, according to the court, as a reduction to an otherwise deductible expense)."

To view the full article, subscribers may [click here](#).