# West Virginia Office of Tax Appeals Holds for Out-of-State Methanol Marketer in Motor Fuel Excise Tax Case

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The West Virginia Office of Tax Appeal recently held in favor of a methanol marketing company, vacating an $11MM motor fuel excise tax assessment. West Virginia Office of Tax Appeals Administrative Decision No. 23-156 Motor Fuel (May 27, 2025) (unpublished as of the date of this blog entry). The West Virginia State Tax Division based its assessment on the inclusion of terms "methanol" and "methanol fuel" in statutory definition of "special fuels." As of the assessment date, special fuel was defined as "a gas or liquid, other than gasoline, used or suitable for use as motor fuel in an internal combustion engine or motor to propel or operate any form of vehicle, machine, or mechanical contrivance[.]" The definition then includes a list of products that are typically considered special fuel, including methanol and methanol fuel. W. Va. Code § 11-14C-2(79). (In the legislative session that occurred prior to the tax assessment, the definition was amended to remove the references to methanol and methanol fuel.) The definition of motor fuel for purposes of the tax includes special fuels. W. Va. Code § 11-14C-2(61). West Virginia imposes a motor fuel excise tax on motor fuel sold in the state, including motor fuel imported into the state.

The taxpayer demonstrated to the West Virginia Office of Tax Appeals satisfaction that it was not subject to the motor fuel excise tax on two fronts.

First, methanol has not been used or suitable for use in internal combustion engines in the United States for approximately two decades. It was uncontroverted that the methanol sold to West Virginia customers was being used as feedstock in industrial manufacturing and not as a special fuel. Further, the Office of Tax Appeals cited a myriad of facts from the record that demonstrated that "without a doubt… the methanol is not suitable for use" in internal combustion engines in the United States.


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Second, to the extent that methanol was used or suitable as a special fuel, the taxpayer established that it was not the entity that "imported" the methanol into West Virginia. Instead, the West Virginia customers, as the "importers" of the methanol, would have been the entities subject to the tax. *See* W. Va. Code § 11-14C-6(a) (the motor fuel excise tax "is imposed at the time motor fuel is imported into this state, . .. and is payable by the person importing the motor fuel unless otherwise specified in this section"). The Office of Tax Appeals decision included testimony from one of the Tax Division's witnesses in which it was stated that "the person that is buying the fuel product and bringing it into the state. . . is the importer, and they're the one who should pay the tax on it." The Office of Tax Appeals thus held that the taxpayer "is not an importer, under West Virginia law, because the methanol at issue is brought into this state by and for the buyer of the [taxpayer's] product." *See* W. Va. Code § 11-14C-2(53) ("'Importer' means a person that imports motor fuel into this state. The seller is the importer for motor fuel delivered into this state from outside of this state by or for the seller and the purchaser is the importer for motor fuel delivered into this state from outside of this state by or for the purchaser.")

The Tax Division did not appeal the decision to the West Virginia Intermediate Court of Appeals, and the Office of Tax Appeals' decision is the final say in the matter. Craig Griffith, the author of this blog entry, represented the taxpayer in the matter.

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