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"Rapid Response Required From Fuel Mixer, DOJ on Alternative Fuel"

Peter Lowy quoted in article on "Rapid Response Required From Fuel Mixer, DOJ on Alternative Fuel"

Tax Notes

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In a recent *Tax Notes* article, Pete Lowy, shareholder and Co-Chair of Chamberlain Hrdlickas SALT practice, commented on the Fifth Circuits directive issued on February 14 in *Vitol Inc. v. United States*. The parties in the case, involving millions of dollars in excise tax credits, have been instructed to address statutory construction rules and the potential weight of an amendment to the statute governing tax credits for alternative fuel mixtures.

The panel appears to be wrestling with the weight, if any, that should be given to legislative amendments that resolve ambiguities in the pre-amendment version of a statute that the court is tasked with interpreting, said Lowy. The courts decision on this point could have ramifications to statutory construction analysis that go far beyond the tax credit case its deciding.

Vitol is litigating refund claims for section 6426(e) fuel excise tax credits for mixing butane into traditional gasoline, maintaining that the mixtures qualify as alternative fuel mixtures under the statute. The company, as well as another fuel mixer Valero, are currently before the Fifth Circuit on appeal after adverse decisions in federal district courts in Texas. In 2021, the Seventh Circuit decided against U.S. Venture in a similar alternative fuel mixture excise tax refund claim case.

The article is available for subscribers at this link.