

Gross Receipts:

Washington Appellate Court Replaces B&O Tax Ruling on Rates for In- and Out-of-Network Fuel Card Users

Case No. 57952-9-II, Wash. Ct. App. (8/6/24). A Washington Court of Appeals (Court) replaced its opinion from earlier this year in a case involving an in-state fuel station operator and the applicable Washington business and occupation (B&O) tax rate on fuel obtained by its own fuel-card users from fuel stations outside of its networks and on fuel obtained at its own stations from out-of-network fuel-card users [see *Case No. 57952-9-II*, Wash. Ct. App. (5/29/24) and *State Tax Matters*, Issue 2024-23, for more details on this earlier ruling], and affirmed the trial court's order denying the taxpayer's B&O tax refund claims in their entirety. In doing so, the Court held that the taxpayer is *not* entitled to a tax refund for transactions when its own fuel-card users obtained fuel from stations in other networks, or when fuel card holders from other networks obtained fuel from its own station. As before, the Court continued to hold that:

URL: <https://www.courts.wa.gov/opinions/pdf/D2%2057952-9-II%20Published%20Opinion.pdf>

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URL: https://dhub.deloitte.com/Newsletters/Tax/2024/STM/240607_6.html

- The fuel station operator made B&O retail sales to its fuel card users when they obtained fuel from other fueling stations, because in those transactions the operator purchased the fuel from the fuel network participant at a price set by the fuel network and then resold the fuel to its own fuel-card users at a price that it determined; and
- The fuel station operator made B&O wholesale sales of fuel to other fuel station operator participants when their respective fuel-card users obtained fuel at its own stations, because it sold the fuel to the participant at a price set by the fuel network and the participant then resold the fuel to its respective fuel-card users.

Please contact us with any questions.

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