

Sales/Use/Indirect:

Illinois Supreme Court Holds that Book Out Transactions are Not Necessarily Subject to Local Fuel Taxes

Docket No. 129562, Ill. (11/21/24). Reversing an Illinois Appellate Court ruling from 2022, the Illinois Supreme Court (Court) held for a crude oil refiner and distributor that its cash-only “book out” transactions involving the transfer of an ownership interest in fuel – rather than an actual physical delivery of fuel – were *not* necessarily subject to Cook County, Illinois (County) local fuel taxes. In doing so, the Court held that the company successfully rebutted the County taxing authority’s presumption that the “book transfers” detailed in the company’s internal summary reports (ISR) statements constituted taxable distributor-to-distributor sales that transferred ownership of gasoline from one distributor to another within the County and thus triggered the company’s obligation to collect the County’s fuel tax. Accordingly, the Court explained that the burden shifted back to the County’s taxing authority to prove its case by a preponderance of competent evidence that the transactions at issue would ultimately lead to the retail sale of taxable fuel in the County. As part of its rebuttal testimony, the company explained that a book out transaction is essentially the settlement of a forward contract, which is an agreement to deliver or accept delivery of a product at a future point in time. In light of its conclusion, the Court remanded the case to the County Department of Administrative Hearings “for further proceedings in accordance with this opinion” to determine whether a preponderance of the evidence shows that the transactions at issue are indeed taxable under the County’s fuel tax. Please contact us with any questions.

URL: <https://ilcourtsaudio.blob.core.windows.net/antilles-resources/resources/5401782a-48e8-4e5c-b501-da3ece550548/Marathon%20Petroleum%20Co.%20LP%20v.%20Cook%20County%20Department%20of%20Revenue,%202024%20IL%20129562.pdf>

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