

Court Did Not Believe Taxpayer Spent \$25,000 on Propane for a Space Heater

Cross References

- *Ibeagwa*, 7th Circuit Court of Appeals, September 13, 2017

The taxpayer claimed a \$4,664 refundable credit on his 2011 tax return for federal excise taxes paid on propane purchased from 2005 through 2009 to fuel a space heater used by his church. He claimed he paid federal excise tax when he bought more than 27,000 gallons of propane. The IRS disallowed any credit, and the Tax Court upheld that decision. The taxpayer then took the case to the 7th Circuit Court of Appeals.

A person who pays excise taxes on fuel used for a nontaxable purpose may claim a refundable credit on his individual return for the tax year in which the fuel is used (the credit is claimed on Form 4136). The taxpayer conceded that he did not use any propane in 2011, the year the credit was claimed.

Even if he had claimed the credit for the year of use, the court did not believe that he spent over \$25,000 on propane for a space heater. A taxpayer seeking a credit for previously paid excise taxes must keep records sufficient to establish:

- 1) The number of gallons of fuel purchased for nontaxable purposes,
- 2) The dates of purchase, and
- 3) The name and address of each vendor from whom fuel was purchased.

The only records the taxpayer provided were bank statements showing that on three occasions he purchased \$13 worth of unspecified goods or services.

The taxpayer also could not explain why he would have paid excise taxes on any fuel he bought for the church. The federal excise tax imposes a tax on the sale of alternative fuels to an owner, lessee, or other operator of a motor vehicle or motorboat for use as a fuel in such motor vehicle or motorboat. The taxpayer testified that he bought the propane in 14-gallon canisters for heating use. The court said it seems unlikely that he would have been charged a tax that applies only to fuel sold for use in motor vehicles.

The court ruled the taxpayer was not entitled to the refundable fuel tax credit.