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Two Companies Sue GVI for Refunds of Allegedly Unlawful Excise Taxes

United Corporation and Bluewater Construction allege the government unconstitutionally collected excise taxes on imported goods for years while failing to tax local products in the same way, and are now seeking refunds, interest, fees and costs.

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Janeka Simon **March 27, 2026**

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Excise taxes collected on imported goods are at the center of new lawsuits accusing the Government of the Virgin Islands of unlawfully enforcing the territory's tax law for years. By. GETTY IMAGES.

Two companies have taken the Government of the Virgin Islands to court, alleging that it unlawfully collected excise taxes for years while failing to apply the law in a constitutionally valid

way. In lawsuits filed Wednesday in Superior Court, United Corporation and Bluewater Construction, Inc. are seeking refunds for excise taxes they say were improperly imposed on imported goods, along with interest, attorney's fees, and other costs.

In the civil complaints, the companies argue that the government improperly interpreted and enforced Title 33, Section 42 of the Virgin Islands Code, the territory's excise tax statute. They are seeking refunds for excise taxes they paid during the period in question.

According to the lawsuits, both filed by attorneys Joseph DiRuzzo III and Michael Sheesley, the original excise tax law, enacted in 1959, did not impose the tax on goods produced in the Virgin Islands. In 1984, however, a lawsuit led to a Superior Court ruling that the law, as written, was unconstitutional. The court held that treating imported goods differently from locally produced goods violated the Commerce Clause.

The government responded by amending the law to add locally manufactured goods to the list of products subject to excise tax. However, the new lawsuits contend that for nearly 30 years, the government neither collected those taxes on locally produced goods nor issued the regulations required under the amended law.

According to the complaints, the courts again found in 2018 that the government remained in violation of Commerce Clause principles "because it continued to impose the territorial excise tax on imports while at the same time failing to promulgate regulations and collect the tax on goods produced locally."

In that 2018 case before the District Court of the Virgin Islands, testimony from the Supervisor of Excise Tax confirmed that no taxes were charged on goods that did not have attached bills of lading.

The new lawsuits allege that even after the courts ruled against the government and ordered a refund for the plaintiff in the 2018 case, "the USVI persisted in collecting the excise tax on imported goods only." According to the complaints, the courts then ordered the government to stop collecting excise taxes until it could "do so in a manner that does not violate Commerce Clause principles."

United Corporation and Bluewater Construction claim that between 2016 and 2018, the government collected excise taxes on goods they imported — approximately \$500,000 from United and more than \$41,000 from Bluewater.

The companies say they first sought those refunds in 2019. They are now asking the court to award the requested refunds, along with interest, attorney's fees, and any additional court costs that may be determined at trial.

As of press time, no response had been filed by the government.