

## Contact

### Houston

1200 Smith Street, Suite 1400  
Houston, Texas 77002-4310  
Tel: 713.658.1818  
Fax: 713.658.2553

### Atlanta

191 Peachtree Street, N.E.,  
Forty-Sixth Floor  
Atlanta, Georgia 30303  
Tel: 404.659.1410  
Fax: 404.659.1852

### Philadelphia

50 South 16th Street, Suite  
1700  
Philadelphia, PA 19102  
Tel: 610.772.2300  
Fax: 610.772.2305

### San Antonio

112 East Pecan Street, Suite  
1450  
San Antonio, Texas 78205  
Tel: 210.253.8383  
Fax: 210.253.8384

## "Mexican Treaty Dual Resident Scores Big Win in FBAR Dispute," Tax Notes

Patrick W. Martin and Leo Unzeitig Represent Taxpayer Who "Scores Big Win in FBAR Dispute"

November 22, 2023

Tax Notes published an article on November 22, 2023 written by Andrew Velarde titled "Mexican Treaty Dual Resident Scores Big Win in FBAR Dispute." It covers a recent victory in a federal district court case of first impression that was led by San Antonio-based Shareholders Patrick W. Martin and Leo Unzeitig. Martin is quoted discussing the win on a unique tax treaty issue. The case has potentially far-reaching implications in the areas of U.S. tax treaties and their interpretation, challenges to procedures under the Administrative Procedure Act (APA), international tax reporting and compliance matters, and tax "expatriation." The federal decision was before the Southern District of California (San Diego) before Judge Battaglia.

Dual residents with treaty foreign residency are not required to file foreign bank account reports, a court has held in a decision significant to FBAR nonfilers that could also have broad ramifications for expatriation.

"This is a big case . . . a case of first impression about how tax treaties apply," said Martin who represents Aroeste. "Judge [Anthony] Battaglia follows through on the magistrate's earlier decision saying . . . the tax treaty is relevant and here is the statutory framework and regulatory framework of why it's relevant."

"Tax treaties provide specific benefits and rights to individuals. But also tax treaties impose specific obligations on governments. . . . In Mr. Aroeste's case, the United States, the court recognized, has the obligation to recognize him as a nonresident under article 4," Martin said. "For all of those in tax treaty countries — Canada, Japan, France, England, Spain, Portugal, Venezuela; pick your country — this law as spelled out by the court is going to be applicable to the individuals and requires the federal government to respect that treaty law."

To view the full article, subscribers may click [here](#).

For additional recent coverage of *Aroeste vs. United States*, read the following articles in *Forbes* and *Law360*. For in-depth analysis, read Robert Goulder's article in *Tax Notes International*.