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Justices' Microcaptive Ruling Chips At Tax Exceptionalism

Quote by Phil Karter in article on Justices' Microcaptive Ruling Chips At Tax Exceptionalism

Law360

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In an article published on June 25, 2021, in *Law360*, Philadelphia-based Shareholder Phil Karter discusses how the United States Supreme Court last month allowed a captive insurance manager to challenge the IRS not requiring disclosure to micro captive transactions.

Tax exceptionalism has been chipped away at since the Supreme Court's 2011 decision in *Mayo Foundation v. U.S.*, which made clear that courts did not need to give special treatment to tax regulations and rules, explains Karter.

He further shared that from here tax exceptionalism will depend partly on how the Sixth Circuit evaluates CIC Services' claims on the substantive APA grounds. "Now that you've gotten past the barrier of the AIA you have yet to answer the question of whether it violates the APA. That's why they remanded the case to the Sixth Circuit, to find out if the rules required a notice and comment period before they were put into effect. However, even if CIC Services succeeds in its APA challenge, the effect of the case may be limited, as indicated by a concurring opinion from Justice Sonia Sotomayor, explains Karter.

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