



Les Schneider Speaks to Tax Notes About Tax Court Decision in Research Credit Case

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Leslie J. Schneider

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July 12, 2022

Ivins, Phillips & Barker partner Les Schneider spoke with *Tax Notes* for the article *Tax Court Decision Gives Insight on Research and APA Concerns*, regarding the June 14 decision in the case *Kellett v. Commissioner*.

He told *Tax Notes* that "while the decision doesn't address two of the notable questions taxpayers and their advisers are pondering contract research arrangements and the substantive breadth of the software inclusion rule it could prove helpful for the basic question of where the line between sections 162 and 174 lies. He also said that *Kellett* helpfully acknowledges a now long-established online business model in which a product or service goes live perhaps years before the revenue stream activates."

"Schneider also found the discussion of Rev. Proc. 2000-50 revealing. "I really thought there was a very, very strong both judicial and administrative policy that the

IRS can't ignore its own pronouncements," he said.

Formerly, if a revenue ruling or a revenue procedure went further than the law, the response was to question who would complain, but now there's a precedent for an

IRS examiner to question the guidance and for a court to say it shouldn't be followed, according to

Schneider. "I thought that part of the opinion was very disturbing," he said."