



## Ivins Attorney Pat Smith was Quoted in a Law 360 article

### PRACTICE AREAS

Tax Accounting

Tax Controversies

May 26, 2015

Ivins attorney Pat Smith was quoted in a Law 360 article on the Supreme Court's denial of a petition for certiorari on a decision by the D.C. Circuit Court of Appeals holding that the Tax Court is a part of the executive branch, *High Court Leaves Impartiality Challenges to Tax Court*. [\[Link\]](#)

The Tax Court cases [raising the same issue decided by the D.C. Circuit] can be appealed to the Ninth, Fourth and Eleventh circuits. If those courts disagree with the D.C. Circuit's holding in *Kuretski* that the Tax Court is a part of the executive branch, it would create a circuit split and the Supreme Court would be more likely to weigh in on the issue, according to Patrick J. Smith, a partner with Ivins Phillips & Barker Chtd. Supreme Court justices prefer for more than one circuit court to rule on an issue so that it can be sufficiently developed before they take it up, Smith said.

"Although it's somewhat disappointing that the Supreme Court didn't take the opportunity to address the issue now, it's clear that the issue is not going away," Smith said. "The fact that cert has been denied in one case, that's not the end of the story."

Patrick Smith said he would prefer for the Tax Court to be separated from the executive branch either through a Supreme Court decision or legislation. Ultimately that may require some fundamental changes to align the Tax Court more with other Article III courts, such as granting judges on the court lifetime tenure, he said.

"The nature of what they do depends on everybody perceiving that they're independent of the executive branch," Smith said.