



Pat Smith quoted in Tax Notes on Suit by New York and Other States on SALT Deduction Limit

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July 19, 2018

Ivins attorney Pat Smith was quoted in an article in *Tax Notes* on the suit by New York state and three other states challenging the constitutionality of the new \$10,000 limit on the SALT deduction, and the likelihood that the government will file a motion to dismiss the suit based on the Anti-Injunction Act. *Jurisdictional Law May Bar States' Suit Against IRS and Treasury.*

Patrick J. Smith of Ivins, Phillips & Barker Chtd. said it's virtually certain the federal government will file a motion to dismiss the case under the AIA, which bars federal courts from hearing challenges related to assessment or collection of any tax. Smith noted that the states seem to have anticipated the claim that the feds will invoke the AIA based on language in the complaint.

In paragraph 28 of the complaint, the states argue that "Congress has not provided an alternative procedure for the Plaintiff States to challenge the constitutionality of the new \$10,000 cap on the SALT deduction." Smith said that that language appears to try to persuade the court that the case should proceed similar to a tax challenge allowed to go forward in *South Carolina v. Regan*, 465 U.S. 367 (1984).

Smith said the federal government may try to distinguish the states' case from *Regan* by arguing that in the latter case, South Carolina would have been required to do something issue bonds to find someone to take the case to the court. However, because so many people in the states involved in the current case will be affected, the government may argue it would make sense to wait for an affected individual to bring suit, Smith added.