



Pat Smith Quoted in the Daily Tax Report on Policy Statement by IRS and Treasury on Tax Regulatory Guidance.

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IPB attorney Pat Smith was quoted in Bloomberg Tax's Daily Tax Report on the policy statement by the IRS and Treasury on tax regulatory guidance. *Treasury Limiting Its Own Power' to Fight Taxpayers in Court*.

In the case of *Auer* deference, "they are giving up something real," said Patrick J. Smith, a partner at Ivins, Phillips & Barker, Chartered in Washington.

That doctrine says that an agency will receive deference for interpretations of its own regulations that have been issued using notice-and-comment procedures. This deference should also apply to situations where an interpretation of such regulations is made in another document, such as a notice, that didn't undergo that same process, Smith said in an email.

"The IRS has not invoked *Auer* deference with any frequency in the past, but as long as the doctrine remains outstanding, it would have been applicable to interpretations of tax regulations where the interpretations are set forth in documents like revenue rulings," Smith said.

It's a different story for *Chevron*. The Internal Revenue Service used to seek *Chevron* deference for revenue rulings, but ended the practice after a 2011 Supreme Court decision. So the policy announcement isn't new in that respect, Smith said.