



Pat Smith Quoted in a Tax Notes Article About Ninth Circuit Mailbox Rule Case as a Potential Vehicle to Overrule Chevron.

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IPB attorney Pat Smith was quoted in a *Tax Notes* article suggesting that the recent Ninth Circuit *Baldwin* decision upholding the validity of a regulation on the mailbox rule could represent a potential vehicle for challenging the *Chevron* decision in the Supreme Court. *Can the Humble Mailbox Rule Bring Monumental Changes to Chevron?*

Patrick J. Smith of Ivins, Phillips & Barker Chtd. agreed. He took offense with the Ninth Circuit's rationale and found the case a sympathetic one for taxpayers. "It seems like a particularly egregious example of what's wrong with *Chevron*," Smith said, adding that the most straightforward reading of the statute is as a safe harbor. "I can well imagine that any justices on the Supreme Court that are not fans of *Chevron* would think that this would be an extremely appealing vehicle. . . . Even though the Supreme Court doesn't typically like tax cases, they might, partly for that reason, think here is the IRS overreaching."

Speculating beyond the case, Smith also took special note of Judge Susan Graber sitting in on the decision in *Baldwin*. Given that Graber is also the new judge sitting in on the reargument in *Altera v. Commissioner*, Nos. 16-70496 and 16-70497 (9th Cir. 2018) on the administrative validity of cost-sharing regs, taxpayers may find no comfort to see her rule in favor of the government in *Baldwin*, he said.