



Pat Smith Quoted in Law 360 Tax Authority on Third Circuit Decision in SIH Partners

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IPB attorney Pat Smith was quoted in the lead article in today's *Law 360 Tax Authority* on the Third Circuit's recent decision in *SIH Partners* rejecting the taxpayer's challenge to the validity of regulations under section 956 dealing with the treatment of guarantees by a CFC of loans to the CFC's US shareholder by third parties as if the loans were held directly by the CFC. *3rd Circ. Gives IRS Ammo In Fighting Challenges To Old Regs.*

Patrick J. Smith, partner with Ivins Phillips & Barker Chtd., said this aspect of the panel's reasoning [rejecting the taxpayer's arguments on the basis that they relied on developments subsequent to the time when the regulations were issued] was much broader than necessary because SIH's arguments could have failed on other grounds.

He said that more weight should have been placed on SIH's argument about multiple guarantees, with a focus on how the company wasn't harmed by the rules because its Section 956 income inclusion didn't add up to multiple times the Merrill Lynch loan.

"That would have been a much more satisfying way, in my opinion, for the court to deal with that argument," Smith said.

As he saw it, the panel's decision to issue broad reasoning could affect future challenges to regulations.

"That's certainly the fear I have, that the IRS in the Tax Court and the [U.S.] Justice Department in other courts will be citing this case, this decision, in pretty much every challenge to a tax regulation from now on," Smith said.