



Pat Smith Quoted in Tax Notes on Petition for Rehearing in CIC Services

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IPB attorney Pat Smith was quoted in an article in *Tax Notes* on the petition for rehearing *en banc* that has been filed in the Sixth Circuit in the *CIC Services* case, dealing with the Anti-Injunction Act. *Captive Adviser Urges Court to Revisit Microcaptive Notice*.

Patrick J. Smith of Ivins, Phillips & Barker Chtd. told *Tax Notes* he was disappointed that *CIC Services'* petition focuses so heavily on distinguishing between a challenge to a regulation and a challenge to a tax penalty.

"I would've preferred that they focus on the fact that because this plaintiff has complied with the notice and hasn't done anything that would permit the IRS to impose the penalty, the AIA couldn't possibly apply when it's given the narrow reading consistent with *Direct Marketing*," Smith explained.

Even if *CIC Services* were to eventually prevail in the Sixth Circuit or at the Supreme Court, any decision would have limited applicability, Smith added. "It wouldn't apply in cases where somebody was unhappy just with a normal tax regulation that had the effect of increasing their taxes, which is the posture that you have most of the time in pre-enforcement challenges," he said.