



Pat Smith Quoted in Tax Notes on Governments Answer in *Silver v. IRS*

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IPB attorney Pat Smith was quoted in a *Tax Notes* article on the government's answer in the DC federal district court case *Silver v. Internal Revenue Service. DOJ Doubles Down on Spurned Arguments in Silver, Offers New Ones.*

Patrick J. Smith of Ivins, Phillips & Barker Chtd. said he was not at all surprised that the government repeated its standing or AIA arguments, despite the court's previously rejecting them.

"The government wants to leave no doubt of its position on these issues and undoubtedly is looking forward to getting this case to the D.C. Circuit, where I am sure they anticipate a more receptive audience to at least the AIA argument," Smith said.

Finally, the answer argues that "there is no ground for declaratory and injunctive relief, because any alleged injury sustained by Plaintiffs will not and cannot recur in the future."

Smith flagged this argument, centering on the one-time analysis of the applicability of section 965, as potentially the most interesting affirmative defense.

"It is clearly correct that past injury doesn't confer standing. However, this argument is somewhat inconsistent with some of the things they have said in prior filings which suggested that the plaintiff might owe tax in the future under section 965 even though no tax was owed for the transition year," Smith said. "Those statements in prior filings were clearly incorrect based on the fact, which they now acknowledge, that the section 965 tax is a one-time tax."