



Pat Smith Quoted in Tax Notes on Government Brief in Response to Cert Petition in CIC Services Case

PRACTICE AREAS

Tax

Tax Accounting

Tax Notes

March 27, 2020

IPB attorney Pat Smith was quoted in a *Tax Notes* article about the government's brief in opposition to the cert petition in the *CIC Services* case on the Anti-Injunction Act. *No Need for Supreme Court to Review Microcaptive Notice, Says DOJ.*

Patrick J. Smith of Ivins, Phillips & Barker Chtd. said he thought it was interesting that the government seemed to take a different approach in arguing that the Court's narrow interpretation of the Tax Injunction Act in *Direct Marketing* shouldn't apply to an interpretation of the AIA.

In its briefs to the Sixth Circuit and in other courts of appeal, the Justice Department has pointed out that the Tax Injunction Act is written somewhat differently from the AIA, said Smith, who also filed an amicus brief.

"The government cites the fact that the Tax Injunction Act has a list of three words—restrain, enjoin, and suspend—and the fact that the Supreme Court interpreted the word 'restrain' narrowly because it is preceded by 'enjoin' and 'suspend,'" Smith explained. "Whereas in the Anti-Injunction Act, the word 'restrain' doesn't have those other words joined with it."

"They didn't make that argument here," Smith said. "They relied entirely on the argument that Justice Kavanaugh relied on in his majority opinion in *Florida Bankers* that the penalty for noncompliance in *Direct Marketing* wasn't labeled as a tax."