



Is the Anti-Injunction Act Jurisdictional?

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Tax Notes

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Patrick J. Smith is a partner at Ivins, Phillips & Barker. An issue that has been raised in the constitutional challenges to the Patient Protection and Affordable Care Act (PPACA) is whether the litigation is premature and barred by the Anti-Injunction Act (AIA) until the disputed PPACA provisions have gone into effect, on the grounds that the litigation would restrain the assessment or collection of a tax.

Whether the AIA bars the litigation depends in part on whether it is jurisdictional and therefore deprives federal courts of jurisdiction when it applies. Despite dictum to the contrary in earlier decisions, a more recent line of Supreme Court authority, which addresses what requirements for being in court are jurisdictional, calls into question the continuing validity of jurisdictional characterization for the AIA.