



# What We Didn't Learn From Home Concrete

## PRACTICE AREAS

Tax

Tax Accounting

Tax Controversies

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*Tax Notes*

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The Supreme Court's recent decision in *Home Concrete* was disappointing in every respect except that the taxpayer won. The case raised several significant issues concerning the application of the *Chevron* test for evaluating the validity of regulations, the scope of the *Brand X* rule for when agencies are permitted to overrule court decisions on issues of statutory interpretation, and the IRS's authority to issue retroactive and temporary regulations. However, the decision provided authoritative guidance on none of those issues, because of the lack of a majority opinion on the reason the regulation was substantively invalid and because the holding of substantive invalidity made it unnecessary to reach the retroactivity and procedural issues.