

Contact**Houston**

1200 Smith Street, Suite 1400
Houston, Texas 77002-4310
Tel: 713.658.1818
Fax: 713.658.2553

Atlanta

191 Peachtree Street, N.E.,
Forty-Sixth Floor
Atlanta, Georgia 30303
Tel: 404.659.1410
Fax: 404.659.1852

Philadelphia

50 South 16th Street, Suite
1700
Philadelphia, PA 19102
Tel: 610.772.2300
Fax: 610.772.2305

San Antonio

112 East Pecan Street, Suite
1450
San Antonio, Texas 78205
Tel: 210.253.8383
Fax: 210.253.8384

“Justices' Microcaptive Ruling Chips At Tax Exceptionalism”

Quote by Phil Karter in article on “Justices' Microcaptive Ruling Chips At Tax Exceptionalism”

Law360

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In an article published on June 25, 2021, in Law360, Philadelphia-based Shareholder Phil Karter discusses how the United States Supreme Court last month allowed a captive insurance manager to challenge the IRS not requiring disclosure to micro captive transactions.

“Tax exceptionalism has been chipped away at since the Supreme Court's 2011 decision in *Mayo Foundation v. U.S.*, which made clear that courts did not need to give special treatment to tax regulations and rules,” explains Karter.

He further shared that from here tax exceptionalism will depend partly on how the Sixth Circuit evaluates CIC Services' claims on the substantive APA grounds. “Now that you've gotten past the barrier of the AIA ... you have yet to answer the question of whether it violates the APA. That's why they remanded the case to the Sixth Circuit, to find out if the rules required a notice and comment period before they were put into effect. However, even if CIC Services succeeds in its APA challenge, the effect of the case may be limited, as indicated by a concurring opinion from Justice Sonia Sotomayor,” explains Karter.

To read the full article, subscribers may [click here](#).