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“4 Federal Tax Cases To Watch In 2021’s 2nd Half”

Quote by Phil Karter in article on “4 Federal Tax Cases To Watch In 2021’s 2nd Half”

Law360

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In an article published on July 9, 2021, in *Law360*, Philadelphia-based Shareholder Phil Karter shares insight on some of the top federal tax cases to watch throughout the remainder of 2021, specifically *CIC Services LLC et al. v. Internal Revenue Service et al.*

“Now that the case has cleared the AIA hurdle, how the Sixth Circuit analyzes the company's underlying claims under the APA is key,” explains Karter. “I think it will be significant because the story is only half-written, what is the circuit court going to do on remand? Given the consequences for noncompliance with the notice, I have to believe that this will be construed as a rule that is intended to have the force of law and therefore must follow the [APA's] notice-and-comment requirements.”

According to the article the CIC filed a complaint in March 2017 challenging the IRS notice as a “legislative type” of agency rule that violated the notice-and-comment requirements of the APA. Under that law, the IRS should have first published a general notice of rulemaking in the Federal Register and allowed the public to comment before finalizing its reporting rule, but the November notice gave no such prior notice and requested only comments after the fact, according to the complaint.

Karter further explains that, “To be truthful, the IRS should be encouraged in a case like *CIC* not to try to short-circuit the APA. Perhaps had they not done so, some of the legitimate practical concerns raised by companies like *CIC* could have been considered and addressed,” he said. “That's the whole point of the notice-and-comment process.”

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