

In The News

# Erin R. Hines Discusses Subpoena Use in Tax Court and the Stored Communications Act in *Tax Notes*

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Akerman Tax Practice Group Partner [Erin R. Hines](#) contributed to *Tax Notes* with “Subpoena Use in Tax Court and Stored Communications Act,” exploring how the Stored Communications Act (SCA) constrains the ability of all civil litigants, including the IRS, to obtain electronic communications from service providers through third-party subpoenas in U.S. Tax Court.

Using the consolidated Mukhi cases as a case study, Erin traces how the IRS sought a complete set of email communications from Yahoo and Google in connection with a civil fraud penalty case, noting that the SCA, despite its clear applicability, went unaddressed in both the IRS’s motion and the court’s order. She explains that the SCA prohibits service providers from disclosing stored electronic communications in response to a civil subpoena unless a specific statutory exception applies, and highlights a significant gap in IRS guidance, which addresses the SCA in criminal and administrative contexts but does not clearly extend to civil Tax Court proceedings.

Erin concludes that as Tax Court discovery tools continue to expand, litigants on all sides must identify potential SCA issues and raise appropriate objections early, because unlike many evidentiary rules, the SCA does not provide for suppression of

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improperly obtained communications, meaning once a disclosure is made in violation of the law, it cannot be undone.

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