

MAYO WILL SUBVERT TAX CODE EQUITY, TAXPAYER ADVOCATE PREDICTS

The Supreme Court's unanimous decision in *Mayo*, requiring greater judicial deference for Treasury regulations, will have negative consequences for the tax system, National Taxpayer Advocate Nina Olson predicted January 25.

Olson, speaking on her own behalf at the 2011 Tax Institute in Los Angeles sponsored by the University of Southern California Gould School of Law, told practitioners that she expects *Mayo* to introduce more discrimination into the tax system and to provide "a boon to lobbyists." (For related coverage, see p. 538. For *Mayo Foundation for Medical Education and Research v. United States*, Sup. Ct. Dkt. No. 09-837, see Doc 2011-609 or 2011 TNT 8-10.)

Taxpayers who can pay for access to government officials who write regulations will have an advantage, Olson said. "People who are represented will have a greater chance of having their positions being presented to decision-makers, both in Treasury and IRS and chief counsel, whereas taxpayers who don't have those means will not," she said.

Olson said the IRS should not be given "unfettered discretion" and that she will ask Congress in her next annual report to use more specific language. "When Congress is not clear [in the statute], the IRS works to narrow the avenues of relief, even to the subversion of the very point of the statute," she said. She pointed to the IRS's handling of a recent innocent spouse relief case in which the agency denied equitable innocent spouse relief to a woman who had been abused by her husband. (For related coverage, see p. 554. For *Stephenson v. Commissioner*, T.C. Memo. 2011-16 (Jan. 20, 2011), see Doc 2011-1333 or 2011 TNT 14-15.)

"People rue the day that Congress micromanages the IRS, but if it is not a responsible steward of the great authority and responsibility that it has, then it should be micromanaged," Olson said. ■

— Stephanie Berrong