

## Victor Jaramillo and Jonathan Black Comment on *Flora* Rule in Bloomberg Tax

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The government's once-niche power to levy tax penalties that courts say they can't review until fully paid has exploded, prompting calls for Congress to address a growing barrier-to-justice issue.

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Victor Jaramillo, a Member at Caplin & Drysdale, said he has seen clients dealing with assessable penalty determinations tied to foreign trust and gift reporting requirements ranging from \$2 million to \$90 million.

The Flora rule also will add a barrier to challenging penalties for noncompliance with new cryptocurrency reporting requirements for the 2023 tax year. The bipartisan infrastructure law enacted last fall requires those designated as crypto "brokers" to send information to the IRS, a reporting mandate backed by an assessable penalty under tax code Section 6721.

"I assume that all lawyers see this as an access-to-justice issue," said former IRS attorney Jonathan Black, now an Associate at Caplin & Drysdale. "In the private practice, we generally represent people who can afford our representation, and even for them, the way the IRS is asserting some of these penalties—essentially without ever reviewing them—is really harsh."

For the full article, please visit *Bloomberg Tax's* website (subscription required).

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