



letters to the editor

AMT Critic Wasn't Critical Enough

To the Editor:

I am writing to comment on the article by Daniel Shaviro, "Tax Simplification and the Alternative Minimum Tax," *Tax Notes* (May 28, 2001) (Special Supplement), p. 1455. As a nonacademic (i.e., low-brow tax practitioner who does not think too much about tax policy considerations), I found much of this lengthy article, though interesting, over my head. I did want to draw your readers, however, to what I view as the most compelling part of Professor Shaviro's article.

On pages 1465 and 1466, he states that the AMT treatment of miscellaneous itemized deductions "verges on the indefensible" *Id.* at p. 1465. He specifically references the *Alexander* case (the 1995 First Circuit Court of Appeals case that touched off the now-raging Circuit

Court debate over the deductibility of attorneys' fees). Professor Shaviro correctly points out that the *Alexander* case dramatically shows the horrible effects on a plaintiff when a contingent fee recovery is taxed to the plaintiff, and then must be claimed as a miscellaneous itemized deduction subject to AMT. My only complaint is that this brief discussion of the miscellaneous itemized deduction does not go far enough in its examples, and does not stress enough the injustice of this rule. I think that the AMT treatment of such items does not verge on the indefensible. It flatly *is* indefensible.

Very truly yours,

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