***First Western Government Securities, Inc. v. Commissioner, 94 T. C. 549 (1990)***

The Tax Court's Chief Judge has the authority to appoint special trial judges, who are inferior officers under the Appointments Clause of the U. S. Constitution.

**Summary**

The case of First Western Government Securities, Inc. v. Commissioner addressed whether the Chief Judge of the U. S. Tax Court could constitutionally appoint special trial judges under Section 7443A of the Internal Revenue Code. The court held that special trial judges are inferior officers, and thus, the Chief Judge's authority to appoint them is consistent with the Appointments Clause. The court also ruled that the Tax Court, as an Article I court, qualifies as a "court of law" under the Constitution, thereby permitting such appointments. This decision has significant implications for the efficient management of the Tax Court's caseload and the delegation of judicial duties.

**Facts**

The petitioners, involved in over 3,000 tax shelter cases, challenged the assignment of their cases to Special Trial Judge Powell. They argued that Section 7443A of the Internal Revenue Code did not authorize the Chief Judge to assign cases involving more than $10,000 to special trial judges and that such appointments violated the Appointments Clause of the U. S. Constitution. The Tax Court, dealing with a large volume of cases, had historically utilized special trial judges to manage its workload efficiently.

**Procedural History**

The petitioners filed motions to vacate the assignment of their cases to a special trial judge. The Tax Court consolidated these motions for consideration. The respondent objected to the motions, and the court issued an opinion upholding the authority of the Chief Judge to assign cases to special trial judges. The court also certified the case for interlocutory appeal to address the constitutional question.

**Issue(s)**

1. Whether Section 7443A of the Internal Revenue Code authorizes the Chief Judge of the Tax Court to assign cases involving more than $10,000 to special trial judges.
2. Whether special trial judges appointed by the Chief Judge of the Tax Court are inferior officers under the Appointments Clause of the U. S. Constitution.
3. Whether the Tax Court, as an Article I court, is a "court of law" under the Appointments Clause, thereby permitting the Chief Judge to appoint inferior officers.
4. Whether the Chief Judge's authority to appoint special trial judges violates the Appointments Clause.

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## Holding

1. Yes, because Section 7443A(b)(4) allows the Chief Judge to assign any proceeding to special trial judges, subject to review by a Tax Court judge.
2. Yes, because special trial judges exercise significant authority and are subject to the Chief Judge's power to appoint and remove them.
3. Yes, because the Tax Court is a duly constituted tribunal administering U. S. laws, fitting within the definition of "courts of law. "
4. No, because the Chief Judge's authority to appoint special trial judges is consistent with the Appointments Clause.

## Court's Reasoning

The court analyzed the statutory language and legislative history of Section 7443A, concluding that the Chief Judge could assign any proceeding to special trial judges, provided a Tax Court judge reviewed the decision. The court also determined that special trial judges are inferior officers because their duties are limited and subject to the Chief Judge's authority. The court interpreted the term "courts of law" in the Appointments Clause to include Article I courts like the Tax Court, as they exercise judicial power. The court rejected the petitioners' argument that the Chief Judge, as a legislative officer, could not appoint inferior officers, emphasizing that Tax Court judges are judicial officers appointed by the President. The court's decision was unanimous, and it certified the issue for interlocutory appeal due to its importance to the functioning of the Tax Court.

## Practical Implications

This decision affirms the Chief Judge's authority to appoint special trial judges, allowing the Tax Court to efficiently manage its large caseload. Practitioners should be aware that special trial judges can handle cases involving any amount, provided a Tax Court judge reviews the decision. The ruling may influence how other Article I courts delegate judicial duties. Businesses and taxpayers involved in tax disputes should understand that the use of special trial judges does not violate their constitutional rights. Subsequent cases, such as Freytag v. Commissioner, have applied this ruling, confirming the role of special trial judges in the Tax Court's operations.

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