tax talk

IRS Abused Discretion . . .

In OIC Rejection

An appeals officer abused his discretion when he rejected a taxpayer's offer in compromise (OIC) on the grounds that the taxpayer had sufficient future income to pay his 2002 tax liability in full.

Al Sampson was age 43 at the time of trial. He was sporadically employed throughout his adulthood, but he had no wages from 1998-2003. He had been a student at City College for the past several years, and he was a senior at the time of trial, but unsure when he would graduate. In 2002, he won a car valued at $38,540, which he reported on his 2002 tax return. However, he made no payments toward his tax liability. In 2004, the IRS made assessments for 2002 totaling $5,942. Sampson submitted an offer in compromise for $2,000 based on doubt as to collectibility. The appeals officer rejected his OIC based on future income.

Future income may be taken into consideration when determining whether an OIC is adequate and should be accepted. However, if a taxpayer has a sporadic employment history, earnings over several periods should be averaged. In this case, the taxpayer's average income over the several years prior to 2002 was close to zero. The appeals officer used the taxpayer's 2002 gross income and then projected that amount over a 48-month period, which was inaccurate.

In addition, future income does not include wages a student could have earned but chose to forego in order to pursue his studies (foregone earnings). The appeals officer erred again when he argued that the taxpayer's foregone earnings were sufficient to pay his 2002 tax liability in full.

Al Sampson v. Commissioner, T.C. Summary Opinion 2006-75

Break Up and a Baby . . .

Unforeseen Circumstances

An unmarried couple purchased a home together. After living there for seven months, they decided to end their relationship. At the same time they found out that the woman was one month pregnant. The house was too small to accommodate a family of three, and neither person could afford to keep the house on his or her own. Hence, they decided to sell the home and realized a profit on the sale.

Generally, taxpayers may exclude up to $250,000 ($500,000 if married filing a joint return) on the sale of a primary residence they owned and occupied for two out of the past five years.

They requested a private letter ruling from the IRS asking that they each be allowed a reduced §121 exclusion. Under Reg. §1.121-3(e)(3), the IRS may grant taxpayers a reduced §121 exclusion if the circumstances of the taxpayer could not have been anticipated at the time they purchased the residence. In this case, the IRS granted a reduced exclusion, as the facts and circumstances facing the couple were unforeseen.

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