

N(35)851-1

March 1, 1999

Processing Small Tax Cases
Subject: and Other Small Cases

Cancellation Date: August 28, 1999

The purpose of this Notice is to address the potential impact on the administration of the Internal Revenue laws caused by the increase in the jurisdictional amount for cases eligible for treatment under the "small tax case" procedures prescribed by I.R.C. § 7463.

Section 3103 of the IRS Restructuring and Reform Act of 1998 (RRA'98) amends section 7463 by increasing the amount in dispute eligible for small case treatment from \$10,000 to \$50,000. This increase in the jurisdictional amount is likely to result in the inclusion of cases presenting novel or important issues within the small case category. Small tax cases traditionally are decided under relaxed evidentiary and trial preparation procedures and decisions in such cases may not be appealed by either party. These procedures may not be appropriate for cases presenting unique, novel, or important issues for which precedent needs to be established, even though the amount in dispute in such cases falls within the new jurisdictional limit.

The Senate Committee Report for section 3103 states:

The Committee recognizes that an increase of this size may encompass a small number of cases of significant precedential value. Accordingly, the Committee anticipates that the Tax Court will carefully consider IRS objections to small case treatment, such as objections based upon the potential precedential value of the case.

The Chief Judge has also commented that, since the enactment of RRA '98, it is important for the parties to carefully screen small tax cases to ensure that important cases are not decided under the relaxed procedures applicable to small tax cases.

To ensure that cases are processed under appropriate procedures, cases should be examined by a field manager, upon receipt by the Field office, to determine whether a case docketed as a small tax case should be discontinued as a small case and

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reclassified under the Tax Court's regular case procedures. Cases of first impression, cases affecting other taxpayers, and cases presenting novel or important issues for which precedent should be established generally should not be decided under the small case procedures. If a Field office determines that an individual small tax case should not proceed under the section 7463 election, an appropriate motion to remove the small tax case designation should be filed pursuant to Tax Court Rule 172(c). The sooner a Tax Court Rule 172(c) motion is filed the more likely it is that the motion will be granted. Accordingly such a motion should be filed as soon as possible after receipt and screening. The filing of the motion should not be delayed until after Appeals consideration even if the case may lend itself to settlement.

This Notice will be incorporated into the CCDM when next revised. Any questions with respect to the foregoing may be directed to the Procedural Branch of the Field Service Division at (202) 622-7950.

/s/

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