

Appeals Closing Cases Involving Unsettled Listed Transactions

Announcement 2006-100

The Internal Revenue Service announced today that it is updating its procedures relating to cases involving a listed transaction with respect to which the Office of Appeals and the taxpayer are unable to reach a satisfactory settlement. The new procedures take effect today and are part of a continuing effort by the IRS to ensure the efficiency and integrity of tax administration, while at the same time successfully combating abusive tax avoidance transactions.

When a settlement cannot be reached by the Office of Appeals in a case that is not docketed in the Tax Court, it is expected that the case will proceed to litigation. The Service wants to ensure that it has fully developed the limited number of unagreed cases that involve listed transactions (within the meaning of Treas. Reg. § 1.6011-4) before it sends a statutory notice of deficiency (or other determination notice triggering litigation rights) to the taxpayer. Consequently, the Service is revising its procedures to provide that when the Office of Appeals and the taxpayer are unable to reach a satisfactory settlement in a nondocketed case involving a listed transaction, the Office of Appeals will close out its consideration, notify the taxpayer, and send the case to the appropriate Operating Division for further handling. The process by which a taxpayer seeks consideration of the case by the Office of Appeals, and the manner in which Appeals and the taxpayer attempt to settle the case remain unchanged.

After the case is closed by the Office of Appeals, the Operating Division will determine whether the unsettled adjustments relating to the listed transaction merit further development. If not, a statutory notice of deficiency (or other appropriate notice) will be issued to the taxpayer by the Operating Division. If further case development is deemed necessary, additional development of the case will proceed and the statutory notice of deficiency (or other appropriate notice) will be issued to the taxpayer by the Operating Division after the development is completed. The decision to further develop a case is expected to rarely occur and will be made by the Commissioner of the Operating Division after consultation with the Office of Chief Counsel to ensure national consistency.