



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

OFFICE OF  
CHIEF COUNSEL

June 10, 2002

Number: **200228022**  
CC:PA:APJP:B3  
GL-110477-02  
UILC: 7463.00-00

INTERNAL REVENUE SERVICE NATIONAL OFFICE SERVICE CENTER ADVICE

MEMORANDUM FOR ANN L. GELINEAU W:C:E:C C7-201  
SUPERVISORY PROGRAM ANALYST  
WAGE & INVESTMENT DIVISION

CONNIE L. HILL S:CAS  
MANAGEMENT & PROGRAM ANALYST  
SBSE CUSTOMER ACCT. SERV.

FROM: Peter K. Reilly CC:PA:APJP:B3  
Special Counsel (Tax Practice and Procedure)  
Administrative Provisions and Judicial Practice

SUBJECT: Statutory Notice of Deficiency Language for Small Tax Cases

This Significant Service Center Advice responds to your memorandum dated April 3, 2002, in connection with questions posed by the Atlanta Service Center. In accordance with I.R.C. § 6110(k)(3), this Chief Counsel Advice should not be cited as precedent.

ISSUES

1. Should the language detailing the "S" case election in the notice of deficiency be clarified in future versions of the notice?
2. If the language needs to be clarified, should the changes be made nationwide?

CONCLUSIONS

1. The language regarding the election should be modified to clarify that the dollar limitation is applied to each year in issue separately.
2. These changes should be made to all notices of deficiency being issued.

FACTS

GL-110477-02

At present, statutory notices of deficiency are issued with the following paragraph:

The Tax Court has a simplified procedure for small tax cases when the amount in dispute is \$50,000 or less for any one tax year. You may represent yourself before the Tax Court, or you may be represented by anyone admitted to practice before the Tax Court. There is a fee to file the petition and each decision is final. You may get this information also from the Tax Court.

The present wording of the first sentence is somewhat ambiguous and has resulted in some confusion. Some taxpayers have erroneously interpreted this sentence as allowing the small tax case procedures where the liability of any of the years in issue is \$50,000 or less, rather than the requirement that all years in issue must meet the threshold.

## LAW AND ANALYSIS

### Issue 1:

I.R.C. § 7463 and T.C. Rule 171 set out the criteria for a small tax case. As explained above, some taxpayers have misunderstood the present wording of the statutory notice of deficiency and petitioned multiple years as small tax cases where the amount in dispute for only some of the years in issue are \$50,000 or less. It has been suggested that the applicable language of the notice of deficiency be modified as emphasized below:

The Tax Court has a simplified procedure for small tax cases when the amount in dispute is \$50,000 or less for any one tax year. *If the dispute involves multiple tax years, then the amount in dispute for each of the tax years must be \$50,000 or less.* You may represent yourself before the Tax Court, or you may be represented by anyone admitted to practice before the Tax Court. There is a fee to file the petition and each decision is final. You may get this information also from the Tax Court.

The current language in the notice is causing some confusion, which is, in turn, requiring additional steps during the trial phase, i.e., the filing of motions to remove the “S” designation. By simply adjusting the language, it may help clarify the rule for taxpayers as well as save some time and effort on the part of these taxpayers and Counsel attorneys. Thus, we recommend the following language:

The Tax Court has a simplified procedure for small tax cases when the amount in dispute is \$50,000 or less. If you intend to file a petition for multiple tax years, then the amount in dispute for each of the tax years

GL-110477-02

must be \$50,000 or less in order to use this procedure. You may represent yourself before the Tax Court, or you may be represented by anyone admitted to practice before the Tax Court. If you use this procedure, you cannot appeal the Tax Court's decision. You may also get this information from the Tax Court.

Issue 2:

We would note that the confusion caused by the present, unmodified language is probably not limited to the taxpayers in the area requesting this advice. As such, we would suggest such modification be instituted nationwide.

This writing may contain privileged information. Any unauthorized disclosure of this writing may have an adverse effect on privileges, such as the attorney client privilege. If disclosure becomes necessary, please contact this office for our views.

Please call if you have any further questions.