

SYNOPSIS

PERSONAL INCOME TAX – INNOCENT SPOUSE RELIEF NOT APPROVED – For co-Petitioner to obtain relief from assessment based upon federal income tax changes requires approval from the Internal Revenue Service as to “innocent spouse” relief, rather than just application for such relief.

ADMINISTRATIVE DECISION

the Internal Auditing Division issued a personal income tax assessment against the Petitioners. This assessment was for the year 1996 for tax, interest, through June 25, 2001, and additions to tax.

Thereafter, Petitioners timely filed a petition for reassessment by mail postmarked August 1, 2001.

A hearing on the petition was scheduled and the Petitioners received notice of the hearing. There was no appearance on behalf of the Petitioners when the hearing was convened. The hearing was held, however, without an appearance on behalf of the Petitioners, in accordance with the provisions of W. Va. Code § 11-10-9.

FACTS

The aforementioned assessment arose because the Internal Revenue Service increased Petitioners federal taxable income for the year 1996.

In her petition for reassessment, co-Petitioner, stated that she was endeavoring to obtain relief from the assessment under the “innocent spouse” provisions of the Internal Revenue Code.

Proof of final approval regarding the innocent spouse relief request was never submitted to this tribunal.

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

ISSUE AND DETERMINATION

The sole issue is whether the Petitioner should obtain relief from the assessment as an innocent spouse.

Although this tribunal would honor such approval if made by the Internal Revenue Service, no final approval of same was ever communicated to this tribunal by the co-Petitioner.

Accordingly, it is **DETERMINED** that the Petitioner has failed to carry the burden of proof with respect to this issue.

WHEREFORE, it is the **DECISION** of the **STATE TAX COMMISSIONER OF WEST VIRGINIA** that the personal income tax assessment issued against the Petitioners for the years 1996, for tax, interest, updated through September 30, 2002, and additions to tax, should be and is hereby **AFFIRMED**.

It is further **DETERMINED** that the interest on this tax liability for the period of October 1, 2002 through the date of this Administrative Decision is **ABATED**, pursuant to the provisions of the W. Va. Code § 11-10-7b(a)(2).