ED SLOTT'S IRA ADVISOR

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TAX & ESTATE PLANNING FOR YOUR RETIREMENT SAVINGS

Plan's Big Mistake Leads to Big Tax Problems for Participant

CCA 201313025
Released March 29, 2013

In a recent Chief Counsel Advice, IRS addressed what happens when an employee received an overpayment from her employer retirement plan along with an incorrect Form 1099-R, and then relied on that information in determining how much of her distribution was eligible for rollover. Years after having completed the rollover, the taxpayer found out about the overpayment and realized that a portion of her plan distribution wasn't rollover eligible and created an excess IRA contribution.

According to IRS, since the taxpayer excluded the full value of her plan distribution from her income (claiming a valid rollover) on a return that had passed the statute of limitations, she was unable to exclude distributions made to correct the excess amounts from income in later years. The Service also determined she was subject to the 6% penalty for excess contributions.

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A Chief Counsel Advice (CCA) is an IRS memo written in response to requests for guidance from IRS field agents.

Facts Leading to the Issuance of the Chief Counsel Advice

Note: *In CCA 201313025, the years in which transactions took place have been redacted for privacy reasons. However, for clarity purposes, we have included years for those transactions in the section below, so that the series of events is easier to understand.*

In 2006 "Ann" received a lump sum distribution from her employer's retirement plan. A portion of this distribution was the correct amount she should have received, and a portion of the distribution represented an overpayment that was erroneously processed by the plan. The plan issued an

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