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SF Agent's Deferred Plan Not Taxable, Tax Court Says

Click bait headline!!!

ABSOLUTELY FALSE. This is not what the results of the case were. But you can see why we have received this email and link from numerous Agents. So instead of letting the brush fire spread, we are going to pour some water on it to put the flames out. You must look at the facts and circumstances of the case. The case is *Alvin E. Keels Sr. v. Commissioner of Internal Revenue*, docket number 15853-16, in the U.S.. Tax Court.

In the case referenced above, the Agent took a deduction on his schedule C for the amounts that went into his deferred compensation account, which is exactly what our firm had always done prior to SF changing how it was reported. Prior to 2014, the gross amount of compensation was reported on your 1099 and was not net of deferred compensation. To properly report the net amount we (and in this case the agent) took a deduction for the amount deferred (he showed as an employee benefit, we took a deduction against gross income to avoid raising flags, which is what happened in this case). We had always believed the deferred compensation plan offered to Agents fell within the guidelines required by the IRS. Beginning in 2014, SF has taken this stance, given they now report the 1099 net of deferred compensation. In the case above, the IRS disallowed the expense, the taxpayer disagreed and the tax court agreed with the Agent and reversed the IRS decision, thereby allowing the expense on the grounds the IRS did not prove the deferred compensation plan was not an allowed deferred compensation plan under IRS guidelines. This does not state the deferred compensation will not be taxable once it is received. In fact, the Agent referenced in the case is still an active agent and anyone who has participated in the deferred comp program knows you must separate service with SF to get your deferred compensation (one of the many requirements to meet the statute to be treated as a proper plan). There are instances of divorce, but those are dictated by state law and do not make the plan non-compliant.

As anyone who has received deferred compensation knows, the amounts will be reported by SF on a 1099 and are taxable once received. This is in line with how deferred compensation programs are treated. If this case does anything, it reaffirms the fact anyone who has always treated this program as a deferred compensation program was, in fact, correct.

Feel free to share this with others, we will also post something on our website.

Let us know if you have questions.

As always, our goal is to keep you informed with accurate information.

Eric, Brett and the Hjerpe & Tennison Team