

## ABA SECTION OF TAXATION MEETING

**Taxpayer Advocate Blasts IRS's Handling of Innocent Spouse Case**

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National Taxpayer Advocate Nina Olson on January 22 denounced the IRS for its handling of a recent innocent spouse relief case, describing as unconscionable its decision to deny equitable innocent spouse relief to a woman abused by her husband.

Olson spoke at a Low Income Taxpayers session of the American Bar Association Section of Taxation's meeting in Boca Raton, Fla., where she decried what she said is a lack of knowledge about domestic violence among IRS employees who handle innocent spouse relief. She also said there is a need to change section 6015(f), the provision under which the woman sought equitable relief.

The Tax Court on January 20 rejected the IRS's position in *Stephenson v. Commissioner* that the woman, Valarie Stephenson, was not entitled to relief. According to the opinion, Stephenson suffered physical and verbal abuse by her husband and in 2007 left and ultimately divorced him. Stephenson started filing tax returns with the IRS but learned of a 1999 joint tax liability she had with her ex-husband that had not been paid and that her ex-husband had not filed a 2005 income tax return. She then filed her own 2005 return and asked the IRS for relief from joint and several liability for the 1999 and 2004 tax years. The IRS granted relief for 2004 but not 1999, saying the request was untimely. Stephenson challenged the denial in court. (For *Stephenson*, T.C. Memo. 2011-16 (Jan. 20, 2011), see *Doc 2011-1333* or *2011 TNT 14-15*.)

The court concluded, based on several factors, that Stephenson was entitled to equitable relief. One factor, articulated in Rev. Proc. 2003-61, that favored her request is the abuse she suffered at the hands of her husband, according to the court. It rejected the IRS's position that her testimony that she had been abused was not credible because she had not documented it, pointing out that her testimony had been corroborated by a friend who had seen bruises on her body. (For Rev. Proc. 2003-61, 2003-2 C.B. 296, see *Doc 2003-17345* or *2003 TNT 143-10*.)

Although Olson acknowledged that the IRS faces difficulties administering the tax laws and said the agency has good and honorable employees, she criticized it for not trying to settle the case, not recognizing the hardship Stephenson suffered, and not recognizing that Stephenson was trying her best

to comply with the law. Olson said the IRS displayed an astonishing ignorance about what happens to people in abusive relationships.

"This case has made me ashamed of the IRS," Olson said.

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Olson also criticized a regulation that she said effectively establishes a two-year statute of limitation on seeking equitable relief. Her 2010 annual report to Congress, released January 5, notes that the IRS continues to enforce the two-year rule even though she has recommended its elimination and the Tax Court has struck it down, calling it a misinterpretation of section 6015(f). Olson recommended that the regulation be changed to clarify that the period during which a taxpayer can claim equitable relief under section 6015(f) is concurrent with the applicable limitations period on collection, and she said her office is working with Congress on the matter. (For the report, see *Doc 2011-220* or *2011 TNT 4-23*. For *Hall v. Commissioner*, 135 T.C. No. 19 (Sept. 22, 2010), see *Doc 2010-20733* or *2010 TNT 184-11*.)

The regulations have been upheld by several circuit courts. (For prior coverage, see *Tax Notes*, Jan. 24, 2011, p. 395, *Doc 2011-1173*, or *2011 TNT 13-10*.)

"I will do everything in my power to raise this to every single congressman and every single congresswoman and every single senator, so that we get 6015(f) changed," Olson said. ■