
**PURSUANT TO INTERNAL REVENUE CODE
SECTION 7463(b), THIS OPINION MAY NOT
BE TREATED AS PRECEDENT FOR ANY
OTHER CASE.**

T.C. Summary Opinion 2008-160

UNITED STATES TAX COURT

RENITA ROSE BEST, Petitioner v.
COMMISSIONER OF INTERNAL REVENUE, Respondent

Docket No. 6192-07S.

Filed December 23, 2008.

Renita Rose Best, pro se.

Michael A. Pesavento, for respondent.

SWIFT, Judge: This case was heard pursuant to the provisions of section 7463 of the Internal Revenue Code in effect when the petition was filed. Pursuant to section 7463(b), the decision to be entered is not reviewable by any other court, and this opinion shall not be treated as precedent for any other case.

Respondent determined a \$2,246 deficiency in petitioner's Federal income tax for 2004. The only issue for decision is whether petitioner is liable for a 10-percent \$1,971 additional tax under section 72(t)(1) on an early withdrawal of \$19,706 from her individual retirement account (IRA).

Unless otherwise indicated, all section references are to the Internal Revenue Code in effect for the year in issue.

Background

Some of the facts have been stipulated and are so found.

During 2004 when petitioner was 53 years old, petitioner received a \$19,706 early distribution from her IRA account at Wells Fargo Investments L.L.C. Petitioner requested the early distribution because she had lost her job with a publishing company and incurred large medical expenses. Eventually, petitioner lost her home, and she now lives on disability.

On her 2004 Federal income tax return petitioner included the full \$19,706 IRA distribution in income, but petitioner did not report on her return and did not pay the 10-percent additional tax generally due under section 72(t)(1) on early distributions from qualified retirement plans, including IRA accounts. See secs. 401(a), (k)(1), 408(a), 4974(c)(1), (4); Dwyer v. Commissioner, 106 T.C. 337, 340 (1996).

Discussion

Petitioner acknowledges that she does not qualify for any of the specific exceptions to application of the 10-percent additional tax under section 72(t)(2)(A)(i), (iii), and (iv), (F). Petitioner asks us, however, to read into section 72(t) a financial hardship exception to the 10-percent additional tax and apply such an exception to her.

We previously have rejected taxpayer requests to read into section 72(t) an exception to the 10-percent additional tax on early IRA distributions based on financial hardship. Arnold v. Commissioner, 111 T.C. 250, 255 (1998); Milner v. Commissioner, T.C. Memo. 2004-111; Gallagher v. Commissioner, T.C. Memo. 2001-34.

We conclude that petitioner is liable for the \$1,971 10-percent additional tax on her early \$19,706 IRA distribution.

Decision will be entered
for respondent.