

Kent Vickre

From: Carla <csdoubet57@att.net>
Sent: Monday, May 29, 2017 10:25 PM
To: Kent Vickre
Subject: 1-1 Carla Doubet NAFBAS Professional Paper submission
Attachments: Tax Research Head of Household.doc

Kent -

Please find attached my individual submission in the Professional Paper category.

This paper covers a straight forward tax topic so that other fieldstaff with no prior exposure to researching tax topics could focus on the structure and formatting of the paper one composes of their findings. Contained within the actual paper are the different sources for tax research as well as the steps of the procedure itself. The last two pages are the letter written to the client to summarize the findings.

Please respond to this email so I know you received it with the attachment intact.

Thanks,

Carla S. Doubet

Sent from my Verizon Wireless 4G LTE DROID

Tax Research - Qualifications for Head of Household

by

Carla S. Doubet

Abstract

This paper will review the qualifications for head of household status. Relevant information will be researched through current Internal Revenue Code, Regulations, and Rulings. In addition, supporting editorial materials will be used from Annotations and Explanations of the United States Tax Reporter.

Statement of the Problem

When married persons are legally separated under a final court decree, determination of filing status for income tax purposes must be addressed. Place of residency, duration of residency for both parties, and support of the dependents are important factors used in this process. What are the qualifications for head of household status?

Supporting Evidence

Reg. §1.2-2(b) contains six paragraphs that specifically address head of household parameters. In order for someone to file as head of household, they must have a qualifying person, either a child (§ 152)(c) or relative (§ 152)(d), who is a member of their household (Reg. §1.2-2(b)(3)(i) and (ii). The qualifying person must live with them for over six months during the tax year. Specific to our scenario are two other paragraphs. First is Reg. §1.2-2(b)(1):

“A taxpayer shall be considered the head of a household if, and only if, he is not married at the close of his taxable year, is not a surviving spouse (as defined in paragraph (a)

of this section), and (i) maintains as his home a household which constitutes for such taxable year the principal place of abode, as a member of such household, of at least one of the individuals described in subparagraph (3), or (ii) maintains (whether or not as his home) a household which constitutes for such taxable year the principal place of abode of one of the individual described in subparagraph (4).”

Second is Reg. §1.2-2(b)(5):

“For the purpose of this paragraph, the status of the taxpayer shall be determined as of the close of the taxpayer’s taxable year. A taxpayer shall be considered as not married if at the close of this taxable year he is legally separated from his spouse under a decree of divorce or separate maintenance, or if at any time during the taxable year the spouse to whom the taxpayer is married at the close of his taxable year was a nonresident alien. A taxpayer shall be considered married at the close of his taxable year if his spouse (other than a spouse who is a nonresident alien) dies during such year.”

In certain instances, married individuals that are living apart can qualify for head of household status. (¶A-1403) Taxpayers that are legally separated under separate maintenance can sometimes qualify for head of household status. (EXP ¶24.03) Clarification for “unmarried or considered unmarried” is addressed in §7703. §7703(a)(2) states that “an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered married.”

In *Dwayne Lee Rabold, Petitioner v. Commissioner of Internal Revenue*, Mr. Rabold's children lived with him only on weekends and the summer. They resided with their mother for the remainder of the year. He did not meet the requirement of the dependents residing with him more than half of the year. Therefore, he was not allowed head of household status.

Procedure

In the initial steps of my research, I implemented a “key word” search on “Head of household exemption” using the RIA checkpoint database. I then had to refine my search to “head household exemption.” This resulted in Reg. §1.2-2 Definitions and special rules. Upon further exploration of each of the requirements listed, sections §152, EXP ¶24.03, §7703, ¶A-1403, and *Dwayne Lee Rabold, Petitioner v. Commissioner of Internal Revenue* were reviewed. These searches examined different legal cases and rulings for like circumstances.

Conclusion

James is the father of two children with his former spouse. The qualifying child (Reg. §1.2-2(b)(3)(i) and (§152)(c) requirement is met. James has resided in a separate residence for the entire tax year so the end of year determination of Reg. §1.2-2(b)(5) is met. He is married pursuant to §7703(a)(2) even though he is legally separated. James maintains the household where the qualifying children live and provides for their total support.

However, he is not a resident of the household in which his children live. Thus, Reg. §1.2-2(b)(1) requirement is not met. In conclusion, James is not entitled to the head of household treatment for the tax year. He has the option of married filing joint or married filing separately.

Carla S. Doubet

123 North Main Street

Farmington, IL 61531

October 15, 2016

James Smith

128 Monarch Place

Farmington, IL 61531

Dear Mr. Smith:

This letter is in response to your inquiry regarding your qualification for head of household status. Our determination is based on the facts set forth in your letter of October 1.

In order for you to file as head of household, you must meet the following requirements:

- You must maintain your principal place of residence for more than half of the year where your children reside with you.
- You must have provided more than 50% of the costs of maintaining the home.
- You must be able to claim your children as your dependents.
- Your spouse did not live with you at any time during the last six months of the year.

Should you and your wife each have custody of one of your children, and meet these requirements, you can both file unmarried. However, if only one of you meets the requirements, the other has to file as married filing separately.

If you would like further clarification on our conclusion, please feel free to contact our office.

Sincerely,

Carla S. Doubet