

A Second Chance with IRS Examination

January 29, 2020

Where we started: An individual taxpayer who is employed by an S corporation he owns approached us after the IRS threatened to seize his company's assets. The IRS examined his S corporation and determined that the salary it paid him was too low. It treated all the income earned by the S corporation as salary for the individual. The individual paid the income tax on the S corporation income in excess of his salary, but the IRS wanted all the S corporation income subject to employment tax. It assessed more than \$500,000 in employment taxes and penalties against the S corporation. It also assessed a penalty against the individual in the amount of tax assessed against the S corporation.

Our strategy – plus more: We reviewed the IRS Revenue Agent's report and determined the Revenue Agent was unusually aggressive in determining the amount of the S corporation's income that should be treated as salary. Moreover, it appeared that the Revenue Agent had failed to credit the S corporation with the income tax the individual had paid on the S corporation's income in excess of his salary. Our strategy was to stop the IRS from seizing assets and get it to reconsider the examination.

Upshot: Through numerous contacts with the IRS, we were able to get the IRS to reconsider the examination done by the Revenue Agent, who left the IRS after completing the S corporation's examination. The matter was assigned to a new Revenue Agent who has concluded that the original assessments made by the first Revenue Agent should be reversed. We are working with the IRS Examination Division to get as much of the original assessment reversed as possible, while also working with the IRS Collection Division to stop it from seizing the assets of the S corporation and the individual taxpayer.