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By PwC Deutschland | 05 June 2013

Electronic tax return package 2006 clear, but misleading in 2008

The Supreme Tax Court has denied a materially justified late adjustment to an assessment for 2006 on the grounds of the taxpayer's negligence, but allowed one for 2008 on the grounds that the taxpayer had been misled by a confusing example given in the notes to the electronic return package.

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Tax assessments generally become final and binding 30 days after delivery of the notice to the taxpayer unless they are held open either by a taxpayer's appeal, or by the tax office' declaration of a later audit intention. Final assessments can be reopened if new facts come to light to the taxpayer's advantage, unless the taxpayer himself was mainly to blame for the error. The question of blame is decided against the background of the taxpayer's knowledge and abilities in the expectation that he acts with due care.

The Supreme Tax Court has decided two cases of a reopening request to take account of missed payments in support of the unmarried mother of the taxpayer's child. In the first case, the relief requested for 2006 was denied because it was the taxpayer's own fault that the deduction had not been claimed at the proper time. He had simply failed to read the return form properly. That form had asked for details for "support for needy persons" and the explanatory notes had specifically mentioned the mother of a taxpayer's child as one of the persons who might qualify. That the hardcopy printout of the return did not include lines left blank was not accepted as an excuse; the taxpayer should have read the form before filling it out, not afterwards. The other case, however, concerned 2008 and the court allowed the appeal. In that year the explanatory notes to the electronic package had given grandparents, parents and children as examples of potentially needy relatives, but did not mention the mother of the taxpayer's child. Faced with the examples given, the taxpayer could be excused for thinking that the relief was confined to relatives in direct line of descent. Accordingly, he was not to be blamed for having been misled by the form and his assessment could be reopened to grant him the relief sought.

Supreme Tax Court judgments VI R 5/11 (2006) and VI R 9/12 (2008) of March 20, 2013, published on June 5

Keywords

blame, electronic tax return, new facts