Amway Activity Ruled a Hobby

This case may be one you want to share with clients who have or are planning a similar activity.

On their 2010 income tax return James and Robyn Hess included a Schedule C for their Amway business. They had started this activity in 2005. This was their first independent business venture and they did not consult with anyone other than their sponsoring distributors before deciding to become Amway distributors. They conducted their Amway activities in their free time on evenings and weekends. [Editor note: they had six children which may make a person wonder just how much free time they had.]

The Hess' attended Amway training functions organized by Worldwide Group LLC. The meetings provided them with training necessary for them to start and eventually grow their Amway business. Each year they attended Amway's quarterly meetings as well as local monthly meetings. They testified they met with prospective downline distributors 2-3 times a month in the early years and increased this to 5-7 per month during 2010. But their records showed meetings with only 10 prospective distributors for the entire year. When asked for names of their downline distributors, they could not name any or any other evidence they existed.

They did not have a business plan. They did not have a budget, an estimated of revenues or expenses, or a profit and loss statement. They did keep records of their expenses but did not keep records of how much product they sold, to whom the product was sold, or the names of their downline distributors.

The results of their Amway business produced the following income and losses to offset their 90k of wages:
Year/Gross receipts/Net losses reported
2005 / not provided / 19k
2006 / not provided / 10k
2007 / 429 / 10k
2008 / 628 / 16k
2009 / 2178 / 22k
2010 / 1545 / 23k
2011 / 318 / 25k

Despite the repeated losses, Mr. & Mrs. Hess did not change the way they operated their Amway activity nor did they seek advice from anyone other than their sponsoring distributors. Although they kept records of their expenses, they were used to be able to support deductions on the tax return; the expense records were not used as an analytical tool to make the business profitable.

Tax Court agreed with IRS in ruling this activity was a hobby and the losses were denied.

James E & Robyn J Hess, TC Summary Opinion 2016-27. This case can be found by going to www.ustaxcourt.gov, clicking on Opinion Search and entering HESS in the Case Name box.

This text has been shared with you courtesy of: David & Mary Mellem, EAs & Ashwaubenon Tax Professionals, 920-496-1065 (920-496-9111).