

## IRA Basis Established by Use of Cohan Rule

Andrew Shank forgot to report an IRA distribution of \$27,754 on his return. Upon receipt of an IRS letter CP2000 he replied that he had basis in the IRA, therefore the amount that was taxable was less than the full amount.

Mr. Shank testified that he established his one and only IRA account with Legg Mason back in the late 1990s. He stated he had made contributions during the first few years of having the account, but did not keep tax or business records from that period. He also testified that he was a “high wage earner” during the years that he made contributions. Over the years he transferred the account to Citibank and then to Morgan Stanley.

He was able to produce a Citibank account summary for his IRA showing a value of \$21,406 in February 2006. This statement also shows assets in the account were initially purchased for \$4,760 at some time before June 1998. IRS was able to retrieve Forms 5498 for the years 2007 through 2013. These Forms 5498 showed no contributions made during any of these years and also showed end of year values ranging from \$11,877 to \$27,915. During 2014 Mr. Shank withdrew the entire balance of \$27,754 from the account.

Tax Court has the right to apply the Cohan Rule, which permits Tax Court to estimate some amounts. Tax Court felt Mr. Shank’s testimony was credible. Based on this testimony Tax Court applied the Cohan Rule and determined Mr. Shank had likely made contributions of \$4,760 to the account. Based on his testimony of having high income in those years, Tax Court determined his contributions would have been nondeductible. Therefore, Tax Court held \$4,760 was nontaxable and only the remainder of the distribution was taxable.

Andrew G. Shank, TC Memorandum 2018-33. This case can be found by going to [ustaxcourt.gov](http://ustaxcourt.gov), clicking on the Opinions Search tab, then entering Shank in the Case Name Keyword box.

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