

§ 1.6013-7 Joint return for year in which nonresident alien becomes resident of the United States.

(a) *Election for special treatment*—(1) *In general.* Two individuals who are husband and wife at the close of a taxable year ending on or after December 31, 1975, may make an election under this section for that taxable year if one spouse is a citizen or resident of the United States on the last day of that taxable year and the other spouse is a nonresident alien at the beginning of that taxable year and a citizen or resident of the United States at the close of that taxable year. Two married individuals who are nonresident aliens at the beginning of a taxable year and who are U.S. citizens or residents on the last day of that taxable year qualify for the election. The effect of the election is that each spouse is treated as a resident of the United States for purposes of chapters 1, 5, and 24 and sections 6012, 6013, 6072, and 6091 of the code for all of that taxable year. A husband and wife may not make an election if an election has previously been made under this section by either spouse.

(2) *Particular rules.* The rules in subdivisions (ii) through (v) of § 1.6013-6(a)(2) are applicable to this section.

(3) *Time and manner of making an election.* A husband and wife shall make the election under this section in accordance with the rules in § 1.6013-6(a)(4).

(b) *Section 6013(g) election in effect.* If an election under section 6013(g) is in effect for a year subsequent to the first taxable year for which made and during that subsequent year the husband and wife meet the requirements of section 6013(h) and paragraph (a)(1) of this section, then the election under section 6013(g) shall apply to that subsequent taxable year. A separate election under section 6013(h) is not required for that subsequent taxable year.

[T.D. 7670, 45 FR 6931, Jan. 31, 1980]

§ 1.6014-1 Tax not computed by taxpayer for taxable years beginning before January 1, 1970.

(a) *In general.* If an individual is entitled under paragraph (a)(7) of § 1.6012-1 to use as his return Form 1040A, he may elect not to show thereon the

amount of the tax due in connection with such return if his gross income is less than \$5,000.

(b) *Computation and payment of tax.* A taxpayer who, in accordance with paragraph (a) of this section, elects not to show the tax on Form 1040A is not required to pay the unpaid balance of such tax at the time he files the return. In such case, the tax will be computed for the taxpayer by the Internal Revenue Service, and a notice will be mailed to the taxpayer stating the amount of tax due. Where it is determined that a refund of tax is due, the Internal Revenue Service will send such refund to the taxpayer. See paragraph (c) of § 301.6402-3 of this chapter (Regulations on Procedure and Administration).

(c) *Joint return.* (1) A husband and wife who, pursuant to paragraph (a)(7) of § 1.6012-1, file a joint return on Form 1040A may elect not to show the tax on such return if their aggregate gross income for the taxable year is less than \$5,000.

(2) The tax computed for the taxpayer who files Form 1040A and elects not to show thereon the tax due shall be the lesser of the following amounts:

(i) A tax computed as though the return on Form 1040A constituted the separate returns of the spouses, or

(ii) A tax computed as though the return on Form 1040A constituted a joint return.

(d) *Married individuals filing separate returns.* In the case of a married individual who files a separate return and who elects under this section not to show his tax on Form 1040A his tax shall be computed with reference to the 10-percent standard deduction rather than the minimum standard deduction.

(e) This section shall apply to taxable years beginning before January 1, 1970.

[T.D. 6500, 25 FR 12108, Nov. 26, 1960, as amended by T.D. 6581, 26 FR 11678, Dec. 6, 1961; T.D. 6792, 30 FR 531, Jan. 15, 1965; T.D. 7102, 36 FR 5497, Mar. 24, 1971]

§ 1.6014-2 Tax not computed by taxpayer for taxable years beginning after December 31, 1969.

(a) *In general.* An individual subject to the tax imposed by section 1 of the Code may, in accordance with the instructions applicable to the income tax

return to be filed, elect, for any taxable year beginning after December 31, 1969, not to show on his income tax return for such year the amount of tax due in connection with such return.

(b) *Restriction on making an election.* The election pursuant to this section shall not be made by an individual who does not file his return (or amended return) making such election on or before the date prescribed in section 6072(a) for the filing of the original return (determined without regard to any extension of time).

(c) *Effects of election.* (1) A taxpayer who, in accordance with the provisions of this section, elects not to show the tax on his income tax return is not required to pay the unpaid balance of such tax at the time he files the return. In such case, the tax will be computed for the taxpayer by the Internal Revenue Service, and a notice will be mailed to the taxpayer stating the amount of tax due. Where it is determined that a refund of tax is due, the Internal Revenue Service will send such refund to the taxpayer. See paragraph (c) of §301.6402-3 of this chapter (Regulations on Procedure and Administration). The computation of tax by the Internal Revenue Service shall be treated for purposes of this chapter as if made by the taxpayer, and such computation or the issuance of a notice or refund pursuant thereto shall not relieve the taxpayer of liability for any deficiency (although the deficiency is based upon an amount of tax different from that computed for the taxpayer by the Internal Revenue Service) or affect the rights of the Internal Revenue Service with respect to any subsequent audit or other review of the taxpayer's return.

(2) Where the election provided for in this section is made by a taxpayer who takes the standard deduction and who has adjusted gross income of less than \$10,000, such election constitutes an election to pay the tax imposed by section 3.

(3) A taxpayer who makes an election under section 6014 shall not be precluded from claiming:

- (i) Status as a head of household or a surviving spouse;
- (ii) The credit under section 31 (relating to tax withheld on wages);

- (iii) The credit under section 37 (relating to retirement income);

- (iv) The credit under section 38 (relating to investment in certain depreciable property);

- (v) The credit under section 39 (relating to certain uses of gasoline and lubricating oil);

- (vi) The credit under section 41 (relating to contributions to candidates for public office);

- (vii) The credit under section 42 (relating to personal exemptions);

- (viii) The credit under section 43 (relating to earned income);

- (ix) The credit under section 44 (relating to purchase of new principal residence); or

- (x) The credit under section 45 (relating to overpayments of tax).

(d) *Joint returns.* (1) A husband and wife who file a joint return may elect not to show the tax on such return in accordance with the rules prescribed in paragraphs (a) and (b) of this section.

(2) The tax computed for a husband and wife who elect pursuant to this section not to show their tax on their joint income tax return shall be the lesser of the following amounts:

- (i) A tax computed as though the return of income constituted a joint return, or

- (ii) If sufficient information is provided for the taxable income of each spouse to be determined, a tax computed as though the return of income constituted the separate returns of the spouses.

(e) *Married individuals filing separate returns.* This section shall apply to married individuals filing separate returns unless otherwise provided in the instructions accompanying a return. The instructions may require the taxpayer to attach to his return a statement to the effect that his tax and the tax of his spouse were determined in accordance with the rules of sections 141(d) and 142(a).

(f) *Revocation of election.* An election pursuant to this section may be revoked on an amended return (whether such return is filed before or after the date prescribed in section 6072(a) for filing the original return).

[T.D. 7102, 36 FR 5497, Mar. 24, 1971, as amended by T.D. 7298, 38 FR 35234, Dec. 26, 1973; T.D. 7391, 40 FR 55856, Dec. 2, 1975]