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[T.D. 9003, 67 FR 47285, July 18, 2002]

§ 1.6015-1 Relief from joint and several liability on a joint return.

(a) *In general.* (1) An individual who qualifies and elects under section 6013 to file a joint Federal income tax return with another individual is jointly and severally liable for the joint Federal income tax liabilities for that year. A spouse or former spouse may be relieved of joint and several liability for Federal income tax for that year under the following three relief provisions:

- (i) Innocent spouse relief under § 1.6015-2.
- (ii) Allocation of deficiency under § 1.6015-3.
- (iii) Equitable relief under § 1.6015-4.

(2) A requesting spouse may submit a single claim electing relief under both or either §§ 1.6015-2 and 1.6015-3, and requesting relief under § 1.6015-4. However, equitable relief under § 1.6015-4 is available only to a requesting spouse who fails to qualify for relief under §§ 1.6015-2 and 1.6015-3. If a requesting spouse elects the application of either § 1.6015-2 or 1.6015-3, the Internal Revenue Service will consider whether relief is appropriate under the other elective provision and, to the extent relief is unavailable under either, under § 1.6015-4. If a requesting spouse seeks relief only under § 1.6015-4, the Secretary may not grant relief under § 1.6015-2 or 1.6015-3 in the absence of an affirmative election made by the requesting spouse under either of those sections. If in the course of reviewing a request for relief only under § 1.6015-4, the IRS determines that the requesting spouse may qualify for relief under § 1.6015-2 or 1.6015-3 instead of § 1.6015-4, the Internal Revenue Service will correspond with the requesting spouse to see if the requesting spouse would like

to amend his or her request to elect the application of § 1.6015-2 or 1.6015-3. If the requesting spouse chooses to amend the claim for relief, the requesting spouse must submit an affirmative election under § 1.6015-2 or 1.6015-3. The amended claim for relief will relate back to the original claim for purposes of determining the timeliness of the claim.

(3) Relief is not available for liabilities that are required to be reported on a joint Federal income tax return but are not income taxes imposed under Subtitle A of the Internal Revenue Code (e.g., domestic service employment taxes under section 3510).

(b) *Duress.* For rules relating to the treatment of returns signed under duress, see § 1.6013-4(d).

(c) *Prior closing agreement or offer in compromise—*(1) *In general.* A requesting spouse is not entitled to relief from joint and several liability under § 1.6015-2, 1.6015-3, or 1.6015-4 for any tax year for which the requesting spouse has entered into a closing agreement with the Commissioner that disposes of the same liability that is the subject of the claim for relief. In addition, a requesting spouse is not entitled to relief from joint and several liability under § 1.6015-2, 1.6015-3, or 1.6015-4 for any tax year for which the requesting spouse has entered into an offer in compromise with the Commissioner. For rules relating to the effect of closing agreements and offers in compromise, see sections 7121 and 7122, and the regulations thereunder.

(2) *Exception for agreements relating to TEFRA partnership proceedings.* The rule in paragraph (c)(1) of this section regarding the unavailability of relief from joint and several liability when the liability to which the claim for relief relates was the subject of a prior closing agreement entered into by the requesting spouse, shall not apply to an agreement described in section 6224(c) with respect to partnership items (or any penalty, addition to tax, or additional amount that relates to adjustments to partnership items) that is entered into while the requesting spouse is a party to a pending partnership-level proceeding conducted under