

## § 1.6015-7

## 26 CFR Ch. I (4-1-04 Edition)

particular relief provision) that the nonrequesting spouse submits in determining whether relief from joint and several liability is appropriate, including information relating to the following—

- (1) The legal status of the requesting and nonrequesting spouses' marriage;
- (2) The extent of the requesting spouse's knowledge of the erroneous items or underpayment;
- (3) The extent of the requesting spouse's knowledge or participation in the family business or financial affairs;
- (4) The requesting spouse's education level;
- (5) The extent to which the requesting spouse benefitted from the erroneous items;
- (6) Any asset transfers between the spouses;
- (7) Any indication of fraud on the part of either spouse;
- (8) Whether it would be inequitable, within the meaning of §§ 1.6015-2(d) and 1.6015-4, to hold the requesting spouse jointly and severally liable for the outstanding liability;
- (9) The allocation or ownership of items giving rise to the deficiency; and
- (10) Anything else that may be relevant to the determination of whether relief from joint and several liability should be granted.

(c) *Effect of opportunity to participate.* The failure to submit information pursuant to paragraph (b) of this section does not affect the nonrequesting spouse's ability to seek relief from joint and several liability for the same tax year. However, information that the nonrequesting spouse submits pursuant to paragraph (b) of this section is relevant in determining whether relief from joint and several liability is appropriate for the nonrequesting spouse should the nonrequesting spouse also submit an application for relief.

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

### § 1.6015-7 Tax Court review.

(a) *In general.* Requesting spouses may petition the Tax Court to review the denial of relief under § 1.6015-1.

(b) *Time period for petitioning the Tax Court.* Pursuant to section 6015(e), the requesting spouse may petition the Tax Court to review a denial of relief under § 1.6015-1 within 90 days after the date

notice of the Service's final determination is mailed by certified or registered mail (90-day period). If the IRS does not mail the requesting spouse a final determination letter within 6 months of the date the requesting spouse files an election under § 1.6015-2 or 1.6015-3, the requesting spouse may petition the Tax Court to review the election at any time after the expiration of the 6-month period, and before the expiration of the 90-day period. The Tax Court also may review a claim for relief if Tax Court jurisdiction has been acquired under another section of the Internal Revenue Code such as section 6213(a) or 6330(d).

(c) *Restrictions on collection and suspension of the running of the period of limitations—*(1) *Restrictions on collection under § 1.6015-2 or 1.6015-3.* Unless the Internal Revenue Service determines that collection will be jeopardized by delay, no levy or proceeding in court shall be made, begun, or prosecuted against a requesting spouse electing the application of § 1.6015-2 or 1.6015-3 for the collection of any assessment to which the election relates until the expiration of the 90-day period described in paragraph (b) of this section, or if a petition is filed with the Tax Court, until the decision of the Tax Court becomes final under section 7481. For more information regarding the date on which a decision of the Tax Court becomes final, see section 7481 and the regulations thereunder. Notwithstanding the above, if the requesting spouse appeals the Tax Court's decision, the Internal Revenue Service may resume collection of the liability from the requesting spouse on the date the requesting spouse files the notice of appeal, unless the requesting spouse files an appeal bond pursuant to the rules of section 7485. Jeopardy under this paragraph (c)(1) means conditions exist that would require an assessment under section 6851 or 6861 and the regulations thereunder.

(2) *Waiver of the restrictions on collection.* A requesting spouse may, at any time (regardless of whether a notice of the Service's final determination of relief is mailed), waive the restrictions on collection in paragraph (c)(1) of this section.

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(3) *Suspension of the running of the period of limitations*—(i) *Relief under § 1.6015-2 or 1.6015-3.* The running of the period of limitations in section 6502 on collection against the requesting spouse of the assessment to which an election under § 1.6015-2 or 1.6015-3 relates is suspended for the period during which the Internal Revenue Service is prohibited by paragraph (c)(1) of this section from collecting by levy or a proceeding in court and for 60 days thereafter. However, if the requesting spouse signs a waiver of the restrictions on collection in accordance with paragraph (c)(2) of this section, the suspension of the period of limitations in section 6502 on collection against the requesting spouse will terminate on the date that is 60 days after the date the waiver is filed with the Internal Revenue Service.

(ii) *Relief under § 1.6015-4.* If a requesting spouse seeks only equitable relief under § 1.6015-4, the restrictions on collection of paragraph (c)(1) of this section do not apply. Accordingly, the request for relief does not suspend the running of the period of limitations on collection.

(4) *Definitions*—(i) *Levy.* For purposes of this paragraph (c), levy means an administrative levy or seizure described by section 6331.

(ii) *Proceedings in court.* For purposes of this paragraph (c), proceedings in court means suits filed by the United States for the collection of Federal tax. Proceedings in court does not refer to the filing of pleadings and claims and other participation by the Internal Revenue Service or the United States in suits not filed by the United States, including Tax Court cases, refund suits, and bankruptcy cases.

(iii) *Assessment to which the election relates.* For purposes of this paragraph (c), the assessment to which the election relates is the entire assessment of the deficiency to which the election relates, even if the election is made with respect to only part of that deficiency.

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

### § 1.6015-8 Applicable liabilities.

(a) *In general.* Section 6015 applies to liabilities that arise after July 22, 1998, and to liabilities that arose prior to

July 22, 1998, that were not paid on or before July 22, 1998.

(b) *Liabilities paid on or before July 22, 1998.* A requesting spouse seeking relief from joint and several liability for amounts paid on or before July 22, 1998, must request relief under section 6013(e) and the regulations thereunder.

(c) *Examples.* The following examples illustrate the rules of this section:

*Example 1.* H and W file a joint Federal income tax return for 1995 on April 15, 1996. There is an understatement on the return attributable to an omission of H's wage income. On October 15, 1998, H and W receive a 30-day letter proposing a deficiency on the 1995 joint return. W pays the outstanding liability in full on November 30, 1998. In March 1999, W files Form 8857, requesting relief from joint and several liability under section 6015(b). Although W's liability arose prior to July 22, 1998, it was unpaid as of that date. Therefore, section 6015 is applicable.

*Example 2.* H and W file their 1995 joint Federal income tax return on April 15, 1996. On October 14, 1997, a deficiency of \$5,000 is assessed regarding a disallowed business expense deduction attributable to H. On June 30, 1998, the Internal Revenue Service levies on the \$3,000 in W's bank account in partial satisfaction of the outstanding liability. On August 31, 1998, W files a request for relief from joint and several liability. The liability arose prior to July 22, 1998. Section 6015 is applicable to the \$2,000 that remained unpaid as of July 22, 1998, and section 6013(e) is applicable to the \$3,000 that was paid prior to July 22, 1998.

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

### § 1.6015-9 Effective date.

Sections 1.6015-0 through 1.6015-9 are applicable for all elections under § 1.6015-2 or 1.6015-3 or any requests for relief under § 1.6015-4 filed on or after July 18, 2002.

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

### § 1.6015(a)-1 Declaration of estimated income tax by individuals.

(a) *Requirement*—(1) *Taxable years beginning after December 31, 1971.* With respect to taxable years beginning after December 31, 1971, a declaration of estimated income tax by an individual is not required if the estimated tax (as defined in section 6015(c)) can reasonably be expected to be less than \$100. In all other cases a declaration of estimated income tax shall be made by