

Rev. Proc. 2003–19

SECTION 1. PURPOSE

This revenue procedure provides guidance on the administrative appeal rights of a spouse or former spouse when a taxpayer seeks relief from federal income tax liability under section 6015 of the Internal Revenue Code.

SECTION 2. BACKGROUND

.01 Section 6013(d)(3) provides that married taxpayers who file a joint return under section 6013 will be jointly and severally liable for the tax arising from that return. For purposes of section 6013(d)(3) and this revenue procedure, the term “tax” includes penalties, additions to tax, and interest. *See* sections 6665(a)(2) and 6601(e)(1).

.02 Section 6015 provides relief in certain circumstances from the joint and several liability imposed by section 6013(d)(3). For purposes of this revenue procedure, the individual seeking relief from federal income tax liability under section 6015 is referred to as a “requesting spouse” and the individual with whom the requesting spouse filed the joint return is referred to as a “nonrequesting spouse.”

.03 To request relief under section 6015, a requesting spouse must file a Form 8857, “*Request for Innocent Spouse Relief*,” or a written statement with the Internal Revenue Service signed under penalties of perjury, containing the same information required on Form 8857.

.04 Prior to publication of this revenue procedure, only the requesting spouse had the right to file a written protest and receive an administrative conference with the Service’s Appeals Office (an “Appeals conference”). The Service has determined that the nonrequesting spouse may file a written protest and receive an Appeals conference with respect to the Service’s decision to grant partial or full relief to the request-

ing spouse. The nonrequesting spouse may not, however, appeal a decision by the Service to deny relief to the requesting spouse.

.05 In section 6015(h)(2), Congress expressed its intent that the nonrequesting spouse have notice of, and be involved in, proceedings with respect to a section 6015 election made by the requesting spouse. The nonrequesting spouse has (with respect to the Service or the Tax Court, as the case may be) the following opportunities to participate in the determination of whether the requesting spouse is entitled to relief under section 6015:

(1) As required by section 6015(h)(2) and section 1.6015–6 of the Income Tax Regulations, the Service notifies the nonrequesting spouse of the requesting spouse’s claim for relief and provides the nonrequesting spouse with an opportunity to submit information to be considered by the Service in its administrative determination. The nonrequesting spouse is not required to provide information. The Service will consider all relevant information submitted by the requesting spouse and the nonrequesting spouse in determining whether to grant or deny relief.

(2) Once the Service notifies the requesting spouse and the nonrequesting spouse of the preliminary determination regarding the requesting spouse’s claim for relief, the requesting spouse, the nonrequesting spouse, or both spouses may file a protest and receive an Appeals conference as set forth in section 4 of this revenue procedure.

(3) Section 6015(e)(1)(A) allows the requesting spouse to petition the Tax Court from a notice of final determination. There are no provisions in section 6015 that allow the nonrequesting spouse to petition the Tax Court from a notice of final determination. *See Maier v. Commissioner*, 119 T.C. 267 (2002). If, however, the requesting spouse petitions the Tax Court, section 6015(e)(4) and the Tax Court’s Rules allow the nonrequesting spouse to become a party to the proceeding.

SECTION 3. SCOPE

This revenue procedure applies to a nonrequesting spouse who appeals the preliminary determination granting full or partial relief from joint and several liability to a requesting spouse.

SECTION 4. GENERAL PROCEDURES

.01 Initial proceedings following a requesting spouse's claim for relief under section 6015. In general, the Service will follow the procedures below after making a preliminary determination regarding a claim for relief from joint and several liability:

(1) The Service will issue a preliminary determination letter to the requesting spouse based on the merits of the claim. In the event the preliminary determination grants full or partial relief, the Service will suspend processing of the claim for 45 calendar days, pending an appeal by the nonrequesting spouse. The Service will notify the requesting spouse that the nonrequesting spouse has the right to separately protest the Service's preliminary determination.

(2) The Service will notify the nonrequesting spouse of the preliminary determination at the same time the Service notifies the requesting spouse. The nonrequesting spouse has the right to file a written protest and request an Appeals conference to protest the preliminary determination to grant partial or full relief. To be eligible for an Appeals conference, the nonrequesting spouse must request an Appeals conference, in writing, within 30 calendar days of the mailing date of the notification letter. If the nonrequesting spouse appeals, the Service will suspend further processing of the requesting spouse's claim for relief pending the outcome of the nonrequesting spouse's appeal.

.02 Procedures for cases forwarded to Appeals. The following procedures will apply to Appeals conferences for section 6015 claims for relief:

(1) If, after the Service issues a preliminary determination letter to the requesting spouse, only the nonrequesting spouse files a written protest requesting an Appeals conference, the Service will notify the requesting spouse of the nonrequesting spouse's request for an Appeals conference. The Service will hold an Appeals conference with the nonrequesting spouse. If Appeals proposes to change the preliminary determination, the requesting spouse will have an opportunity to request an Appeals conference to present his or her position including any relevant information before the final determination.

(2) If, after the Service issues a preliminary determination letter to the requesting spouse, only the requesting spouse files a written protest requesting an Appeals conference, the Service will notify the nonrequesting spouse of the requesting spouse's request for a conference. The Service will hold an Appeals conference with the requesting spouse. If Appeals proposes to increase the relief recommended in the preliminary determination letter, the nonrequesting spouse will have an opportunity to request an Appeals conference to present his or her position including any relevant information before the final determination.

(3) If, after the Service issues a preliminary determination letter to the requesting spouse, both spouses file written protests requesting Appeals conferences, the Service will notify each spouse of the other spouse's request for an Appeals confer-

ence. The Service will hold separate Appeals conferences with each spouse, with both spouses permitted to submit information. The Service, in its discretion, may hold a joint Appeals conference instead of separate Appeals conferences.

(4) Appeals conferences may be conducted by telephone, correspondence, face-to-face meetings or by a combination of these methods.

.03 Procedures after Appeals has made a determination. Upon reaching a final decision, Appeals will:

(1) Issue the notice of final determination to the requesting spouse, unless the requesting spouse executes a waiver pursuant to section 6015(e)(5); and

(2) Notify the nonrequesting spouse of the final determination.

SECTION 5. EFFECTIVE DATE

This revenue procedure is effective for all claims for relief filed on or after April 1, 2003. In addition, this revenue procedure applies to any claims for relief filed prior to April 1, 2003, for which no preliminary determination has been issued as of April 1, 2003.

SECTION 6. DRAFTING INFORMATION

The principal author of this revenue procedure is Jamie P. MacLean of the Office of the Associate Chief Counsel, Procedure and Administration (Administrative Provisions and Judicial Practice Division). For further information regarding this revenue procedure, contact Elvira Bosco of Appeals at (212) 298-2272 (not a toll-free call) or a local Appeals office.