



OFFICE OF
CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

CC-2000-07
Oct. 10, 2000
Attachment 1

ACTION ON DECISION

SUBJECT: Kathy A. King v. Commissioner
115 T.C. No. 8 (filed August 10, 2000)
T.C. Dkt. No. 5989-97

Issue: Whether a nonpetitioning spouse (or former spouse) is entitled to notice and an opportunity to become a party within the meaning of I.R.C. § 6015(e)(4) in a deficiency case where the petitioning spouse (or former spouse) is claiming relief from joint and several liability under section 6015.

Discussion: In a deficiency proceeding, the former wife filed a petition with the Tax Court requesting relief from joint liability under I.R.C. § 6013(e). Subsequent to trial, section 6013(e) was repealed and replaced by section 6015. The court agreed with respondent that the petitioning spouse's claim for relief should be considered under section 6015.

Section 6015(e)(1)(A) provides the Tax Court with jurisdiction to review the Service's determination regarding an administrative claim for relief from joint liability and is restricted to consideration of the requesting spouse's claim for relief. A proceeding under this section has been referred to as a stand-alone proceeding. Fernandez v. Commissioner, 114 T.C. 324, 329 (2000). In a stand-alone proceeding, the nonpetitioning spouse is statutorily entitled to adequate notice and an opportunity to become a party to the proceeding. Section 6015(e)(4); Interim T.C. Rules 324 and 325.

Here, the claim for relief from joint liability arises in the context of a deficiency proceeding under section 6213(a). The Tax Court reasoned that the rationale for the notice and intervention rules of section 6015(e)(4), *i.e.*, fairness to the nonelecting spouse to be heard in order to ensure that innocent spouse relief is granted on the merits after taking into account all relevant evidence, applies as well to claims for relief brought in deficiency cases. See Corson v. Commissioner, 114 T.C. 354, 365 (2000). The court held, therefore, that the nonpetitioning spouse was entitled to notice and an opportunity to intervene.

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In ruling that the nonpetitioning spouse could intervene, the Tax Court observed that “we are interpreting statutory provisions that require procedures which have not yet been completely provided for in our Rules.” See slip op. at 13. Based on the congressional directive to establish rules, the court set forth the following procedural requirements, while recognizing the need to amend the rules:

[W]henever, in the course of any proceeding before the Court [e.g., deficiency proceeding, stand-alone proceeding, or collection due-process proceeding], a taxpayer raises a claim for relief from joint liability under section 6015, and the other spouse (or former spouse) is not a party to the case, the Commissioner must serve notice of the claim on the other individual who filed the joint return for the year(s) in issue. The notice shall advise such other individual of his or her opportunity to file a notice of intervention for the sole purpose of challenging the petitioning individual’s entitlement to relief from joint liability pursuant to section 6015. Such notice shall include a copy of Interim Rule 325. The Commissioner shall at the same time file with the Court a certification of such notice or, in a stand-alone case brought under section 6015(e)(1)(A), state in the answer that such notice has been provided. See Interim Rule 324(a)(2). Any intervention shall be made in accordance with the provisions of Interim Rule 325(b).

These procedures are effective immediately and are applicable to all cases, including small tax cases.

See slip op. at 13 & n.7.

We believe that the court's announced procedural requirements further the purpose of the statutory scheme. The Service will follow these procedures effective immediately.

Recommendation: Acquiescence

Reviewers:

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