Department of the Treasury **Internal Revenue Service**

Office of Chief Counsel

N o t i c e

CC-2005-011

May 20, 2005

Subject: Frequently Asked Questions Regarding Litigation of section 6015 cases in Tax Court.

Cancel Date: Upon incorporation into CCDM

Purpose

This Notice answers many of the most frequently asked questions received from attorneys regarding relief from joint and several liability under section 6015. The questions relate to five topics: the nonpetitioning spouse, the suspension of the collection statute when a taxpayer files a section 6015 claim, the effect of agreements between the Service and the requesting spouse, the actual knowledge defense to a petitioner's claim under section 6015(c), and procedures under Chief Counsel Notice CC-2004-026.

Discussion

I. Nonpetitioning Spouse Issues

Q#1: In my cases, a husband and wife filed separate petitions from a statutory notice of deficiency. The wife raised relief from joint and several liability as a defense to the deficiency. I know T.C. Rule 325 applies in proceedings brought under section 6015(e), but do I also need to notify the nonpetitioning spouse in my deficiency case?

A#1: Yes. Respondent must file a Notice of Filing of Petition and Right to Intervene (Notice of Filing) in all cases involving section 6015 (including deficiency cases, stand-alone cases under section 6015(e), and Collection Due Process cases) unless the other spouse is already a party to the case. If each spouse files a separate petition from a notice of deficiency and one spouse raises relief under section 6015, or only one spouse files a petition, then the Notice of Filing must be sent to the other spouse because that spouse is not a party to the 6015 case. In fact, if each spouse raises relief under section 6015 in a separate petition, then a Notice of Filing must be sent to each spouse regarding the right to intervene in the other spouse's case.

Filing Instructions: Binder _____ Master Sets: NO ___ RO ___
NO: Circulate ___ Distribute ___ to: All Personnel ___ Attorneys ___ In: _____
Other _____
Electronic Filename: _____ Original signed copy in: CC:FM:PM:P

CCDM 35.2.2.12.2 describes how to notify nonpetitioning spouses of the filing of a petition raising relief under section 6015.

Q#2: If a husband and wife file a joint petition from a notice of deficiency and one spouse raises relief under section 6015, do I still need to send the Notice of Filing required by Rule 325?

A#2: No. If the spouses file a joint petition from a notice of deficiency and one spouse raises relief under section 6015 as a defense to the deficiency, then the Notice of Filing is not required because each spouse is a party to the case

Q#3: Under Interim Rule 324(a)(2), we needed to certify in the answer that we gave notice to the nonpetitioning spouse. Is this still required?

A#3: No. It is no longer necessary to certify in the answer that respondent gave the Notice of Filing required by Rule 325 to the nonpetitioning spouse. Filing the Notice of Filing with the court replaces this requirement, and allows the court to have a separate docket entry showing that that the Service complied with (now final) Rule 325 by giving notice to the nonpetitioning spouse.

Q#4: I recently sent the Notice of Filing to the nonpetitioning spouse at his last known address. The post office returned the Notice of Filing with a notation that it was undeliverable. I have checked for a better address but have not been able to locate one. What should I do?

A#4: If the Notice of Filing is returned undeliverable and the Service is unable to locate a better address for the nonpetitioning spouse, you should file a Supplement to the Notice of Filling of Petition and Right to Intervene, advising the court that you sent the original Notice of Filing to the nonpetitioning spouse at that spouse's last known address, but that it was returned as undeliverable, and that you have made a diligent effort to locate a more current address. The supplement should explain in detail all the steps you took to locate a new address. You should file a supplement any time your service of the nonpetitioning spouse was unsuccessful, such as when you learn that the nonpetitioning spouse is deceased and does not have an estate in probate.

Q#5: What should I do if I later find a better address for the nonpetitioning spouse?

A#5: You should file an Amended Notice of Filing of Petition and Right to Intervene. The service of the amended notice starts the 60-day period to intervene anew and the amended notice should advise the nonpetitioning spouse of the new deadline. Providing the nonpetitioning spouse with a new 60-day period will not be a problem if the case has not been calendared or the calendar call is more than 60 days away. If

the calendar call is less than 60 days away, you should file a Motion for Continuance along with the Amended Notice of Filing and Right to Intervene.

Q#6: In my case the nonpetitioning spouse wants to intervene to support the petitioner's case, rather than challenge the petitioner's right to section 6015 relief. Is that permitted?

A#6: Such an intervention is permitted. In Van Arsdalen v. Commissioner, 123 T.C. 135 (2004), the Tax Court held that the nonpetitioning spouse could intervene to support the petitioner's claim for relief from joint and several liability under section 6015, not just to challenge the claim for relief. The standard language for the Notice of Filing has been revised to be consistent with the court's holding by deleting the language "for the sole purpose of challenging." The revised Notice of Filing is attached as Exhibit 1 to this Chief Counsel Notice and is Exhibit 35.11.1-62 in the revised CCDM. It should be used in all cases if it is necessary to notify a nonpetitioning spouse. If the old Notice of Filing has already been filed, there is no need to file a revised Notice of Filing or take any other remedial action.

Q#7: In my case the nonpetitioning spouse has intervened. How do I handle the case now?

A#7: Once a nonpetitioning spouse intervenes in a case, that spouse becomes a party to the Tax Court proceeding for all purposes except filing an appeal. The intervenor should be served with any document that would normally be served on a party, such as discovery requests, requests for admissions, etc. The intervenor will have an opportunity to participate in the case, i.e., to make opening and closing statements, to examine witnesses, and to file motions and briefs. Furthermore, the intervenor must sign any stipulation of facts for trial for the stipulation to be effective.

Q#8: When I sent the Notice of Filing of Petition and Right to Intervene to the nonpetitioning spouse, I followed the directions in the CCDM that require that each spouse be served the Notice of Filing with their own certificate of service attached and not the other spouse's. The nonpetitioning spouse has now intervened. Do I still need to protect each spouse's address information?

A#8: No. Once the intervenor becomes a party, it is no longer necessary to protect each party's address information unless a protective order has been issued prohibiting the disclosure of an address to the other spouse. Rule 320(c) (governing petitions for relief from joint and several liability) states that all papers filed with the court should conform to Rule 23. Rule 23(a)(3) requires that the signature on a document be accompanied by a mailing address and phone number. Any documents filed in the case signed by either the petitioner or the intervenor should include the address and phone numbers of the persons signing the document unless there is a protective order.

If either the petitioner or intervenor is represented by counsel, the attorney's address and phone number may be used on a decision document or any other document requiring a signature, so long as the attorney signs the document. See T.C. Rule 23(a)(3). Decision documents need to be signed by or on behalf of all parties on the same signature page. If one of the parties desires privacy and does not want to reveal address information to the other spouse, that party should file a motion for protective order as early in the proceeding as possible.

Q#9: The petitioner and I have agreed to settle the case but we cannot reach the intervenor. What should I do?

A#9: If you agree to a settlement with the petitioner, but cannot locate the intervenor to get agreement or objection with regard to the settlement, you should enter into a stipulation of settled issues with the petitioner and then file a motion for entry of decision. The motion should detail your attempts to reach the intervenor. If the court grants the motion, then you will not need to obtain the intervenor's signature on the decision document.

II. Suspension of the Statute of Limitations on Collection

Q#10: I understand that the type of relief a taxpayer requests affects whether the collection statute of limitations is suspended, but how do you determine what type of section 6015 relief a taxpayer has requested?

A#10: The taxpayer's election on Form 8857 governs. Thus, you must examine the box(es) checked by the taxpayer on the Form 8857 to determine what type of relief was requested.

Q#11: The petitioner in my case filed a request for relief from joint and several liability under section 6015(b) and (f). Is the collection period suspended?

A#11: Yes. Section 6015(e)(2) suspends the statute of limitations on collection during the period the prohibition on collection activities imposed by section 6015(e)(1)(B)(i) is in effect plus 60 days. Section 6015(e)(1)(B)(i) expressly prohibits the Service from engaging in collection activity with respect to the year for which a claim is made for relief under section 6015(b) or (c) from the date the claim is filed until: (1) a waiver (Form 870-IS) is filed; (2) the expiration of the 90-day period for petitioning the Tax Court; or (3) if a petition is filed, 90 days from the date that the decision becomes final. If a taxpayer appeals the decision, the Service may resume collection as of the date the notice of appeal was filed, unless the taxpayer files an appeal bond under the rules of section 7485. See Treas. Reg. § 1.6015-7(c)(1).

Q#12: In my case, the petitioner checked all the boxes on the Form 8857. Thus, according to the Form 8857, relief was elected under section 6015(b), (c), and (f), but in the petition only relief under section 6015(f) is sought. Is the collection period suspended?

A#12: Yes. The taxpayer's election on the Form 8857, not the petition, controls the election.

Q#13: The petitioner in my case filed a claim requesting relief only under section 6015(f). Is the collection statute suspended?

A#13: No, the collection statute is not suspended. If a taxpayer requests relief only under section 6015(f), the Service is not barred from collecting the liability and the statute of limitations on collection is not suspended.

Q#14: Even though the Service is not prohibited by law from collecting when a section 6015(f) claim is pending, does the Service usually attempt to collect the tax liability in these circumstances?

A#14: No. The Service has decided to suspend collection against a taxpayer that requests equitable relief under section 6015(f) unless the expiration of the collection statute is imminent. See IRM 25.15.1.7(2).

Q#15: Based on the Form 8857, the petitioner seeks relief under section 6015(b), (c), and (f). The petitioner's section 6015(b) and (c) elections are erroneous, because the Service has not determined a deficiency against the petitioner. Is the statute of limitations on collection suspended by virtue of the petitioner's erroneous election?

A#15: Yes. Even if the election under section 6015(b) or (c) is erroneous, the taxpayer's election, i.e., the boxes checked on Form 8857, controls and the collection statute is suspended. The Service is prohibited from collecting under section 6015(e)(1)(B)(i) while the claim is pending.

Q#16: If a taxpayer requests relief only under section 6015(f), is it possible that the collection statute will expire during the pendency of the case?

A#16: Yes. If a taxpayer only requests relief under section 6015(f), the statute could expire during the pendency of the case because the Service is not prohibited from collecting and the collection statute is not suspended. Thus, upon receipt of a section 6015(f) case, you should review the case to ensure that the collection statute has neither expired nor is about to expire.

Q#17: I reviewed the transcript and determined that the collection statute expired. How should I handle the case? Is the case moot?

A#17: If the collection statute has expired or is about to expire, there is no pending levy or collection suit, and the petitioner is not seeking a refund, then the case is moot with respect to that tax year. If all three elements have been met, then you can resolve the case by preparing a decision document that, above the Judge's signature line, states that the petitioner is not entitled to relief and, below the Judge's signature line, states that the collection period for the income tax liabilities at issue has expired and that respondent will no longer attempt to collect the liabilities. If, under these circumstances, the petitioner will not agree to sign a decision document, you should file a Motion to Dismiss for Mootness. As with all motions that involve substantive section 6015 issues, this motion must be reviewed by the National Office prior to filing. If, however, the petitioner is seeking a refund, then a controversy exists and you should litigate the refund issue in the Tax Court proceeding.

Q#18: I reviewed the transcripts and noticed that, after the collection period expired, the Service collected tax. What should I do?

A#18: You should have the funds returned to the petitioner and concede that the petitioner is entitled to the refund in respondent's brief, the decision document or Motion to Dismiss for Mootness.

Q#19: I have a section 6015(c) case in which the parties now agree that the requesting spouse is entitled to full relief under section 6015(c). I know that refunds are not available in section 6015(c) cases pursuant to section 6015(g)(3). The Service offset the spouse's refund from another year against the liability at issue shortly after the section 6015 claim was filed. Even though section 6015(e)(1)(B) does not prohibit the Service from offsetting a refund, the Service's policy is not to offset while a section 6015 claim is pending. See IRM 25.15.3.4.5(1). Had the Service not offset the refund in contravention of its policy, the spouse would have received the refund, which is now otherwise barred by section 6015(g)(3). What should I do?

A#19: Notwithstanding that refunds are not available when relief is granted under section 6015(c), you should have the funds returned to the petitioner and concede that the petitioner is entitled to the refund in respondent's brief, the decision document or Motion to Dismiss for Mootness. See e.g., Rivera v. Commissioner, T.C. Memo. 2005-33, n.2.

III. The Effect of Agreements between the Service and the Requesting Spouse

Q#20: I reviewed the transcript in my section 6015 case and noticed that, prior to filing the section 6015 claim, the taxpayer and the Service had entered into an offer in

compromise with respect to the tax liabilities at issue in my case. The taxpayer failed to comply with the terms of the offer in compromise and the Service found the taxpayer in default. May a taxpayer request relief under section 6015 in these circumstances?

A#20: No. A taxpayer is not entitled to relief from joint and several liability under section 6015 for any tax year for which the taxpayer has entered into an offer in compromise. Treas. Reg. § 1.6015-1(c)(1). The acceptance by the Service of a taxpayer's offer in compromise "will conclusively settle the liability of the taxpayer specified in the offer." Treas. Reg. § 301.7122-(e)(5). Also, under the terms of an accepted offer, the taxpayer agrees that the taxpayer will "have no right to contest, in court or otherwise, the amount of the tax liability." Form 656, Offer in Compromise, Item 8(l). Moreover, in entering into the compromise, the taxpayer acknowledges that the tax which is the subject of the compromise "will remain a tax liability until the taxpayer meets all the terms and conditions of the offer." Form 656, Item 8(k).

In United States v. Feinberg, 372 F.2d 352 (3d Cir. 1967), the taxpayer argued that, when the Service seeks to collect the original amount of the tax liability, the agreement between the parties should be viewed as having been completely terminated, and thus a defense to the original tax liability may be made "just as if there had been no compromise." Id. at 358. The Third Circuit rejected this and other arguments made by the taxpayer and upheld the district court's grant of summary judgment in favor of the government, thereby prohibiting any defense to collection of the original tax liability.

If the taxpayer fails to meet any of the terms and conditions of the offer and the offer is terminated due to the taxpayer's default, the Service can file suit to collect the entire unpaid balance of the offer, file suit to collect an amount equal to the original amount of the tax liability, minus any payment already received under the terms of the offer, or file suit or levy to collect the original amount of the tax liability, without further notice to the taxpayer of any kind.

Q#21: I reviewed the transcript in my section 6015 case and noticed that, prior to filing the section 6015 claim, the taxpayer and the Service entered into a closing agreement with respect to the tax liabilities at issue in my case. May a taxpayer request relief under section 6015 in these circumstances?

A#21: No. Treas. Reg. § 1.6015-1(c) provides that section 6015 relief is not available if the taxpayer signed a closing agreement with the Service for the same tax year for which relief under section 6015 is sought. Section 7121(b) and Treas. Reg. § 301.7121-1(c) provide that a closing agreement is final and conclusive and will not be set aside in the absence of fraud, malfeasance, or misrepresentation.

Q#22: In my case, a husband and wife filed a joint petition in response to a joint statutory notice of deficiency. The petitioner-wife raised relief under section 6015 for

the first time as a defense in the Tax Court proceeding. Thus, I immediately referred the case to Cincinnati Centralized Innocent Spouse Operations unit (CCISO) so that the Service could make a determination regarding equitable relief under section 6015(f). See Chief Counsel Notice CC-2004-026. After extensive negotiations with both petitioners, we have reached a settlement with respect to all the issues, including petitioner-wife's section 6015 claim. All parties have signed a stipulated decision and submitted it to the Tax Court. The stipulated decision provides, among other things, that petitioner-wife is entitled to partial relief under section 6015 for the tax years at issue. Does CCISO still need to make a determination?

A#22: No. Because the section 6015 claim was resolved by the stipulated decision entered in the case, which binds the parties, there is no need for CCISO to continue to consider the section 6015 claim or to render a determination. Please notify CCISO immediately so that they take no administrative action (including issuing a final determination letter) in contravention of the settlement.

IV. The Actual Knowledge Defense under Section 6015(c)(3)(C)

Q#23: I just received my first section 6015(c) case and I am preparing my answer. Must I affirmatively plead the actual knowledge defense in the answer?

A#23: Yes, this defense must be affirmatively pled in the answer. The Tax Court rules require respondent to affirmatively plead in the answer all defenses on which it bears the burden of proof. Rule 36(b). Section 6015(c)(3)(C) provides an actual knowledge defense to section 6015(c) relief, but places the burden of proof on the Service. Thus, if you want to defend a section 6015(c) case by arguing that the petitioner had actual knowledge, you must include affirmative allegations supporting that defense in the answer. If, at the time an answer is due, you do not know whether the actual knowledge defense is available because the file is not available or discovery is necessary before making this determination, then the answer should be filed without the actual knowledge allegations. If you later have evidence sufficient to raise an actual knowledge defense, you should then file a motion for leave to file an amended answer out of time and lodge the amended answer containing the necessary affirmative allegations. While the court generally will grant this motion, to avoid objections that the motion is prejudicial to the petitioner, the motion and amended answer should be filed as soon as possible.

Q#24: In my "S" case the taxpayer seeks relief under 6015(c). Do I need to file an answer to preserve the actual knowledge defense?

A#24: Yes, you will need to file an answer to preserve the actual knowledge defense in an "S" case, even though answers generally are not required in "S" cases. Rule 173(b). As with regular cases, however, in order to defend a section 6015(c) case with the

actual knowledge argument, we must plead the defense in the answer. As with regular cases, you should not file an answer containing these affirmative allegations until you have sufficient information to determine whether the actual knowledge defense is available. If you do not have sufficient information until after the expiration of the 60-day period to file answers, you should file a motion with the court to file an answer out of time and lodge the answer. Again, timeliness of the answer is important to avoid an objection.

Q#25: I just received the administrative file in my section 6015(c) case. The deficiencies stem from unreported income. I am not sure if I have facts sufficient to allege the actual knowledge defense. What type of evidence do I need to meet my burden of proof?

A#25: Section 6015(c)(3)(C) provides that the petitioner's section 6015(c) election is not valid if the Secretary shows that the petitioner had actual knowledge of any item giving rise to the deficiency at the time the return was signed. Establishing that the taxpayer had only reason to know of the item is not sufficient. In the case of omitted income, you must prove that the electing spouse knew of the receipt of the income. Treas. Reg. § 1.6015-3(c)(2)(A).

Q#26: I have a section 6015(c) case involving the disallowance of partnership deductions allocable to the nonpetitioning spouse. I cannot establish that petitioner had actual knowledge of the factual circumstances which made the partnership items erroneous deductions, but I can establish that petitioner had actual knowledge of her ex-spouse's participation in the partnership. Should I allege the actual knowledge defense in my answer?

A#26: No. In an erroneous deduction or credit case, actual knowledge "means knowledge of the facts that made the item not allowable as a deduction or credit." Treas. Reg. § 1.6015-3(c)(2)(B)(1). Thus, in order to establish actual knowledge in your case, you must establish that the petitioner had actual knowledge of the factual circumstances which made the partnership items erroneous deductions. See King v. Commissioner, 116 T.C. 198, 204 (2001). Furthermore, if a deduction is fictitious or inflated, the Service must establish that the taxpayer "actually knew that the expenditure was not incurred, or not incurred to that extent." Treas. Reg. § 1.6015-3(c)(2)(B)(2).

Q#27: How do I defend my section 6015(c) case if the petitioner invested jointly in the partnership with her former spouse?

A#27: In these circumstances, you should argue that 50% of the deficiency from the erroneous item should be allocated to the petitioner. Treas. Reg. § 1.6015-3(d)(2)(iv). The petitioner may, however, be liable for more or less than 50% depending on the

effect of the tax benefit rule. See section 6015(d)(3)(B). The burden is on the petitioner to establish whether this rule applies to lower the liability.

Q#28: If I only have evidence sufficient to establish actual knowledge for a portion of an item, should I allege a partial actual knowledge defense in the answer?

A#28: Yes. If the taxpayer had actual knowledge of only a portion of the item, then relief is barred for the portion of the item for which the taxpayer had knowledge. Treas. Reg. § 1.6015-3(c)(2)(B)(2)(ii).

Q#29: In my case, the taxpayer knew about the item giving rise to the deficiency, but did not know how the item should have been reported on the tax return. Is the fact that taxpayer did not know about the proper tax treatment of the item relevant to determining whether the taxpayer had actual knowledge?

A#29: No. The taxpayer's knowledge of how an item was treated on the return is not relevant to determining actual knowledge. For example, actual knowledge is established if the requesting spouse knows of the other spouse's taxable dividend income, even if the requesting spouse did not know at the time the return was signed whether the dividend income was taxable. Treas. Reg. § 1.6015-3(c)(2)(B)(2)(ii).

V. Procedures under Chief Counsel Notice CC-2004-026

Q#30: In my case, a wife filed a petition from a statutory notice of deficiency. It is not evident whether she is raising relief from joint and several liability as a defense, but she seems to be asking the court to help her out because she states that her ex-husband is to blame for the deficiency. She has not raised section 6015 relief previously. Should I treat this as a request for relief and refer the case to CCISO as set forth in Chief Counsel Notice CC-2004-026?

A#30: Yes, you should refer the case to the CCISO so that the Service can make a determination regarding equitable relief under section 6015(f). But note there has been a change in procedures. Notice CC-2004-026 instructed attorneys to file a Motion to Remand, and, if the case was calendared, a Motion for Continuance. Chief Counsel attorneys should no longer file Motions for Remand. See Friday v. Commissioner, 124 T.C. No. 13 (May 12, 2004). Motions for Continuance, however, should continue to be filed in all calendared cases to allow time for CCISO's consideration. These motions do not have to be reviewed by the National Office prior to filing. A sample Motion for Continuance is attached as Exhibit 2.

Q#31: In my section 6015(f) case the record was not well developed administratively. I have recently talked with the intervenor and she has provided me with a wealth of documentation which would support the Service's determination to deny relief.

Furthermore, the intervenor's testimony would be very helpful to my case. Unfortunately, the intervenor did not participate in the administrative proceeding. Thus, the intervenor's documentation and testimony are not part of the administrative record. Do I have to follow the procedures set forth in Notice CC-2004-026 and argue that the court can only consider the evidence that the Service considered administratively?

A#31: Yes. As set forth in the Chief Counsel Notice, you should take all steps to preserve the administrative record issue. Even though the evidence that the intervenor could provide strengthens our case, you should object to the introduction of this evidence on the grounds that it is outside the administrative record. If the Tax Court denies your evidentiary objection, or reserves ruling on the objection until after the trial, then you may submit evidence outside the administrative record, including the intervenor's evidence. You should then argue that, based on the administrative record, respondent did not abuse his discretion. You should also argue that, even considering the new evidence introduced at trial, including the intervenor's testimony, the petitioner still has not established that respondent abused his discretion.

Q#32: In my deficiency case, the petitioner raised relief under section 6015 for the first time as a defense in the Tax Court proceeding. Thus, I immediately referred the case to CCISO so that the Service could make a determination regarding equitable relief under section 6015(f). See Chief Counsel Notice CC-2004-026. CCISO has made a determination to deny relief. A trial date has not been set. Petitioner and I believe having Appeals review the claim would facilitate settlement of the case. Is it permissible to send the case to Appeals under these circumstances?

A#32: Yes. As long as the trial date is not imminent, there is no prohibition on Appeals reviewing the case in these circumstances.

Any questions regarding litigating section 6015 cases should be addressed to Branch 2, Administrative Provisions and Judicial Practice Division, at (202) 622-4940.

/s/
DEBORAH A. BUTLER
Associate Chief Counsel
(Procedure & Administration)

Attachments: Exhibit 1
Exhibit 2

Exhibit 1

UNITED STATES TAX COURT

JANE DOE,	)	
	)	
Petitioner,	)	
	)	
v.	)	Docket No. xxxx-xx
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent.	)	

NOTICE OF FILING OF PETITION AND RIGHT TO INTERVENE

RESPONDENT, pursuant to T. C. Rule 325(a) and King v. Commissioner, 115 T.C. 118 (2000), hereby provides notice of the filing of a petition raising relief from joint and several liability on a joint return by the above-named petitioner and of the right to intervene to petitioner's [former] spouse, John Doe, who filed joint returns with petitioner for the years in issue, as follows:

1. On June 9, 2003, petitioner Jane Doe filed a petition with the United States Tax Court for determination of relief from joint and several liability on joint returns for tax years 1, 2, and 3.

2. John Doe, petitioner's former spouse, filed joint returns with petitioner for the years in issue.

3. Under T.C. Rule 325(b), John Doe has a right to intervene in this matter regarding petitioner's entitlement to relief from joint and several liability. John Doe may exercise that right by filing a notice of intervention with the Tax Court no later than 60 days after service of this notice and attaching a copy of this notice to any notice of intervention filed with the Tax Court.

DONALD L. KORB
Chief Counsel
Internal Revenue Service

Date:_____

_____
Attorney's Name
Senior Attorney
(Small Business/Self-Employed)
Tax Court Bar No. YYYYYY
Street Address
City, State Zipcode
Telephone Number

OF COUNSEL:
THOMAS R. THOMAS
Division Counsel
(Small Business/Self-Employed)
AREA COUNSEL'S NAME
Area Counsel
(Small Business/Self-Employed)

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing NOTICE OF FILING OF PETITION AND RIGHT TO INTERVENE was served on petitioner by mailing the same on _____ in a postage paid wrapper addressed as follows:

Jane Doe
Street Address
City, State Zipcode

Date: _____

_____
ATTORNEY’S NAME
Senior Attorney
(Small Business/Self-Employed)
Tax Court Bar No. yyyyyyy

Exhibit 2

UNITED STATES TAX COURT

JANE DOE,	)	
	)	
Petitioner,	)	
	)	
v.	)	Docket No. xxxx-xx
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent.	)	

RESPONDENT’S MOTION FOR CONTINUANCE OF TRIAL

RESPONDENT MOVES, pursuant to the provisions of Tax Court Rule 133, to have the Court remove this case from the trial session of the Court scheduled to commence at New York, New York, on March 14, 2005, and restore the case to the general trial docket.

IN SUPPORT THEREOF, respondent respectfully states:

4. On February 27, 2004, respondent issued a Notice of Deficiency to petitioner and her former spouse, John Doe, for the taxable year 2000.

5. On June 1, 2004, petitioner filed a timely petition with the Court.

6. In the petition, petitioner raised for the first time, as an affirmative defense, that she is entitled to relief from the joint and several liability for taxable year 2000 under section 6015(f).

7. On October 8, 2004, the case was set for trial on March 14, 2005, in New York, New York.

8. Respondent needs additional time to consider petitioner's claim that she is entitled to relief from joint and several liability under section 6015(f) for taxable year 2000. Thus, respondent requests that this case be removed from the March 14, 2005 docket and restored to the general trial docket.

9. Respondent has contacted petitioner and she objects to the granting of this motion.

1. WHEREFORE, respondent requests that this motion be granted.

DONALD L. KORB
Chief Counsel
Internal Revenue Service

Date:_____

_____
Attorney's Name
Senior Attorney
(Small Business/Self-Employed)
Tax Court Bar No. YYYYYY
Street Address
City, State Zipcode
Telephone Number

OF COUNSEL:
THOMAS R. THOMAS
Division Counsel
(Small Business/Self-Employed)
AREA COUNSEL'S NAME
Area Counsel
(Small Business/Self-Employed)

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Respondent's Motion for Continuance of Trial was served on petitioner by mailing the same on _____ in a postage paid wrapper addressed as follows:

Jane Doe
Street Address
City, State Zipcode

Date: _____

_____
ATTORNEY'S NAME
Senior Attorney
(Small Business/Self-Employed)
Tax Court Bar No. yyyyyyy