

## SECTION 6015 CHECK LIST

### **I. General Considerations**

1) Is this a notice of deficiency case (§ 6213) or a stand alone case (§ 6015)?

2) Is the requesting spouse (RS) seeking relief under I.R.C. § 6015 (b), (c), or (f)?

a) 6015(c)

1) Did the RS have actual knowledge of an item giving rise to the deficiency?

2) If so, affirmative allegations of actual knowledge should be made in the answer. (See I.R.C. § 6015(c)(3)(C)).

b) 6015(f)

See Rev. Proc. 2000-15, 2000-1 C.B. 447, for factors to consider.

3) Is the innocent spouse (IS) issue being raised for the first time in the petition (i.e., has the Service administratively addressed IS issue)?

a) If the Service has not administratively addressed the IS issue, have Appeals address the issue.

b) If time is of the essence, have the agent assist Counsel with factual development. May need to request a continuance.

4) Is res judicata or collateral estoppel appropriate? (See I.R.C. § 6015(g)(2) and Prop. Treas. Reg. § 1.6015-1(e).) If you think so, contact APJP:2

5) Notification of the nonrequesting/nonpetitioning spouse is required. See T.C. Rules 324 & 325; and King v. Commissioner, 115 T.C. 118 (2000). Notice N(35)000-173 has sample language.

### **II. Special Considerations**

#### **1) DURESS**

Is the RS alleging duress? (See Prop. Treas. Reg. § 1.6013-4; and CCDM 35.5.1.5.2.2).

a) If so, IS may not be the issue. The issue may be whether the return is a valid joint return.

b) If RS establishes duress, determine whether the statute of limitations is open on the filed return.

#### **2) CLAIMS**

Was the claim filed within 2 years of the first collection activity after 7/22/98? If not, consider summary judgment and contact coordinator.

#### **3) PAYMENTS**

Did the liability arise after or remain unpaid as of July 22, 1998? I.R.C. § 6015 does not apply to liabilities paid prior to this date. If paid earlier, consider summary judgment and contact coordinator.

#### **4) REFUNDS**

Has the requesting spouse asked for a refund?

a) I.R.C. § 6015(b) - Refunds allowed.

b) I.R.C. § 6015(c) - No refunds allowed. (See I.R.C. § 6015(g) (3)).

c) I.R.C. § 6015(f) - Limited refunds allowed. (See Rev. Proc. 2000-15, 2000-1 C.B. 447).

**5) INTERVENER ISSUES**

a) The nonpetitioning spouse has 60 days to intervene. If the 60-day date is close to, or after, the calendar date, request a continuance. (See T.C. Rule 325).

b) If the nonpetitioning spouse intervenes, he or she must sign the stipulated decision.

**6) DECISION DOCUMENTS**

Sample innocent spouse decision documents are posted on both the PA and SB/SE web sites.

**III. Coordinators**

Contact one of the following coordinators for any questions regarding this checklist:

Richard Stone      (410) 962-3109

Audrey Morris      (972) 308-7914

Steve Roth          (805) 371-6702 x 718

If you handle cases in community property states and have questions regarding I.R.C. § 66, contact Steve Roth.