

CC-2012-004

January 5, 2012

Subject: Changes to Guidelines for
Determining Equitable Relief from
Joint and Several Liability under
Section 6015(f) **Cancel Date:** Effective until further
notice

Purpose

On January 5, 2012, the Service released Notice 2012-8, which includes a proposed revenue procedure with revised factors that will be used to consider requests for equitable relief under section 6015(f). Notice 2012-8 provides that, until the revenue procedure is finalized, the Service will apply the provisions in the proposed revenue procedure instead of Rev. Proc. 2003-61 in evaluating claims for equitable relief. This Chief Counsel Notice provides direction for handling cases docketed with the Tax Court.

Background

Sections 6015(b), (c), and (f) prescribe the bases for relief from joint and several liability. When relief is not available under section 6015(b) or (c), a taxpayer may obtain relief under section 6015(f) if it would be inequitable under the facts and circumstances to hold the taxpayer liable. Rev. Proc. 2003-61 sets forth threshold requirements to be met by a requesting spouse seeking equitable relief in order to be considered for relief, as well as the equitable factors to be applied by the Service in determining whether to grant relief.

Discussion

Effective immediately, attorneys will no longer argue that equitable relief is not warranted in section 6015(f) cases based on the factors set forth in Rev. Proc. 2003-61. Instead, attorneys will apply the revised factors set forth in the proposed revenue procedure until a final revenue procedure is published. These revised factors emphasize the effect abuse by the nonrequesting spouse will have in determining whether equitable relief is warranted, expand the applicability of streamlined case determinations, apply an objective standard to determine whether the requesting spouse will suffer economic hardship, and provide guidelines with respect to the weight to be accorded certain factual circumstances. The provisions of the proposed revenue procedure are also applicable to taxpayers seeking equitable relief from income tax liability under section 66(c).

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