



OFFICE OF
CHIEF COUNSEL

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

Attachment 1
2000-06
May 30, 2000

CC:DOM:FS:IT&A
HFRogers

May 11, 2000

ACTION ON DECISION

SUBJECT: Diane Fernandez v. Commissioner
114 T.C. No. 21 (filed May 10, 2000)
Dkt. No. 16710-99

Issue: Whether the Tax Court has jurisdiction to review the Service's determination that a spouse is not entitled to relief under I.R.C. § 6015(f).

Discussion: The taxpayer filed a request for innocent spouse relief under I.R.C. § 6015(b), (c) and (f). The Service denied the taxpayer's request for relief. The taxpayer filed a petition with the Tax Court pursuant to section 6015(e) and requested that the Tax Court review the taxpayer's entitlement to relief.

The Service filed a motion to dismiss for lack of jurisdiction and to strike those portions of the petition that requested that the Tax Court review the Service's determination that the taxpayer was not entitled to relief under section 6015(f). The Service asserted that section 6015(e) precluded judicial review of the request for relief made pursuant to section 6015(f). The Tax Court disagreed holding that, when a taxpayer makes a requisite election under sections 6015(b) and/or (c) along with its request under section 6015(f), and files a timely petition with the Tax Court pursuant to section 6015(e), the Tax Court has jurisdiction to review the request for innocent spouse relief under all subsections of section 6015. The Tax Court reached a similar conclusion in Butler v. Commissioner, 114 T.C. No. 19 (filed April 28, 2000).

The court reasoned that the statutory language gave it jurisdiction and that the legislative history also demonstrated that Congress did not intend to limit its review of section 6015. The court primarily relied on the following statutory language in reaching its conclusion:

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The individual may petition the Tax Court (and the Tax Court shall have jurisdiction) to determine the appropriate relief available to the individual under this section.

Section 6015(e)(1)(A). The court concluded that Congress intended the term “under this section” to include all subsections of section 6015 in their entirety.

We believe the court’s statutory construction is a reasonable one. The Service will no longer contest the Tax Court’s jurisdiction to review a request for innocent spouse relief under section 6015(f), when the requirements of section 6015(e) have been met.

Recommendation: Acquiescence

Reviewers: RLC DAB

_____/s/_____
HELEN F. ROGERS
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Approved:

STUART L. BROWN
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_____/s/_____
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