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**From:** [REDACTED]

**Sent:** Friday, January 17, 2020 9:54:16 AM

**To:** [REDACTED]

**Cc:** [REDACTED]

**Bcc:**

**Subject:** RE: Question for the TECHs

In the case below, tax years            and            ARE non-qualified. Proposed Regulation sec 1.6015-4(a) allows a requesting spouse to seek equitable relief if the spouse "file[d] a joint return for which an understatement or deficiency (as defined by § 1.6015-1(h)(7) and (8)) was determined or for which there was unpaid tax (as defined by § 1.6015-1(h)(6))...." Here, based on the closing agreement, there was no deficiency, understatement, or unpaid tax for tax years            and            . There are assessed penalties and interest, but those cannot independently be considered for relief. Where the underlying tax is not challenged, any equitable relief to penalties and interest is still based on an analysis of the underlying tax. Here, there is no tax to analyze, so there can be no relief to the penalties and interest.

The representative cites to Boyle v. Commissioner, T.C. Memo. 2016-87. In Boyle, the taxpayer's liabilities for the year in issue "remained unpaid" as of the time of trial. The taxpayer "sought relief under section 6015(f) from the additions to tax for the failure to file and to pay and the interest assessed for 2003; he d[id] not seek relief from the underpayment itself." The lack of an underlying assessment in this case makes it distinguishable.

Please let me know if you require any additional information or documents.

Signed,