the surviving spouse is a citizen or resident of the United States who is entitled to the benefits of section 2, the election terminates as of the first taxable year following the last taxable year for which the surviving spouse is entitled to the benefits of section 2. If both spouses die within the same taxable year, the election terminates as of the first day after the close of the taxable year in which the deaths occurred.

(3) *Legal separation.* An election under this section terminates if the spouses legally separate under a degree of divorce or of separate maintenance. An election that terminates on account of legal separation terminates as of the close of the taxable year preceding the taxable year in which the separation occurs. The rules in §1.6013–4(a) are relevant in determining whether two spouses are legally separated.

(4) *Inadequate records.* An election under this section may be terminated by the Commissioner if it is determined that either spouse has failed to keep adequate records. An election that is terminated on account of inadequate records terminates as of the close of the taxable year preceding the taxable year for which the Commissioner determines that the election should be terminated. Adequate records are the books, records, and other information reasonably necessary to ascertain the amount of liability for taxes under chapters 1, 5, and 24 of the code of either spouse for the taxable year. Adequate records also includes the granting of access to the books and records.

(c) *Illustrations.* The application of this section is illustrated by the following examples. In each case the individual's taxable year is the calendar year and the spouses are not legally separated.

Example 1. W, a U.S. citizen for the entire taxable year 1979, is married to H, a nonresident alien individual. W and H may make the section 6013(g) election for 1979 by filing the statement of election with a joint return. If W and H make the election, income from sources within and without the United States received by W and H in 1979 and subsequent years must be included in gross income for each taxable year unless the election later is terminated or suspended. While W and H must file a joint return for 1979, joint or separate returns may be filed for subsequent years.

Example 2. H and W are husband and wife and are both nonresident alien individuals. In June 1980 H becomes a U.S. resident and remains a resident for the balance of the year. H and W may make the section 6013(g) election for 1980. If H and W make the election, income from sources within and without the United States received by H and W for the entire taxable year 1980 and subsequent years must be included in gross income for each taxable year, unless the election later is terminated or suspended.

Example 3. . W, a U.S. resident on December 31, 1981, is married to H, a nonresident alien. W and H make the section 6013(g) election and file joint returns for 1981 and succeeding years. On January 10, 1987, W becomes a nonresident alien. H has remained a nonresident alien. W and H may file a joint return or separate returns for 1987. As neither W or H is a U.S. resident at any time during 1988, their election is suspended for 1988. If W and H have U.S. source or foreign source income effectively connected with the conduct of a U.S. trade or business in 1988, they must file separate returns as nonresident aliens. W becomes a U.S. resident again on January 5, 1990. Their election no longer is in suspense. Income from sources within and without the United States received by W or H in the years their election is not suspended must be included in gross income for each taxable year.

Example 4. H, a U.S. citizen for the entire taxable year 1979, is married to W, who is not a U.S. citizen. While W believes that she is a U.S. resident, H and W make the section 6013(g) election for 1979 to cover the possibility that later it would be determined that she is a nonresident alien during 1979. The election for 1979 will not be considered evidence that W was a nonresident alien in prior years. Income from sources within and without the United States received by H and W in 1979 and subsequent years must be included in gross income for each taxable year, unless the election later is terminated or suspended.

[T.D. 7670, 45 FR 6929, Jan. 31, 1980, as amended by T.D. 7842, 47 FR 49842, Nov. 3, 1982; T.D. 8411, 57 FR 15241, Apr. 27, 1992]

§1.6013–7 Joint return for year in which nonresident alien becomes resident of the United States.

(a) *Election for special treatment*—(1) *In general.* Two individuals who are husband and wife at the close of a taxable year ending on or after December 31, 1975, may make an election under this section for that taxable year if one spouse is a citizen or resident of the United States on the last day of that

taxable year and the other spouse is a nonresident alien at the beginning of that taxable year and a citizen or resident of the United States at the close of that taxable year. Two married individuals who are nonresident aliens at the beginning of a taxable year and who are U.S. citizens or residents on the last day of that taxable year qualify for the election. The effect of the election is that each spouse is treated as a resident of the United States for purposes of chapters 1, 5, and 24 and sections 6012, 6013, 6072, and 6091 of the code for all of that taxable year. A husband and wife may not make an election if an election has previously been made under this section by either spouse.

(2) *Particular rules.* The rules in subdivisions (ii) through (v) of §1.6013–6(a)(2) are applicable to this section.

(3) *Time and manner of making an election.* A husband and wife shall make the election under this section in accordance with the rules in §1.6013–6(a)(4).

(b) *Section 6013(g) election in effect.* If an election under section 6013(g) is in effect for a year subsequent to the first taxable year for which made and during that subsequent year the husband and wife meet the requirements of section 6013(h) and paragraph (a)(1) of this section, then the election under section 6013(g) shall apply to that subsequent taxable year. A separate election under section 6013(h) is not required for that subsequent taxable year.

[T.D. 7670, 45 FR 6931, Jan. 31, 1980]

§1.6014–1 Tax not computed by taxpayer for taxable years beginning before January 1, 1970.

(a) *In general.* If an individual is entitled under paragraph (a)(7) of §1.6012–1 to use as his return Form 1040A, he may elect not to show thereon the amount of the tax due in connection with such return if his gross income is less than $5,000.

(b) *Computation and payment of tax.* A taxpayer who, in accordance with paragraph (a) of this section, elects not to show the tax on Form 1040A is not required to pay the unpaid balance of such tax at the time he files the return. In such case, the tax will be computed for the taxpayer by the Internal Revenue Service, and a notice will be mailed to the taxpayer stating the amount of tax due. Where it is determined that a refund of tax is due, the Internal Revenue Service will send such refund to the taxpayer. See paragraph (c) of §301.6402–3 of this chapter (Regulations on Procedure and Administration).

(c) *Joint return.* (1) A husband and wife who, pursuant to paragraph (a)(7) of §1.6012–1, file a joint return on Form 1040A may elect not to show the tax on such return if their aggregate gross income for the taxable year is less than $5,000.

(2) The tax computed for the taxpayer who files Form 1040A and elects not to show thereon the tax due shall be the lesser of the following amounts:

(i) A tax computed as though the return on Form 1040A constituted the separate returns of the spouses, or

(ii) A tax computed as though the return on Form 1040A constituted a joint return.

(d) *Married individuals filing separate returns.* In the case of a married individual who files a separate return and who elects under this section not to show his tax on Form 1040A his tax shall be computed with reference to the 10-percent standard deduction rather than the minimum standard deduction.

(e) This section shall apply to taxable years beginning before January 1, 1970.

[T.D. 6500, 25 FR 12108, Nov. 26, 1960, as amended by T.D. 6581, 26 FR 11678, Dec. 6, 1961; T.D. 6792, 30 FR 531, Jan. 15, 1965; T.D. 7102, 36 FR 5497, Mar. 24, 1971]

§1.6014–2 Tax not computed by taxpayer for taxable years beginning after December 31, 1969.

(a) *In general.* An individual subject to the tax imposed by section 1 of the Code may, in accordance with the instructions applicable to the income tax return to be filed, elect, for any taxable year beginning after December 31, 1969, not to show on his income tax return for such year the amount of tax due in connection with such return.

(b) *Restriction on making an election.* The election pursuant to this section shall not be made by an individual who does not file his return (or amended return) making such election on or before the date prescribed in section