

6072(a) for the filing of the original return (determined without regard to any extension of time).

(c) *Effects of election.* (1) A taxpayer who, in accordance with the provisions of this section, elects not to show the tax on his income tax return 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). The computation of tax by the Internal Revenue Service shall be treated for purposes of this chapter as if made by the taxpayer, and such computation or the issuance of a notice or refund pursuant thereto shall not relieve the taxpayer of liability for any deficiency (although the deficiency is based upon an amount of tax different from that computed for the taxpayer by the Internal Revenue Service) or affect the rights of the Internal Revenue Service with respect to any subsequent audit or other review of the taxpayer's return.

(2) Where the election provided for in this section is made by a taxpayer who takes the standard deduction and who has adjusted gross income of less than \$10,000, such election constitutes an election to pay the tax imposed by section 3.

(3) A taxpayer who makes an election under section 6014 shall not be precluded from claiming:

- (i) Status as a head of household or a surviving spouse;
- (ii) The credit under section 31 (relating to tax withheld on wages);
- (iii) The credit under section 37 (relating to retirement income);
- (iv) The credit under section 38 (relating to investment in certain depreciable property);
- (v) The credit under section 39 (relating to certain uses of gasoline and lubricating oil);
- (vi) The credit under section 41 (relating to contributions to candidates for public office);

(vii) The credit under section 42 (relating to personal exemptions);

(viii) The credit under section 43 (relating to earned income);

(ix) The credit under section 44 (relating to purchase of new principal residence); or

(x) The credit under section 45 (relating to overpayments of tax).

(d) *Joint returns.* (1) A husband and wife who file a joint return may elect not to show the tax on such return in accordance with the rules prescribed in paragraphs (a) and (b) of this section.

(2) The tax computed for a husband and wife who elect pursuant to this section not to show their tax on their joint income tax return shall be the lesser of the following amounts:

(i) A tax computed as though the return of income constituted a joint return, or

(ii) If sufficient information is provided for the taxable income of each spouse to be determined, a tax computed as though the return of income constituted the separate returns of the spouses.

(e) *Married individuals filing separate returns.* This section shall apply to married individuals filing separate returns unless otherwise provided in the instructions accompanying a return. The instructions may require the taxpayer to attach to his return a statement to the effect that his tax and the tax of his spouse were determined in accordance with the rules of sections 141(d) and 142(a).

(f) *Revocation of election.* An election pursuant to this section may be revoked on an amended return (whether such return is filed before or after the date prescribed in section 6072(a) for filing the original return).

[T.D. 7102, 36 FR 5497, Mar. 24, 1971, as amended by T.D. 7298, 38 FR 35234, Dec. 26, 1973; T.D. 7391, 40 FR 55856, Dec. 2, 1975]

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§ 1.6015-9 *Effective date.*

[T.D. 9003, 67 FR 47285, July 18, 2002]

### § 1.6015-1 Relief from joint and several liability on a joint return.

(a) *In general.* (1) An individual who qualifies and elects under section 6013 to file a joint Federal income tax return with another individual is jointly and severally liable for the joint Federal income tax liabilities for that year. A spouse or former spouse may be relieved of joint and several liability for Federal income tax for that year under the following three relief provisions:

(i) Innocent spouse relief under § 1.6015-2.

(ii) Allocation of deficiency under § 1.6015-3.

(iii) Equitable relief under § 1.6015-4.

(2) A requesting spouse may submit a single claim electing relief under both or either §§ 1.6015-2 and 1.6015-3, and requesting relief under § 1.6015-4. However, equitable relief under § 1.6015-4 is available only to a requesting spouse who fails to qualify for relief under §§ 1.6015-2 and 1.6015-3. If a requesting spouse elects the application of either § 1.6015-2 or 1.6015-3, the Internal Revenue Service will consider whether relief is appropriate under the other elective provision and, to the extent relief is unavailable under either, under § 1.6015-4. If a requesting spouse seeks relief only under § 1.6015-4, the Secretary may not grant relief under § 1.6015-2 or 1.6015-3 in the absence of an affirmative election made by the requesting spouse under either of those sections. If in the course of reviewing a request for relief only under § 1.6015-4, the IRS determines that the requesting spouse may qualify for relief under § 1.6015-2 or 1.6015-3 instead of § 1.6015-4, the Internal Revenue Service will correspond with the requesting spouse to see if the requesting spouse would like to amend his or her request to elect the application of § 1.6015-2 or 1.6015-3. If the requesting spouse chooses to amend the claim for relief, the requesting spouse must submit an affirmative election under § 1.6015-2 or 1.6015-3. The amended claim for relief will relate back to the original claim for purposes of determining the timeliness of the claim.

(3) Relief is not available for liabilities that are required to be reported on a joint Federal income tax return but are not income taxes imposed under Subtitle A of the Internal Revenue Code (e.g., domestic service employment taxes under section 3510).

(b) *Duress.* For rules relating to the treatment of returns signed under duress, see § 1.6013-4(d).

(c) *Prior closing agreement or offer in compromise—*(1) *In general.* A requesting spouse is not entitled to relief from joint and several liability under § 1.6015-2, 1.6015-3, or 1.6015-4 for any tax year for which the requesting spouse has entered into a closing agreement with the Commissioner that disposes of the same liability that is the subject of the claim for relief. In addition, a requesting spouse is not entitled to relief from joint and several liability under § 1.6015-2, 1.6015-3, or 1.6015-4 for any tax year for which the requesting spouse has entered into an offer in compromise with the Commissioner. For rules relating to the effect of closing agreements and offers in compromise, see sections 7121 and 7122, and the regulations thereunder.

(2) *Exception for agreements relating to TEFRA partnership proceedings.* The rule in paragraph (c)(1) of this section regarding the unavailability of relief from joint and several liability when the liability to which the claim for relief relates was the subject of a prior closing agreement entered into by the requesting spouse, shall not apply to an agreement described in section 6224(c) with respect to partnership items (or any penalty, addition to tax, or additional amount that relates to adjustments to partnership items) that is entered into while the requesting spouse is a party to a pending partnership-level proceeding conducted under the provisions of subchapter C of chapter 63 of subtitle F of the Internal Revenue Code (TEFRA partnership proceeding). If, however, a requesting spouse enters into a closing agreement pertaining to any penalty, addition to tax, or additional amount that relates to adjustments to partnership items, at a time when the requesting spouse is not a party to a pending TEFRA partnership proceeding (e.g., in connection with an affected items proceeding),