Department Internal Office of of the Revenue Chief Counsel

Notice

CC-2012-004

January 5, 2012

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

Purpose

On January 5, 2012, the Service released Notice 2012-8, which includes a proposed revenue procedure with revised factors that will 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).

Distribute to:	X All Personnel		
	X Electronic Reading Room		
Filename:	CC-2012-004	File copy in:	CC:FM:PM

Attorneys should review their inventory of open Tax Court cases to determine whether equitable relief under section 6015(f) is at issue. Cases which are in the court's general docket (e.g., not yet calendared), and for which the determination under section 6015(f) was based on the factors in Rev. Proc. 2003-61, should be referred to the Service's Cincinnati Centralized Innocent Spouse Operation (CCISO) unit for a new determination based on the revised factors set forth in the proposed revenue procedure. The file should be sent CCISO at the following address:

IRS-CCISO Stop 840F P.O. Box 120053 Attn: Department One Manager Covington, KY 41012

If a private delivery service is used, send the file to the following address:

IRS-CCISO 201 West Rivercenter Boulevard Stop 840F Attn: Department One Manager Covington, KY 41011

Requests should be marked "EXPEDITE-TAX COURT CASE PENDING" and include the Tax Court petition and all other relevant documents and information that would assist CCISO in making a determination based on the revised factors in the proposed revenue procedure. The request should specify that CCISO provide the results of their consideration directly to Counsel and that a determination letter should not be issued by CCISO. Questions regarding submitting requests for determinations and the status of the requests can be made by calling CCISO at (866) 897-4270 (Extension x8147).

If a case is on a trial calendar it should be referred immediately to CCISO for a new determination. If the calendar is less than 75 days from the date of this notice, a Motion for Continuance is appropriate in order to give the Service sufficient time to review the merits of the claim based on the revised factors of the proposed revenue procedure.

For all other cases, including cases tried, briefed or submitted, the attorney must contact Branch 1 or 2 of Procedure and Administration immediately to discuss how to proceed. The appropriate action to take in these cases will depend on the facts and posture of the case. Because the facts and posture of each case will vary, this Notice cannot provide case-specific guidance, thus, coordination with Procedure and Administration is mandatory.

Questions concerning this Notice should be directed to Branch 1 or 2 of Procedure and Administration at (202) 622-4910 or (202) 622-4940, respectively.

/s/ Deborah A. Butler Associate Chief Counsel (Procedure & Administration)