

United States Tax Court

T.C. Memo. 2026-98

JOANNE DAIDONE,
Petitioner,
AND STEPHEN B. DAIDONE,
Intervenor

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent

Docket No. 17172-24.

Filed September 28, 2026.

Elizabeth A. Maresca, for petitioner.

Stephen B. Daidone, pro se.

Andrew I. Ouslander, Erik M. Sternberg, and Marc L. Caine, for
respondent.

MEMORANDUM OPINION

GUIDER, *Judge*: Petitioner seeks review under section 6015(e)(1)¹ of respondent's determination that she is not entitled to relief from joint and several liability with respect to a tax liability arising from a joint federal income tax return filed under her name and under the name of intervenor, Stephen B. Daidone, for taxable year 2014.

¹ Unless otherwise indicated, statutory references are to the Internal Revenue Code, Title 26 U.S.C., in effect at all relevant times, regulation references are to the Code of Federal Regulations, Title 26 (Treas. Reg.), in effect at all relevant times, and Rule references are to the Tax Court Rules of Practice and Procedure.

Served 09/28/26

[*2] Before the Court is petitioner's Motion for Summary Judgment, in which petitioner argues that she is not liable for any tax on the 2014 joint federal income tax return because she did not sign the return or tacitly consent to its filing. On March 6, 2026, respondent filed a Response to petitioner's Motion for Summary Judgment wherein he agreed to petitioner's claims that she did not actually or tacitly consent to the filing of the 2014 joint federal income tax return and that she is not liable for any tax from that return. On March 30, 2026, intervenor filed an Opposition to petitioner's Motion for Summary Judgment wherein he argued that petitioner knew he was attempting to file the 2014 joint return and petitioner refused to sign it. Further, intervenor argues that the issue of whether petitioner tacitly consented to the filing of the 2014 joint federal income tax return cannot be decided on summary judgment. On April 29, 2026, petitioner filed a Response to intervenor's Opposition wherein she reiterated her arguments that she neither signed nor tacitly consented to file the 2014 joint federal income tax return. On May 1, 2026, intervenor filed a Response to petitioner's Response in which he restated his arguments in his original Opposition and introduced arguments regarding petitioner and intervenor's Stipulation of Settlement for their divorce. On June 17, 2026, the Court ordered petitioner to show cause why this case should not be dismissed on the ground that petitioner is not eligible for relief under section 6015 because no valid joint return was filed. On July 8, 2026, petitioner filed a Response to the Court's Order, conceding that relief under section 6015 is unavailable where no valid joint return has been filed.

The issue we must decide is whether petitioner is entitled to relief from joint and several liability with respect to 2014.

Background

The following facts are derived from the Petition, pleadings, Declarations, the parties' Motion papers and the Exhibits attached thereto, and the Administrative Record. These facts are stated solely for the purpose of ruling on the Motion before us and not as findings of fact in this case. *See Sundstrand Corp. v. Commissioner*, 98 T.C. 518, 520 (1992), *aff'd*, 17 F.3d 965 (7th Cir. 1994). Petitioner resided in New York when she timely filed her Petition.

Petitioner and intervenor married in October 1980 and divorced in January 2023. While their divorce was pending, petitioner sought advice from a tax professional to assist her in filing her current and missing tax returns. The tax professional suggested that, because of the

[*3] pending divorce, she file her Form 1040, U.S. Individual Income Tax Return, separately and select married filing separately status.

While their divorce was pending, intervenor's attorney asked petitioner's attorney whether petitioner would be willing to file a joint Form 1040 for tax year 2014. Petitioner's attorney stated that petitioner would not be willing to sign or file a joint Form 1040 for 2014. At that point, even though petitioner explicitly stated she would neither sign nor file a joint return with intervenor, intervenor filed a joint Form 1040 that included petitioner (Joint Return). Instead of including petitioner's signature on the Joint Return (because petitioner explicitly stated she would not sign this return), intervenor affixed his own initials to the line for petitioner. In July 2025, in accordance with the advice of her attorneys, petitioner filed her own 2014 Form 1040.

Respondent received petitioner's Form 8857, Request for Innocent Spouse Relief, on June 1, 2023. Within Form 8857, petitioner stated that she had no involvement with the Joint Return and did not sign the return. Respondent issued a preliminary determination denying petitioner's request for innocent spouse relief for 2014 in May 2024. In August 2024 respondent issued a Letter 3279C, designated "FINAL DETERMINATION," which denied her relief from joint and several liability under section 6015(f) for the 2014 taxable year.

Discussion

I. Burden of Proof

The taxpayer generally bears the burden of proof with respect to whether she is entitled to relief under section 6015, subject to certain exceptions. *See* Rule 142(a); *Alt v. Commissioner*, 119 T.C. 306, 311 (2002), *aff'd*, 101 F. App'x 34 (6th Cir. 2004).

II. Summary Judgment

The purpose of summary judgment is to expedite litigation and avoid costly, time-consuming, and unnecessary trials. *Fla. Peach Corp. v. Commissioner*, 90 T.C. 678, 681 (1988). The Court shall grant summary judgment when the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. Rule 121(a)(2); *Sundstrand Corp.*, 98 T.C. at 520.

In deciding whether to grant summary judgment, we construe factual materials and inferences drawn from them in the light most

[*4] favorable to the nonmoving party. *Sundstrand Corp.*, 98 T.C. at 520. The nonmoving party may not rest upon mere allegations or denials in his pleadings, but instead must set forth specific facts showing that there is a genuine dispute for trial. Rule 121(d); *see also Sundstrand Corp.*, 98 T.C. at 520.

III. *Joint Return Requirement*

Generally, married taxpayers electing to file a joint federal income tax return are jointly and severally liable for the entire tax due for that taxable year. § 6013(d)(3); *Butler v. Commissioner*, 114 T.C. 276, 282 (2000). A spouse may seek relief from this joint and several liability under section 6015(b), or, if eligible, may allocate liability under section 6015(c). § 6015(a). If relief is not available under subsection (b) or (c), a requesting spouse may seek equitable relief under subsection (f). § 6015(f)(1).

Petitioner and intervenor have stated, and respondent has agreed, that petitioner did not review, sign, or see the Joint Return that intervenor filed on her behalf without her signature. However, the failure of one spouse to actually sign does not necessarily negate the intent to file a joint return by the nonsigning spouse. Intent may be demonstrated through tacit consent. The “tacit consent rule” holds that the intent to file jointly may be inferred from the acquiescence or tacit approval from the nonsigning spouse. *Hennen v. Commissioner*, 35 T.C. 747, 748 (1961); *Okorogu v. Commissioner*, T.C. Memo. 2017-53, at *19. This Court has considered a variety of factors in deciding the issue of tacit consent, including whether the nonsigning spouse filed a separate return, whether the nonsigning spouse objected to filing jointly, and whether the prior filing history indicates the intent to file jointly. *Okorogu*, T.C. Memo. 2017-53, at *19–21; *see also Heim v. Commissioner*, 27 T.C. 270, 274 (1956), *aff’d*, 251 F.2d 44 (8th Cir. 1958); *Howell v. Commissioner*, 10 T.C. 859, 866 (1948), *aff’d per curiam*, 175 F.2d 240 (6th Cir. 1949); *Carroro v. Commissioner*, 29 B.T.A. 646, 650 (1933). Petitioner explicitly denied consent for intervenor to file the Joint Return and filed her own, separate Form 1040 for 2014. In intervenor’s Opposition to petitioner’s Motion for Summary Judgment, he specifically admitted that he “placed his initials on the spouse line to reflect on her refusal” and that petitioner “refused to sign” the Joint Return. Therefore, we find that petitioner did not tacitly consent to the filing of the Joint Return. We accordingly conclude that petitioner did not file or tacitly consent to file, and she could not have filed, a valid

[*5] joint Form 1040 with intervenor for 2014. *See* Treas. Reg. § 1.6013-1(a)(2).

On that basis petitioner argues that she is not liable for the tax reported on the Joint Return. Respondent does not dispute this and agrees that petitioner is not liable for the tax reported on the Joint Return. However, even though petitioner and respondent agree that the Joint Return was invalid and that petitioner is not liable for the tax reported on the Joint Return, we must affirm respondent's denial of petitioner's request for relief under section 6015.

In a stand-alone case,² such as petitioner's, section 6015(e) gives us jurisdiction to determine whether relief is available under section 6015 only. *See Block v. Commissioner*, 120 T.C. 62, 68 (2003). But we can grant relief under section 6015 only if a joint return has been filed. *E.g., Raymond v. Commissioner*, 119 T.C. 191, 195–97 (2002). We have also held that the filing of a joint return is a condition for relief under section 6015 but not for our review of the denial of a claim for relief. *Gormeley v. Commissioner*, T.C. Memo. 2009-252, 2009 WL 3739463, at *3. Because petitioner did not file a joint return, there is no relief we can grant under section 6015. And we do not have equitable powers to expand our statutorily prescribed jurisdiction no matter how unfair the circumstances may seem. *See, e.g., Commissioner v. McCoy*, 484 U.S. 3, 7 (1987); *Bokum v. Commissioner*, 992 F.2d 1136, 1140 (11th Cir. 1993), *aff'g* T.C. Memo. 1990-21; *Woods v. Commissioner*, 92 T.C. 776, 784–85 (1989). “Our jurisdiction in a stand-alone proceeding is limited to the review of ‘the Commissioner’s denial of the specific relief contemplated under section 6015.’” *James v. Commissioner*, T.C. Memo. 2021-7, at *7 (quoting *Block*, 120 T.C. at 65).

IV. *Analysis*

The parties agree that petitioner did not sign the Joint Return. Moreover, intervenor's claim that a material factual dispute exists regarding petitioner's tacit consent to file the Joint Return is incorrect, as petitioner expressly denied consenting to the filing of the Joint Return and intervenor recognized her refusal to sign it. Thus, the 2014 Form 1040 filed by intervenor is not a valid joint return, and petitioner is thereby not eligible for section 6015 relief. “Given the narrow scope of

² A stand-alone case is a case in which a taxpayer files a petition seeking only review of a denial of a claim for relief from joint and several liability under section 6015(e) and not a petition for redetermination of a deficiency. *See Abdelhadi v. Commissioner*, T.C. Memo. 2018-183, at *5.

[*6] our section 6015 jurisdiction, this conclusion ends the case.” *James*, T.C. Memo. 2021-7, at *7.

Rule 121(g) permits us to grant summary judgment to a nonmovant “[a]fter giving notice and a reasonable time to respond.” Our June 17, 2026, Order to Show Cause gave the parties notice that we might grant summary judgment to respondent, and petitioner’s July 8, 2026, Response conceded that relief under section 6015 is unavailable where no valid joint return has been filed. We will accordingly deny petitioner’s Motion for Summary Judgment and affirm respondent’s denial of section 6015 relief pursuant to Rule 121(g)(1).

We have considered all other arguments made and facts presented in reaching our decision, and, to the extent not discussed above, we conclude that they are moot, irrelevant, or without merit.

To reflect the foregoing,

An appropriate order and decision will be entered.