

UNITED STATES TAX COURT
WASHINGTON, DC 20217

STEPHANIE LYNN CHRISTIE A.K.A.)	
STEPHANIE LYNN FORAN, PETITIONER)	
AND ARTHUR J. MAURELLO F.K.A. JOHN)	
FORAN, INTERVENOR,)	
)	
Petitioner(s),)	
)	
v.)	Docket No. 24515-12S.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	
)	

ORDER

Pursuant to Rule 152(b), Tax Court Rules of Practice and Procedure, it is

ORDERED that the Clerk of the Court shall transmit with this order to petitioner, intervenor, and respondent a copy of the pages of the transcript of the trial in this case that contain the oral findings of fact and opinion that was rendered at the trial session at Aberdeen, South Dakota.

In accordance with the oral findings of fact and opinion, decision will be entered for petitioner.

**(Signed) Ronald L. Buch
Judge**

Dated: Washington, D.C.
June 24, 2015

SERVED Jun 25 2015

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1 Bench Opinion by Judge Ronald L. Buch
2 June 11, 2015
3 Stephanie Lynn Christie a.k.a. Stephanie Lynn Foran,
4 Petitioner, and John Foran a.k.a. Arthur J. Maurello,
5 Intervenor v. Commissioner
6 Docket No. 24515-12S

7 THE COURT: The following represents the
8 Court's oral findings of fact and opinion. The oral
9 findings of fact and opinion may not be relied upon as
10 precedent in any other case. This opinion is in
11 conformity with Internal Revenue Code section 7459-(b)
12 and Rule 152(a) of the Tax Court Rules of Practice and
13 Procedure. Any section references refer to the Internal
14 Revenue Code or the Treasury regulations in effect
15 during the year at issue, and Rule references are to the
16 Tax Court Rules of Practice and Procedure.

17 This case was heard pursuant to section 7463.
18 Under section 7463(b), the decision to be entered in
19 this case is not reviewable by any other Court, and this
20 opinion may not be treated as precedent for any other
21 case.

22 Ms. Stephanie Christie seeks innocent spouse
23 relief as to her 2008 tax liability. She submitted a
24 Form 8857, Request for Innocent Spouse Relief, in
25 February 2011. After the IRS denied relief,

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1 Ms. Christie filed an administrative appeal. By letter
2 dated July 30, 2012, IRS Appeals likewise denied relief.
3 Ms. Christie filed a timely petition. While this matter
4 was pending, based at least in part on information
5 learned during discovery, Respondent adopted the
6 position that Ms. Christie is entitled to apportionment
7 relief under section 6015(d).

8 Mr. Arthur Maurello, formerly known as John
9 Foran, Petitioner's ex-husband, intervened opposing
10 relief.

11 If a spouse has petitioned the Court for
12 section 6015 relief, the non-requesting spouse has a
13 right to intervene in the case under section 6015(e)(4).
14 Corson v. Commissioner, 114 T.C. 354 (2000); Rule 325.
15 By doing so, the Intervenor becomes a party. Tipton v.
16 Commissioner, 127, T.C. 214, 217 (2006).

17 The only issue for decision is whether
18 Ms. Christie is entitled to relief as to a single
19 adjustment that arose during the examination of the
20 former couple's 2008 return. That adjustment relates to
21 an error as to the amount of income the couple received
22 from a TD Ameritrade account that was held jointly by
23 the parties. (As an aside, the evidence as to the
24 ownership of the account is less than perfect; we do not
25 have any of the account records. But both Petitioner

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1 and Intervenor believe that the account was held jointly
2 and it is undisputed that both could draw on the
3 account.)

4 When totaling the income from the TD
5 Ameritrade account, Mr. Maurello made what the parties
6 have characterized as mere mistake, understating the
7 income by \$121. Under the operation of the earned
8 income tax credit rules, that \$121 error resulted in a
9 deficiency of over \$4,000. The reason is that
10 additional \$121 of income resulted in the former
11 couple's having "excessive investment income" as that
12 phrase is used in section 32(i). And the result of that
13 is the denial of their earned income tax credit.

14 We are left to decide whether Ms. Christie is
15 entitled to relief.

16 Discussion

17 Generally, married taxpayers may elect to file
18 a joint Federal income tax return. Sec. 6013(a). Upon
19 electing to file jointly, each spouse is jointly and
20 severally liable for the entire tax due for that year.
21 Sec. 6013(d)(3). In certain circumstances, however, a
22 spouse who filed a joint return may seek relief from
23 joint and several liability under the procedures in
24 section 6015. Sec. 6015(a).

25 Section 6015(a) allows a spouse to seek relief

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1 from joint and several liability under subsection (b)
2 or, if eligible, to allocate the liability according to
3 provisions set forth in subsection (c). If a taxpayer
4 does not qualify for relief under either subsection (b)
5 or (c), the taxpayer may be eligible for equitable
6 relief under subsection (f). Except as otherwise
7 provided in section 6015, the taxpayer bears the burden
8 of proving that he or she is entitled to section 6015
9 relief. Rule 142(a); Alt v. Commissioner, 119 T.C. 306,
10 311 (2002), aff'd, 101 Fed. Appx. 34 (6th Cir. 2004).

11 Both the scope and standard of our review in
12 cases requesting relief from joint and several income
13 tax liability are de novo. Porter v. Commissioner, 132
14 T.C. 203, 210 (2009).

15 Ms. Christie is not eligible for relief under
16 section 6015(b). Under that provision, a person is not
17 eligible for relief if the liability is attributable to
18 an erroneous item of the other spouse. Section
19 6015(b)(1)(B). Because the erroneous item came from a
20 joint account, the Court cannot conclude that it is an
21 item of the other spouse.

22 Ms. Christie is eligible for relief under
23 section 6015(c). Under section 6015(c), a divorced or
24 separated spouse may elect to limit liability for a
25 deficiency on a joint return to the portion of the

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1 deficiency that is allocable to her under subsection
2 (d). The election may be filed at any time after the
3 deficiency is asserted but not later than two years
4 after the Secretary has begun collection activities.
5 Sec. 6015(c)(3)(B).

6 Additionally, the electing individual: (1)
7 must no longer be married to or must be legally
8 separated from the individual with whom the joint return
9 was filed; or (2) must not have been a member of the
10 same household with the individual with whom the joint
11 return was filed during the 12-month period before the
12 election was filed. Sec. 6015(c)(3)(A).

13 Ms. Christie and Mr. Maurello had been
14 separated at least 12 months when the election was
15 filed.

16 Subject to certain limitations, any item
17 giving rise to a deficiency on a joint return is
18 generally allocated to the individuals filing the return
19 in the same manner as it would have been if the
20 individuals had filed separate returns. Sec.
21 6015(d)(3)(A).

22 The account from which the omitted income
23 arose was a joint account. The funds in the account
24 appear to have originated with Mr. Maurello, and he
25 actively managed and invested those funds. However, the

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1 parties agree that both parties had access to the
2 account and that Ms. Christie could spend money from the
3 account ~~to the account~~ so long as she informed
4 Mr. Maurello of her spending.

5 In light of the joint ownership and control of
6 the account, we find that the beneficial ownership of
7 the account was divided equally between Ms. Christie and
8 Mr. Maurello. As a result, the income from the account
9 should be divided equally, and the resulting deficiency
10 should be divided equally.

11 An election under section 6015(c) is invalid
12 with respect to all or part of a deficiency if it can be
13 demonstrated that the individual making the election had
14 actual knowledge, at the time of signing the joint
15 return, of any item giving rise to the deficiency (or
16 portion thereof) that is not allocable to that
17 individual under section 6015(d). Sec. 6015(c)(3)(C).

18 Actual knowledge must be demonstrated by a
19 preponderance of the evidence. Culver v. Commissioner,
20 116 T.C. 189, 196 (2001). The actual knowledge standard
21 is narrower than the "reason to know" standard applied
22 under section 6015(b) and (f). McDaniel v.
23 Commissioner, T.C. Memo. 2009-137. As it relates to
24 omitted income, the regulations make clear that the
25 actual knowledge requirement relates not merely to the

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1 source of the income, but also the amount. See Treas.
2 Reg _ 1.6015-3(c)(2)(ii). Mere knowledge of the source
3 of the omitted income is not enough to disqualify
4 someone from relief. Treas. Reg. _ 1.6015-3(c)(2)(iii).

5 Ms. Christie was generally aware that there
6 were accounts with TD Ameritrade (although she was
7 uncertain how many accounts), but there is no dispute
8 that she was unaware of the \$121 omission. As a result,
9 she satisfies all of the requirements for apportionment
10 relief.

11 Because Ms. Christie qualifies for relief
12 under section 6015(c), she does not qualify for relief
13 under section 6015(f). See section 6015(f)(2). An
14 appropriate decision will be entered.

15 (Whereupon, at 3:00 p.m., the above-
16 entitled matter was concluded.)

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