

UNITED STATES TAX COURT
WASHINGTON, DC 20217

PATRICE ANNA BUTSKO, PETITIONER)	
AND GEOFFREY W. BUTSKO,)	
INTERVENOR,)	
)	
Petitioners,)	
)	
v.)	Docket No. 17147-16S.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	

ORDER OF DISMISSAL

This case is calendared on the Court’s September 25, 2017, Richmond, Virginia, trial session. This case is before the Court on petitioner’s Motion to Dismiss Without Prejudice, filed on June 7, 2017. Petitioner filed a petition in this case in response to an Internal Revenue Service (IRS) final determination dated May 16, 2016, denying her relief from joint and several liability under section 6015 of the Internal Revenue Code for 2010.

On May 18, 2017, petitioner filed a letter with the Court stating:

Please find the following documents that relate to the satisfaction of the IRS outstanding taxes and responsibility. The matter was tried, in Loudoun County, on January 18, 2017 and resolved in court on April 7, 2017 with proof of payment. Please let me know if there is any other documentation that is needed for the closing/withdrawing of the above mentioned Docket number (removal from the case).

Petitioner attached to her letter a copy of an order from the Circuit Court of Loudoun County dated January 18, 2017, finding that intervenor was found in willful contempt for his failure to pay the 2010 tax liability and ordering him to either pay in full or establish an installment agreement with the IRS to pay the entire tax liability for 2010 no later than March 3, 2017. Petitioner also attached to her letter a copy of correspondence from intervenor’s attorney in that case dated

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April 4, 2017, stating that intervenor had paid, among other tax liabilities, the 2010 tax liability and including a copy of the check as proof of payment.

After the Court held a conference call with the parties, petitioner filed the motion to dismiss without prejudice, stating therein that intervenor has no objection to the granting of this motion. On June 21, 2017, respondent filed a response to petitioner's motion, stating that respondent does not object to the granting of petitioner's motion.

Cases such as petitioner's are referred to as "stand alone" innocent spouse relief cases, in that they are independent of any deficiency proceeding. Fernandez v. Commissioner, 114 T.C. 324, 329 (2000). In Davidson v. Commissioner, 144 T.C. 273, 279 (2015), the Court held that a "stand alone" innocent spouse relief case may be dismissed upon motion by the taxpayer.

However, dismissal without prejudice is not possible at this stage of the proceeding. Because petitioner will be outside of the 90-day window for filing another stand alone petition challenging the IRS determination, dismissal of this case will preclude her from further contesting in this Court her entitlement to section 6015 relief for the tax year at issue. See sec. 6015(e)(1)(A); Davidson v. Commissioner, 144 T.C. at 278-279.

Upon due consideration, it is

ORDERED that petitioner's motion to dismiss, filed on June 7, 2017, is granted, and this case is dismissed.

(Signed) Diana L. Leyden
Special Trial Judge

ENTERED: **JUN 27 2017**