

Pursuant to Tax Court Rule 50(f), orders shall not be treated as precedent, except as otherwise provided.

**UNITED STATES TAX COURT  
WASHINGTON, DC 20217**

STACY N. DENNIS,	)	<b>SR</b>
	)	
Petitioner,	)	
	)	
v.	)	Docket No. 2853-17.
	)	
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 and respondent a copy of the pages of the transcript of the trial in this case before Judge Ronald L. Buch at Birmingham, Alabama, containing his oral findings of fact and opinion rendered at the trial session at which the case was heard.

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

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

Dated: Washington, D.C.  
March 1, 2018

**SERVED Mar 05 2018**

1 Bench Opinion by Judge Ronald L. Buch  
2 January 10, 2018  
3 Stacey N. Dennis v. Commissioner of Internal Revenue  
4 Docket No. 2853-17

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

15 In this case we are asked to decide whether  
16 Stacey Dennis is entitled to innocent spouse relief for  
17 tax years 2007, 2008, 2009, and 2012. For 2007 through  
18 2009, the liabilities at issue are as a result of  
19 deficiencies determined by the Commissioner. For 2012,  
20 the liability is as a result of underpaying the liability  
21 shown on the joint return.

22 Facts

23 Stacey and Patrick Dennis married in 2001. They  
24 have three children, born in 2003, 2004, and 2006. In  
25 2007 through 2009, Mrs. Dennis was a homemaker with

1 principal responsibility for managing the household and  
 2 the young children. She was not familiar with and did not  
 3 pay attention to family finances. She was not involved in  
 4 preparing her and her husband's joint tax returns.  
 5 Although she signed those returns, she did not review them  
 6 before signing.

7 Mr. Dennis is involved in construction. During  
 8 2007 through 2011, he operated Weathershield Construction.  
 9 Since 2011 he has operated Summit Renovation. Mrs. Dennis  
 10 has not been involved in either business. Weathershield  
 11 was involved in repairing hail damage, roofing, and  
 12 remodeling. Its best year was 2007, when in addition to  
 13 his other work, Mr. Dennis also purchased rental property.  
 14 On the joint 2007 tax return, the Dennises reported a  
 15 substantial amount of income and an even more substantial  
 16 loss. That loss, however, was a paper loss that did not  
 17 reflect the true success of Weathershield.

18 We will take judicial notice that the real  
 19 estate bubble burst in late 2007 or 2008. Mr. Dennis's  
 20 construction business took a downturn around that same  
 21 time. In 2008, creditors began circling. In one day,  
 22 Mrs. Dennis heard both from a neighbor and from her mother  
 23 that creditors had contacted them about debts owed by the  
 24 Dennises. Later, the elementary school attended by the  
 25 Dennises' eldest child threatened not to allow the child



1 to keep attending school because of nonpayment of tuition.  
 2 It appears that Mr. Dennis was not keeping up with his  
 3 bills, which caught Mrs. Dennis by surprise. In 2009, the  
 4 Dennises filed for bankruptcy protection.

5 To some extent, Mrs. Dennis began to take on  
 6 some financial responsibility. In 2010 she took a job in  
 7 an orthodontist's office. In 2011 she began working with  
 8 a radiology group. In 2012 she began maintaining a  
 9 separate bank account. For 2013, she began filing  
 10 separate income tax returns.

11 It was during this time that Mrs. Dennis was  
 12 beginning to take on financial responsibility that she  
 13 first learned of outstanding tax liabilities. In 2012,  
 14 Mrs. Dennis's wages began to be garnished for the payment  
 15 of tax debts. Although she was aware of the financial  
 16 troubles stemming from the construction business, it was  
 17 not until the wage garnishment that Mrs. Dennis became  
 18 aware of the tax debts.

19 Discussion

20 I. General Rules

21 Generally, married taxpayers may elect to file a  
 22 joint Federal income tax return. Sec. 6013(a). Upon  
 23 electing to file jointly, each spouse is jointly and  
 24 severally liable for the entire tax due for that year.  
 25 Sec. 6013(d)(3). In certain circumstances, however, a



1 spouse who filed a joint return may seek relief from joint  
2 and several liability under the procedures in section  
3 6015. Sec. 6015(a).

4 Section 6015(a) allows a spouse to seek relief  
5 from joint and several liability under subsection (b) or,  
6 if eligible, to allocate the liability according to  
7 provisions set forth in subsection (c). If a taxpayer  
8 does not qualify for relief under either subsection (b) or  
9 (c), the taxpayer may be eligible for equitable relief  
10 under subsection (f). Except as otherwise provided in  
11 section 6015, the taxpayer bears the burden of proving  
12 that he or she is entitled to section 6015 relief. Rule  
13 142(a); Alt v. Commissioner, 119 T.C. 306, 311 (2002),  
14 aff'd, 101 Fed. Appx. 34 (6th Cir. 2004).

15 Both the scope and standard of our review in  
16 cases involving relief from joint and several income tax  
17 liability are de novo. Porter v. Commissioner, 132 T.C.  
18 203, 210 (2009).

19 II. Section 6015(b) Relief

20 Under section 6015(b), a taxpayer seeking relief  
21 from joint and several liability must meet five  
22 conditions: (1) a joint return was filed for the taxable  
23 year; (2) there was an understatement of tax attributable  
24 to an erroneous item of the taxpayer's spouse; (3) at the  
25 time of signing the return, the spouse seeking relief did



1 not know and did not have reason to know of the  
 2 understatement; (4) the requesting spouse sought relief  
 3 within two years of the first collection activity relating  
 4 to the liability; and (5) taking into account all the  
 5 facts and circumstances, it is inequitable to hold the  
 6 spouse seeking relief liable for the deficiency in tax  
 7 attributable to the understatement. A taxpayer must  
 8 satisfy all five requirements to qualify for relief. See  
 9 Alt v. Commissioner, 119 T.C. 306, 313 (2002).

10 For 2007 the parties agree that Mrs. Dennis did  
 11 not make a timely request for relief under section  
 12 6015(b). For 2012, the parties agree that there was no  
 13 understatement of tax. For 2008 and 2009 we must apply  
 14 the remaining factors to determine whether Mrs. Dennis is  
 15 entitled to relief from joint liability under section  
 16 6015(b).

17 The remaining factors are whether Mrs. Dennis  
 18 knew or had reason to know of the understatement and  
 19 whether it would be inequitable to hold Mrs. Dennis liable  
 20 for deficiencies related to her husband's business. We  
 21 find both factors in favor of Mrs. Dennis.

22 There is no evidence that Mrs. Dennis was  
 23 involved in any way with her husband's business. She is  
 24 and was largely unfamiliar with the household finances,  
 25 and she had no knowledge of the finances of the



1 construction business. She was unaware of any  
2 understatement of tax originating from the construction  
3 business.

4           Likewise, it would be inequitable to hold Mrs.  
5 Dennis liable for deficiencies related to her husband's  
6 business. One factor for us to consider is whether the  
7 requesting spouse, Mrs. Dennis, significantly benefitted  
8 from the understatement of tax. The regulations define a  
9 significant benefit largely by reference to transfers of  
10 property to the nonrequesting spouse. Treas. Reg. 1.6015-  
11 2(d). There is no evidence of any such transfers and no  
12 evidence of a living a lifestyle beyond what the reported  
13 income would have supported.

14           Having satisfied all five factors under section  
15 6015(b)(1), we find that Mrs. Dennis is entitled to relief  
16 under section 6015(b) for 2008 and 2009.

### 17 III. Section 6015(c) Relief

18           Under section 6015(c), a divorced or separated  
19 spouse may elect to limit liability for a deficiency on a  
20 joint return to the portion of the deficiency that is  
21 allocable to her under subsection (d). Mr. and Mrs.  
22 Dennis remain married, and the parties agree that relief  
23 is not available under section 6015(c).

### 24 IV. Section 6015(f) Relief

25           Even if a requesting spouse is ineligible for

1 relief under section 6015(b) or (c), the requesting spouse  
 2 may be eligible for relief under section 6015(f). The  
 3 parties agree that Mrs. Dennis is not eligible for relief  
 4 under section 6015(b) for 2007 because she did not make a  
 5 timely request for relief. Mrs. Dennis also is not  
 6 eligible for relief under section 6015(b) for 2012 because  
 7 there is no understatement, only an underpayment.

8 In Revenue Procedure 2013-34, the Commissioner  
 9 sets forth specific factors to be taken into account when  
 10 deciding whether to grant relief under section 6015(f).  
 11 Section 4.02 of that revenue procedure details seven  
 12 factors. The parties seem to be in agreement as to many  
 13 of those factors. Marital status, legal obligation,  
 14 compliance with income tax laws, and mental or physical  
 15 health are all neutral.

16 The Commissioner hints at a lavish lifestyle,  
 17 which could amount to a "significant benefit". Revenue  
 18 Procedure 2013-34 sec. 4.02(e) considers something in  
 19 excess of "normal support" to be a significant benefit.  
 20 "If, however, the nonrequesting spouse controlled the  
 21 household and business finances ... such that the  
 22 nonrequesting spouse made the financial decision on  
 23 spending funds for a lavish lifestyle, then this mitigates  
 24 this factor so that it is neutral." While we are not  
 25 convinced that Mrs. Dennis received anything in excess of





1 normal support, even if she did, it is abundantly clear  
2 that Mr. Dennis made the financial decisions on spending  
3 funds. This factor is neutral.

4           The parties disagree about economic hardship.  
5 The revenue procedure asks whether the requesting spouse  
6 would be able to meet current living expenses. Here, we  
7 consider the requesting spouse's income and expenses and  
8 the requesting spouse's assets. In a situation where the  
9 requesting spouse and the nonrequesting spouse remain part  
10 of the same household, this factor is difficult to apply.  
11 Mrs. Dennis does not support the household but she also is  
12 not responsible to pay the living expenses. We find this  
13 factor to be neutral.

14           The remaining factor is knowledge or reason to  
15 know. That factor is different in understatement cases  
16 and underpayment cases, so we take 2007 and 2012  
17 separately.

18           For 2007 Mrs. Dennis did not know or have reason  
19 to know of the understatement. The evidence is clear that  
20 Mrs. Dennis was not involved in the business's finances,  
21 and the understatement arose from Mr. Dennis's business.  
22 The joint return filed by the Dennises did not reveal on  
23 its face that there was an understatement. We find this  
24 factor in favor of Mrs. Dennis. As a result, we find in  
25 favor of relief as to 2007.

1           By the time of filing the 2012 return, even if  
2 Mrs. Dennis did not know of the household tax problems,  
3 she had reason to know. The Commissioner began garnishing  
4 Mrs. Dennis's wages in 2012. Even if she was previously  
5 unaware of any tax problems, when the Commissioner began  
6 to collect past due tax liabilities directly from her, she  
7 was put on notice. She could no longer reasonably assume  
8 that Mr. Dennis would pay the liability reported on the  
9 return. We find against Mrs. Dennis for 2012.

10           An order and decision will be forthcoming.

11           (Whereupon, at 10:29 a.m., the above-entitled  
12 matter was concluded.)

13

14

15

16

17

18

19

20

21

22

23

24

25