

Important Developments

The Innocent Spouse Manual (2nd Edition) was published on March 2009. Since that date, several important cases affecting the law in this area have been decided. Immediately below is a summary of these developments.

1. Lantz v. Commissioner, 132 T.C. No. 8 (decided April 7, 2009). In Lantz, the Tax Court held invalid the treasury regulation limiting claims for equitable relief under section 6015(f) to a two-year period following the first collection action. Eleven judges joined the majority opinion. Two dissenting opinions were written. This ruling affects any taxpayers who have been denied relief for failing to file a claim within the regulation's two year period. If taxes were paid during the last two years or if ten year collection statute remains open, it may be possible to file a new claim for equitable relief.
2. Manella v. Commissioner, 132 T.C. No. 10 (decided April 13, 2009). The Tax Court held that actual receipt of a notice of intent to levy was not required for the two-year limitations period under sections 6015(b) and (c) to start running. Thus, the court did not have jurisdiction of those claims. But following Lantz, the court agreed that it had jurisdiction over the equitable relief claim under section 6015(f). In Manella, the non-requesting spouse concealed the notice of levy from the requesting spouse so she had no knowledge that the two-year period had begun.
3. Porter v. Commissioner, 132 T.C. No. 11 (decided April 23, 2009). This case follows Porter v. Commissioner, 130 T.C. 115 (2008), which is discussed at length in the Innocent Spouse Manual. See Chapter 5.08 The Standard of Review in Equitable Relief Cases Revisited and Chapter 10.04 The Administrative Record Rule. In Porter I, the Tax Court held that it would not limit its consideration of proof to matters in the administrative record. This was an important victory for taxpayers who often are not able to present all the information about economic hardship or other factors during the administrative hearings. In Porter I, in two separate concurring opinions, Judges Goeke and Wherry indicated that they felt that it was time to reconsider whether the standard of review in section 6015(f) cases should be abuse of discretion. In Porter II, the Tax Court abandoned the abuse of discretion standard and indicated that in future cases the standard of review would be preponderance of the evidence. Porter I and II represent victories for taxpayers claiming innocent spouse relief.