



### III. Updated Procedures for Notification to Nonpetitioning Spouse

#### A. Cases in Which Counsel Has Already Notified the Nonpetitioning Spouse and Provided Certification in the Answer.

In response to orders that require respondent to file a copy of the notice of the filing of the petition previously provided to the nonpetitioning spouse, one document, entitled "Certification of Service of Notice of Filing of Petition Raising Relief from Joint and Several Liability," (Attached as Exhibit 1) should be filed and served in the following manner:

- A copy of the Certification should be mailed to the petitioner and should include only a certificate of service with the petitioner's address.
- A copy of the Certification should be mailed to the nonpetitioning spouse and should include only a certificate of service with the nonpetitioning spouse's address.
- The original Certification should be sent to the Court with both original certificates of service sent to the respective spouses attached.
- Care should be taken to ensure that the separate certificates of service are properly attached to the respective service copies of the Certification in order that address information of each spouse is not disclosed to the other.

For cases in which Counsel has already filed a Certification of Service of Notice of Claim for Relief from Joint and Several Liability (e.g., S cases or situations where notice was provided after the filing of the answer), nothing further needs to be done. If a trial attorney receives an order where this type of certification has already been filed, please contact Branch 2 of Administrative Provisions and Judicial Practice at (202) 622-4940 for further guidance.

#### B. New Cases and Cases in Which the Answer Has Not Been Filed.

For new cases and cases in which an answer has not been filed (including S cases), one document, entitled "Notice of Filing of Petition and Right to Intervene," (Attached as Exhibit 2) should be filed and served, prior to filing the answer, in the following manner:

- A copy of the Notice should be mailed to the petitioner and should include only a certificate of service with the petitioner's address.
- A copy of the Notice should be mailed to the nonpetitioning spouse and should include only a certificate of service with the nonpetitioning spouse's address.

- The original Notice should be sent to the Court with both original certificates of service sent to the respective spouses attached.
- Care should be taken to ensure that the separate certificates of service are properly attached to the respective service copies of the Notice in order that address information of each spouse is not disclosed to the other.
- Respondent should also send a cover letter with the Notice to the nonpetitioning spouse (Attached as Exhibit 3).
- In accordance with Interim T.C. Rule 324(a), respondent should continue to certify in his answer that he has provided notice to the nonpetitioning spouse (Attached as Exhibit 4).

#### **IV. Providing Notice in Cases in Which There Is a Possible Jurisdictional Defect**

##### Non Stand-alone Cases

- In any case, other than a stand-alone case brought pursuant to section 6015(e), if it is determined that there is a jurisdictional defect in the case, notification of the nonpetitioning spouse of the claim for relief from joint liability may be deferred until a motion regarding the jurisdictional defect is filed and ruled upon by the court. The motion should contain a statement that the nonpetitioning spouse has not been notified of the claim for relief pending the court's resolution of the jurisdictional motion.

##### Stand-alone Cases

- In stand-alone cases brought under section 6015(e), in accordance with Interim T.C. Rule 324(a)(2), the answer must state that the notice has been provided to the nonpetitioning spouse. In cases where there is a jurisdictional defect and a jurisdictional motion cannot be filed before the answer due date, a motion to extend the time within which to file an answer should be filed. By doing so, jurisdictional issues can be resolved before the answer, which triggers the notification requirement, is filed.

#### **V. Other Issues Relating to Providing Notice to the Nonpetitioning Spouse**

- Defective Notification. If the notification to the nonpetitioning spouse is returned with a notation of undeliverable or incorrect address, an attempt to find a more recent/correct address should be made and the Notice resent. In many cases, the original notice may be resent, without restarting the 60-day intervention period or recertifying the notification to the Tax Court. In cases in which there are less than 30



Exhibit 1

UNITED STATES TAX COURT

JANE DOE, )  
 )  
 Petitioner, )  
 )  
 v. ) Docket No. XXXX-XX  
 )  
 COMMISSIONER OF INTERNAL REVENUE, )  
 )  
 Respondent. )

CERTIFICATION OF SERVICE OF NOTICE OF FILING OF PETITION RAISING RELIEF FROM JOINT AND SEVERAL LIABILITY

PURSUANT TO THE COURT'S ORDER dated \_\_\_\_\_, respondent provides the following certification:

This is to certify that, on \_\_\_\_\_, respondent provided notice of the filing of a petition that raised relief from joint and several liability as an issue in the above-captioned case, as required by Interim T.C. Rule 325, and King v. Commissioner, 115 T.C. 118 (2000), to petitioner's [former] spouse, John Doe, with whom petitioner filed joint returns for the years before the Court.

B. JOHN WILLIAMS, JR.  
Chief Counsel  
Internal Revenue Service

Date: \_\_\_\_\_

By: \_\_\_\_\_

AREA COUNSEL ATTORNEY'S  
NAME

Senior Attorney  
(Small Business/Self-  
Employed)  
Tax Court Bar No. YYYY  
Street Address  
City, State Zipcode  
Telephone Number

OF COUNSEL:  
KEVIN M. BROWN  
Division Counsel  
(Small Business/Self-Employed)  
AREA COUNSEL'S NAME  
Area Counsel  
(Small Business/Self-Employed:Area Z)

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing  
CERTIFICATION OF SERVICE OF NOTICE OF FILING OF PETITION  
RAISING RELIEF FROM JOINT AND SEVERAL LIABILITY was served on  
petitioner by mailing the same on \_\_\_\_\_ in a  
postage paid wrapper addressed as follows:

Jane Doe  
Street Address  
City, State Zipcode

Date: \_\_\_\_\_

\_\_\_\_\_  
AREA COUNSEL ATTORNEY'S NAME  
Senior Attorney  
(Small Business/Self-Employed)  
Tax Court Bar No. YYYY

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing  
CERTIFICATION OF SERVICE OF NOTICE OF PETITION RAISING RELIEF  
FROM JOINT AND SEVERAL LIABILITY was served on John Doe by  
mailing the same on \_\_\_\_\_ in a postage paid  
wrapper addressed as follows:

John Doe  
Street Address  
City, State Zipcode

Date: \_\_\_\_\_

\_\_\_\_\_  
AREA COUNSEL ATTORNEY'S NAME  
Senior Attorney  
(Small Business/Self-Employed)  
Tax Court Bar No. YYYY

**Exhibit 2**

**UNITED STATES TAX COURT**

JANE DOE, )  
 )  
 Petitioner, )  
 )  
 v. ) Docket No. XXXX-XX  
 )  
 COMMISSIONER OF INTERNAL REVENUE, )  
 )  
 Respondent. )

**NOTICE OF FILING OF PETITION AND RIGHT TO INTERVENE**

RESPONDENT, pursuant to Interim T.C. Rule 325(a) and King v. Commissioner, 115 T.C. 118 (2000), hereby provides Notice of the filing of a petition raising relief from joint and several liability on a joint return by the above-named petitioner, and right to intervene, to petitioner's [former] spouse, John Doe, the other individual filing joint returns with petitioner for the years in issue, as follows:

1. On \_\_\_\_\_, petitioner Jane Doe filed a petition with the United States Tax Court for determination of relief from joint and several liability on joint returns for tax years 1, 2, and 3.

2. John Doe, petitioner's [former] spouse, filed joint returns with petitioner for the years in issue.

3. Under Interim T.C. Rule 325(b), John Doe has a right

to intervene in this matter for the sole purpose of challenging petitioner's entitlement to relief from joint and several liability. John Doe may exercise that right by filing a notice of intervention with the Tax Court no later than 60 days after service of this Notice and attaching a copy of this Notice to any notice of intervention filed with the Tax Court.

B. JOHN WILLIAMS, JR.  
Chief Counsel  
Internal Revenue Service

Date: \_\_\_\_\_

By: \_\_\_\_\_

Attorney's Name  
Senior Attorney  
(Small Business/Self-Employed)  
Tax Court Bar No. YYYY  
Street Address  
City, State Zipcode  
Telephone Number

OF COUNSEL:  
KEVIN M. BROWN  
Division Counsel  
(Small Business/Self-Employed)  
AREA COUNSEL'S NAME  
Area Counsel  
(Small Business/Self-Employed:Area Z)

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing NOTICE OF FILING OF PETITION AND RIGHT TO INTERVENE was served on petitioner by mailing the same on \_\_\_\_\_ in a postage paid wrapper addressed as follows:

Jane Doe  
Street Address  
City, State Zipcode

Date: \_\_\_\_\_

\_\_\_\_\_  
AREA COUNSEL ATTORNEY'S NAME  
Senior Attorney  
(Small Business/Self-Employed)  
Tax Court Bar No. YYYY

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing NOTICE OF FILING OF PETITION AND RIGHT TO INTERVENE was served on John Doe, nonpetitioning spouse, by mailing the same on \_\_\_\_\_ in a postage paid wrapper addressed as follows:

John Doe  
Street Address  
City, State Zipcode

Date: \_\_\_\_\_

\_\_\_\_\_  
AREA COUNSEL ATTORNEY'S NAME  
Senior Attorney  
(Small Business/Self-Employed)  
Tax Court Bar No. YYYYY

[USE APPROPRIATE LETTERHEAD]

CC:SBSE:X:XXX:X  
ABCoe

John Doe  
Street Address  
City, State Zip Code

Re: Jane Doe v. Commissioner  
Docket No.

Dear Mr. Doe:

Attached to this letter is a Notice of Filing of Petition and Right to Intervene in the above-referenced matter. Jane Doe has filed a petition with the United States Tax Court, alleging, in part, that she should be relieved of joint tax liabilities for the years 1, 2, and 3, for which you and she filed joint federal income tax returns. The Tax Court Rules afford you the right to intervene in this matter. If you wish to exercise that right, please follow the instructions in the attached notice. If you have any questions concerning this matter, please direct them to the undersigned at the above address or telephone number.

Sincerely,

Associate Area Counsel's Name  
Associate Area Counsel

By: \_\_\_\_\_  
Attorney's Name  
Attorney  
T.C. Bar No. YYYYY

Enclosures:  
Notice of Filing of Petition and Right to Intervene  
Interim T.C. Rule 325

**ANSWER TO PETITION RAISING RELIEF FROM  
JOINT AND SEVERAL LIABILITY ON A JOINT RETURN**

7. FURTHER ANSWERING the petition, and in compliance with Interim T.C. Rule 325, respondent alleges:

On \_\_\_\_\_, respondent gave notice of the filing of the petition in the instant case requesting relief from joint liability, to petitioner's [former] spouse, John Doe, with whom petitioner filed joint returns for the years before the Court.

WHEREFORE, it is prayed that the relief sought in the Petition....

UNITED STATES TAX COURT

JANE DOE, )  
 )  
 Petitioner, )  
 )  
 v. ) Docket No. XXXX-XX  
 )  
 COMMISSIONER OF INTERNAL REVENUE, )  
 )  
 Respondent. )

NOTICE OF FILING OF PETITION AND RIGHT TO INTERVENE

Respondent is unable to provide notice of the filing of a claim for relief from joint and several liability in the above-captioned case, as required by Interim T.C. Rule 325, to petitioner's [former] spouse, John Doe, with whom petitioner filed joint returns for the years before the Court, because John Doe is deceased. Respondent determined that **[INSERT FACTS THAT INDICATE HOW RESPONDENT DETERMINED THAT JOHN DOE WAS DECEASED AND THAT THERE IS NO PERSONAL REPRESENTATIVE]**.

B. JOHN WILLIAMS, JR.  
Chief Counsel  
Internal Revenue Service

Date: \_\_\_\_\_

By: \_\_\_\_\_

Attorney's Name  
Senior Attorney  
(Small Business/Self-  
Employed)  
Tax Court Bar No. YYYYY  
Street Address  
City, State Zipcode  
Telephone Number

OF COUNSEL:  
KEVIN M. BROWN  
Division Counsel  
(Small Business/Self-Employed)  
AREA COUNSEL'S NAME  
Area Counsel  
(Small Business/Self-Employed:Area Z)

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing NOTICE OF FILING OF PETITION AND RIGHT TO INTERVENE was served on petitioner by mailing the same on \_\_\_\_\_ in a postage paid wrapper addressed as follows:

Jane Doe  
Street Address  
City, State Zipcode

Date: \_\_\_\_\_

\_\_\_\_\_  
AREA COUNSEL ATTORNEY'S NAME  
Senior Attorney  
(Small Business/Self-Employed)  
Tax Court Bar No. YYYY