TITLE XXXI

ACTIONS FOR DETERMINATION OF RELIEF FROM JOINT AND SEVERAL LIABILITY ON A JOINT RETURN[1]

RULE 320. GENERAL[2]

(a) Applicability: The Rules of this Title XXXI set forth the provisions that apply to actions for the determination of relief from joint and several liability on a joint return pursuant to Code section 6015(e). Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to such actions.

(b) Jurisdiction: The Court shall have jurisdiction of an action for determination of relief from joint and several liability on a joint return under this Title when the conditions of Code section 6015(e) have been satisfied.

(c) Form and Style of Papers: All papers filed in an action for determination of relief from joint and several liability on a joint return shall be prepared in the form and style set forth in Rule 23.

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[1] New Title XXXI sets forth procedures for actions under Code section 6015(e), added by sec. 3201(a) of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105–206, 112 Stat. 734. Code section 6015(e) provides for the determination by the Tax Court of the appropriate relief available to a taxpayer under that section, and is effective with respect to any liability for tax arising after July 22, 1998, and any liability for tax arising on or before such date but remaining unpaid as of such date, except that the 2-year period for electing the benefits of that section shall not expire before the date which is 2 years after the date of the first collection activity after July 22, 1998. Similarly, the Rules of this Title XXXI generally are effective with respect to actions for determination of relief from joint and several liability on a joint return commenced with respect to any liability for tax arising after July 22, 1998, and any liability for tax arising on or before such date but remaining unpaid as of such date; except that Rule 321(c) is effective with respect to proceedings commenced on or after December 21, 2000.

[2] New Rule 320 is effective with respect to actions for determination of relief from joint and several liability on a joint return commenced with respect to any liability for tax arising after July 22, 1998, and any liability for tax arising on or before such date but remaining unpaid as of such date.

RULE 321.   COMMENCEMENT OF ACTION FOR DETERMINATION OF RELIEF FROM JOINT AND SEVERAL LIABILITY ON A JOINT RETURN[1]

(a) Commencement of Action: An action for determination of relief from joint and several liability on a joint return is commenced by filing a petition with the Court. See Rule 20, relating to commencement of case; Rule 22, relating to the place and manner of filing the petition; and Rule 32, relating to the form of pleadings.

(b) Content of Petition: A petition filed pursuant to this Rule shall be entitled "Petition for Determination of Relief From Joint and Several Liability on a Joint Return" and shall contain the following:

(1) The petitioner's name, legal residence, mailing address, and taxpayer identification number (e.g., Social Security number).

(2) A statement of the facts upon which the petitioner relies to support the jurisdiction of the Court and, as an attachment, a copy of the Commissioner's notice of determination of the relief available pursuant to Code section 6015 or, if the Commissioner has not issued to the petitioner a notice of determination of the relief available pursuant to Code section 6015, a copy of the election for relief filed by the petitioner.

(3) A statement of the facts upon which the petitioner relies in support of the relief requested.

(4) A prayer setting forth the relief sought by the petitioner.

(5) The name, mailing address, and taxpayer identification number (e.g., Social Security number) of the other individual filing the joint return, if available.

(6) The signature, mailing address, and telephone number of the petitioner or the petitioner's counsel, as well as counsel's Tax Court bar number.

A claim for reasonable litigation or administrative costs shall not be included in the petition in an action for deter-

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[1] New Rule 321 is effective with respect to actions for determination of relief from joint and several liability on a joint return commenced with respect to any liability for tax arising after July 22, 1998, and any liability for tax arising on or before such date but remaining unpaid as of such date; except that paragraph (c) of Rule 321 is effective with respect to proceedings commenced on or after December 21, 2000.

mination of relief from joint and several liability on a joint return. For the requirements as to claims for reasonable litigation or administrative costs, see Rule 231.

(c) Small Tax Case Under Code Section 7463(f)(1): For provisions regarding the content of a petition in a small tax case under Code section 7463(f)(1), see Rules 170 through 175.

(d) Filing Fee: The fee for filing a petition for determination of relief from joint and several liability on a joint return shall be $60, payable at the time of filing.

RULE 322.   DESIGNATION OF PLACE OF TRIAL[1]

At the time of filing a petition for determination of relief from joint and several liability on a joint return, the petitioner shall file a designation of place of trial in accordance with Rule 140.

RULE 323.   OTHER PLEADINGS[2]

(a) Answer: The Commissioner shall file an answer or shall move with respect to the petition within the periods specified in and in accordance with the provisions of Rule 36.

(b) Reply: For provisions relating to the filing of a reply, see Rule 37.

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[1] New Rule 322 is effective with respect to actions for determination of relief from joint and several liability on a joint return commenced with respect to any liability for tax arising after July 22, 1998, and any liability for tax arising on or before such date but remaining unpaid as of such date.

[2] New Rule 323 is effective with respect to actions for determination of relief from joint and several liability on a joint return commenced with respect to any liability for tax arising after July 22, 1998, and any liability for tax arising on or before such date but remaining unpaid as of such date.

RULE 324.   JOINDER OF ISSUE IN ACTION FOR DETERMINATION OF RELIEF FROM JOINT AND SEVERAL LIABILITY ON A JOINT RETURN[1]

An action for determination of relief from joint and several liability on a joint return shall be deemed at issue upon the later of:

(1)   the time provided by Rule 38, or

(2)   the expiration of the period within which a notice of intervention may be filed under Rule 325(b).

RULE 325.   NOTICE AND INTERVENTION[2]

(a)   Notice: On or before 60 days from the date of the service of the petition, the Commissioner shall serve notice of the filing of the petition on the other individual filing the joint return and shall simultaneously file with the Court a copy of the notice with an attached certificate of service. The notice shall advise the other individual of the right to intervene by filing a notice of intervention with the Court not later than 60 days after the date of service on the other individual.

(b)   Intervention: If the other individual filing the joint return desires to intervene, then such individual shall file a notice of intervention with the Court not later than 60 days after service of the notice by the Commissioner of the filing of the petition, unless the Court directs otherwise. All new matters of claim or defense in a notice of intervention shall be deemed denied.

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[1] New Rule 324 is effective with respect to actions for determination of relief from joint and several liability on a joint return commenced with respect to any liability for tax arising after July 22, 1998, and any liability for tax arising on or before such date but remaining unpaid as of such date.

[2] New Rule 325 is effective with respect to actions for determination of relief from joint and several liability on a joint return commenced with respect to any liability for tax arising after July 22, 1998, and any liability for tax arising on or before such date but remaining unpaid as of such date.