

5/31/23

In the Matter of:

KERI A. DEGUZMAN,

Petitioner,

BRIAN DEGUZMAN,

Intervenor,

COMMISSIONER OF INTERNAL REVENUE,

Respondent.

Pages: 1 through 25

Place: Las Vegas, Nevada

Date: May 2, 2023

IN THE UNITED STATES TAX COURT

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In the Matter of:

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KERI A. DEGUZMAN,

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Petitioner,

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and

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BRIAN DEGUZMAN,

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Intervenor,

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v.

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COMMISSIONER OF INTERNAL REVENUE,

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Respondent.

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Foley Federal Building & U.S. Cthse.
300 Las Vegas Boulevard, South
Room 4-400, 4th Floor
Las Vegas, Nevada 89101

May 2, 2023

The above-entitled matter came on for bench opinion,
pursuant to notice at 4:05 p.m.

BEFORE: HONORABLE EMIN TORO
Judge

APPEARANCES:

For the Petitioner:
RIC D. HULSHOFF, ESQ.
SILVER LAW PLC
410 South Rampart Boulevard
Suite 390
Las Vegas, NV 89145



1 APPEARANCES CONTINUED:

2 For the Respondent:
3 DEREK S. PRATT, ESQ.
4 INTERNAL REVENUE SERVICE
5 OFFICE OF CHIEF COUNSEL
6 110 North City Parkway
7 Suite 301
8 Las Vegas, NV 89106

9 Also Present:

10 Brian deGuzman
11 Intervenor
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P R O C E E D I N G S

(4:05 p.m.)

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3 THE CLERK: Recalling from the calendar, docket
4 number 13230-20, Keri A. deGuzman, petitioner, and Brian
5 deGuzman, intervenor.

6 Please state your appearance.

7 MR. PRATT: Derek Pratt for respondent.

8 MR. HULSHOFF: Ric Hulshoff for Silver Law and
9 petitioner, Keri deGuzman.

10 MR. DEGUZMAN: Brian deGuzman for intervenor.

11 THE COURT: Okay. Thank you. You may be
12 seated. (Whereupon, a bench opinion was rendered.)

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1 Bench Opinion by Judge Emin Toro

2 May 2, 2023

3 Keri A. deGuzman and Brian deGuzman v. Commissioner of
4 Internal Revenue

5 Docket No. 13230-20

6 THE COURT: The Court has decided to render oral
7 findings of fact and opinion in this case and the
8 following represents the Court's oral findings of fact and
9 opinion.

10 The oral findings of fact and opinion shall not
11 be relied upon as precedent in any other case. The oral
12 findings of fact and opinion are made pursuant to the
13 authority granted by section 7459(b) of the Internal
14 Revenue Code and Tax Court Rule 152. Rule references in
15 this opinion are to the Tax Court Rules of Practice and
16 Procedure, and section references are to the Internal
17 Revenue Code, in effect at all relevant times.

18 In a notice of deficiency dated August 19, 2020,
19 the Commissioner of Internal Revenue determined tax
20 deficiencies for the 2016, 2017, and 2018 tax years of
21 petitioner, Keri A. DeGuzman, and intervenor, Brian
22 DeGuzman. The Commissioner also determined additions to
23 tax under section 6651(a)(1) and accuracy-related
24 penalties under section 6662(a) for 2016 and 2017.

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1 After concessions, the sole issue that remains for our
2 decision is whether Ms. DeGuzman is entitled to relief under
3 section 6015(b), (c), or (f) (colloquially referred to as
4 "innocent spouse relief") from the understatements of tax,
5 additions to tax, and penalties set forth in the notice of
6 deficiency.

7 The Commissioner agrees with Ms. DeGuzman that
8 she is entitled to partial relief under section 6015(b)
9 for 2016 and 2017, full relief under section 6015(b) for
10 2018, and full relief under section 6015(c) for 2016 and
11 2017. Dr. DeGuzman, however, disagrees. For the reasons
12 that follow, Ms. DeGuzman is entitled to relief under
13 section 6015(c).

14 On the evidence before us, and using the burden-
15 of-proof principles explained below, the Court finds the
16 following facts:

17 FINDINGS OF FACT

18 Some facts have been stipulated and are so
19 found. The Stipulation of Facts, and the Exhibits
20 submitted therewith, are incorporated by this reference.

21 General Background

22 The DeGuzmans met while working at the same
23 hospital in Massachusetts. She was a nurse, and he was
24 completing his residency in cardiothoracic surgery. They
25 eventually married in June 2004. In 2006, they moved from

1 Massachusetts to Arizona. While living in Arizona, the
2 DeGuzmans adopted four children together.

3 Ms. DeGuzman was employed as a registered nurse
4 for a time, but this employment ended before 2016. Ms.
5 DeGuzman also established a non-profit, charitable
6 organization in 2012.

7 Dr. DeGuzman was a cardiothoracic surgeon at St.
8 Joseph's Hospital in Arizona. He continued to work there
9 until 2013, when he received his share of the initial
10 proceeds from the sale of Vortex Medical, a company he
11 helped found and partly owned.

12 Dr. DeGuzman also helped found Pavilion Holding
13 Group, a device holding company, in 2007. Since 2014, Dr.
14 DeGuzman has served as Chief Medical Officer for PAVmed
15 Inc., a medical device company.

16 *The DeGuzmans' Finances*

17 Dr. DeGuzman was the family's sole income earner
18 during much of the DeGuzmans' marriage. Ms. DeGuzman was
19 not employed in 2016, 2017, and 2018. The DeGuzmans
20 maintained joint bank accounts throughout their marriage.

21 In connection with the sale of his interest in
22 Vortex Medical, Dr. DeGuzman received between \$8 and
23 10 million over a specified period and was eligible to
24 receive additional consideration based on the company's
25 sales over a residual period.

1 Dr. DeGuzman's success as a surgeon and
2 especially as a businessman allowed the DeGuzmans to enjoy
3 a lavish lifestyle, particularly after the Vortex
4 transaction. They owned a home worth well in excess of a
5 million dollars and several luxury cars. At one point,
6 they employed a housekeeper, a nanny, a chef, and a
7 gardener. In addition they had professionals come to
8 their home to provide Ms. DeGuzman manicures, cut their
9 children's hair, and maintain their pool. They took
10 expensive vacations, going skiing in France, dogsledding
11 in Sweden, and on a safari in Africa, among others. Their
12 children attended private school. Ms. DeGuzman bought
13 luxury items, such as *Hermés* Birkin bags and thousand-
14 dollar designer shoes. And they borrowed and spent
15 considerable sums of money in an effort to build a second,
16 twelve-thousand-square-foot "dream home."

17 Shortly before trial, in March 2023, Ms.
18 DeGuzman traded in a 2018 Mercedes Benz awarded to her in
19 the divorce, valued at \$31,000, and acquired a new
20 Mercedes Benz costing approximately \$78,000.

21 Meanwhile, the DeGuzmans failed to keep current
22 on their tax obligations. From at least 2013 to 2018, the
23 DeGuzmans had some combination of the following every
24 year: failure to timely file their federal income tax
25 returns, failure to pay the amount of tax shown on the

1 returns, understatement of tax shown on the returns, and
2 failure to pay their estimated taxes. This led to ongoing
3 discussions with the Internal Revenue Service (IRS), in
4 which they generally were represented by Elizabeth Hale
5 (formerly Eisenberg), their Certified Public Accountant
6 (CPA). By 2022, they owed the IRS hundreds of thousands
7 of dollars.

8 Ms. Hale represented the DeGuzmans for many
9 years. Dr. and Ms. DeGuzman selected Ms. Hale as their
10 CPA at the recommendation of a friend. Ms. DeGuzman
11 regularly communicated with Ms. Hale and her colleagues
12 and was responsible for providing them information
13 necessary to prepare the DeGuzmans' tax returns, including
14 at least some information related to Dr. DeGuzman's
15 businesses. She was generally responsible for reviewing
16 mail, including tax forms, received by the DeGuzmans and
17 providing relevant materials to Ms. Hale. Ms. DeGuzman
18 also participated in meetings with Ms. Hale and her
19 colleagues regarding the DeGuzmans' tax issues. Ms.
20 DeGuzman holds a college degree, performed at a high level
21 as an intensive care unit nurse before her marriage, and
22 is now pursuing a Master's degree. She understands
23 financial matters and is able to track and analyze
24 complicated transactions. She is capable of
25 distinguishing between personal and business transactions.



1 The DeGuzmans' Marital Problems

2 The DeGuzmans began experiencing marital
3 problems at some point after moving to Arizona. These
4 marital problems led Ms. DeGuzman to move out in early
5 2018 and file a Petition for Legal Separation in May 2018.
6 The DeGuzmans' divorce was pending when she commenced this
7 case with our Court and is now final.

8 Tax Returns

9 Ms. Hale, the DeGuzmans' CPA, prepared the
10 DeGuzmans' tax returns, including their joint federal
11 income tax returns for 2016, 2017, and 2018. Both
12 DeGuzmans worked with Ms. Hale in preparing their returns,
13 typically by answering questions and providing
14 documentation she requested.

15 The DeGuzmans' tax returns for 2016 and 2017
16 were untimely filed, while 2018 was timely. The income on
17 the returns largely related to Dr. DeGuzman's businesses,
18 as did the expenses claimed by the DeGuzmans on Schedules
19 C, Profit or Loss from Business.

20 IRS Examination and Notice of Deficiency

21 The Commissioner examined the DeGuzmans' 2016,
22 2017, and 2018 tax returns and issued the DeGuzmans the
23 notice of deficiency upon which this case is based. In
24 relevant part, the Commissioner made the following
25 adjustments to the DeGuzmans' tax returns:

1 For 2016 only, the Commissioner determined that
2 the DeGuzmans should have reported certain interest and
3 capital gain as net investment income on Form 8960, Net
4 Investment Income Tax—Individuals, Estates, and Trusts,
5 and adjusted their net investment income accordingly. The
6 interest and capital gain were derived in connection with
7 Dr. DeGuzman's businesses.

8 For 2016 and 2017, the Commissioner disallowed
9 itemized deductions of \$162,319 and \$164,833,
10 respectively, that the DeGuzmans had claimed on Schedules
11 A, Itemized Deductions, which consisted primarily of
12 "[i]nvestment interest" expenses. In relevant part, the
13 notice of deficiency states that the disallowed
14 "investment interest expense includes interest paid on
15 home acquisition indebtedness and interest paid during the
16 construction of residential real property . . . [which] is
17 not investment interest." Consistent with this position,
18 the Commissioner disallowed the deduction for investment
19 interest expense on the DeGuzmans' 2017 Form 8960 and
20 adjusted their net investment income accordingly.

21 Also for 2016 and 2017, the Commissioner
22 disallowed travel-related deductions claimed on Schedules
23 C in connection with Dr. DeGuzman's reported "Consulting"
24 business because he failed to substantiate the relevant
25 expenses.

1 For 2018, the Commissioner determined that the
2 DeGuzmans failed to report gross receipts of \$100,000 on
3 Schedule C. The gross receipts were reported to the
4 Commissioner on Form 1099-MISC, Miscellaneous Information,
5 and related to Dr. DeGuzman's business activities.

6 *Request for Innocent Spouse Relief and Tax Court Petition*

7 Before the Commissioner issued the notice of
8 deficiency, Ms. DeGuzman filed Form 8857, Request for
9 Innocent Spouse Relief, in April 2020. In relevant part,
10 she requested relief under section 6015 for 2016, 2017,
11 and 2018. In time, as relevant here, the IRS determined
12 that Ms. DeGuzman was entitled to partial relief from the
13 understatements of tax under section 6015(b) for 2016 and
14 2017, full relief under section 6015(b) for 2018, and full
15 relief under section 6015(c) for 2016 and 2017. Dr.
16 DeGuzman disagreed with the IRS's determination, and the
17 case was transferred to the IRS Independent Office of
18 Appeals (IRS Appeals) for consideration. IRS Appeals
19 sustained the IRS's determination on February 8, 2022.

20 After receiving the notice of deficiency, Ms.
21 DeGuzman timely filed the Petition with our Court on
22 November 16, 2020. Ms. DeGuzman resided in Arizona at the
23 time she filed her Petition. Dr. DeGuzman filed a Notice
24 of Intervention on March 8, 2021.

25 We tried this case on May 1 and 2, 2023, at the



1 Court's Las Vegas, Nevada, trial session. Chris J.
2 Sheldon represented Ms. DeGuzman, Fred E. Green, Jr.
3 represented the Commissioner, and Dr. DeGuzman represented
4 himself.

5 OPINION

6 I. Introduction

7 Generally, married taxpayers may elect to file a
8 joint federal income tax return. I.R.C. § 6013(a). If a
9 joint return is made, the tax is computed on the spouses'
10 aggregate income, and each spouse is fully responsible for
11 the accuracy of the return and is jointly and severally
12 liable for the entire amount of tax shown on the return or
13 found to be owing. *Id.* § 6013(d)(3); *Pullins v.*
14 *Commissioner*, 136 T.C. 432, 437 (2011). But, in certain
15 circumstances, a spouse who has made a joint return may
16 seek relief from joint and several liability under
17 procedures set forth in section 6015. I.R.C. § 6015(a).
18 Section 6015 provides a requesting spouse with three
19 alternatives: (1) full or partial relief under subsection
20 (b), (2) proportionate relief under subsection (c), or (3)
21 if relief is not available under subsections (b) or (c),
22 equitable relief under subsection (f). *Pullins*, 136 T.C.
23 at 437; see also *Ordlock v. Commissioner*, 533 F.3d 1136,
24 1139 (9th Cir. 2008) ("Section 6015(b) is available to all
25 joint filers. Section 6015(c) applies only to those

1 taxpayers who are no longer married, [who are] legally
2 separated, or [who are] not living together. Section
3 6015(f) provides for selective equitable relief for those
4 taxpayers who do not meet the requirements of § (b) or
5 § (c)."), *aff'g* 126 T.C. 47 (2006).

6 The Commissioner does not contest that Ms.
7 DeGuzman is entitled to relief from the tax deficiencies
8 for 2016, 2017, and 2018 under a combination of sections
9 6015(b) and (c). But Dr. DeGuzman alleges she is not
10 entitled to relief.

11 We review the Commissioner's determination de
12 novo. I.R.C. § 6015(e)(7). The scope of our review is
13 limited to the administrative record established at the
14 time of the Commissioner's determination and "any
15 additional newly discovered or previously unavailable
16 evidence." *Id.*; see also *Thomas v. Commissioner*, No.
17 12982-20, 160 T.C., slip op. at 5 (Feb. 13, 2023). The
18 requesting spouse (here, Ms. DeGuzman) generally bears the
19 burden of proving that she is entitled to relief, although
20 this rule is subject to an exception we will discuss
21 later. See Rule 142(a); *Porter v. Commissioner*, 132 T.C.
22 203, 210 (2009); see also *Jacobsen v. Commissioner*, 950
23 F.3d 414, 420 (7th Cir. 2020) (collecting authorities),
24 *aff'g* T.C. Memo. 2018-115.

25 II. Section 6015(b)

1 Under section 6015(b), a requesting spouse may
2 seek relief from joint and several liability to the extent
3 it is attributable to an understatement of tax on the
4 return. I.R.C. § 6015(b)(1) (flush language). To qualify
5 for relief under section 6015(b), the requesting spouse
6 must establish that she meets the following requirements:
7 (1) a joint return was made for the year at issue, (2) on
8 that return there is an understatement of tax attributable
9 to erroneous items of the nonrequesting spouse, (3) the
10 requesting spouse did not know or have reason to know of
11 the understatement when she signed the return, (4) it
12 would be inequitable to hold the requesting spouse liable
13 for the deficiency in tax related to the understatement
14 considering all the facts and circumstances, and (5) the
15 requesting spouse made a timely request for relief.
16 I.R.C. § 6015(b)(1). The requesting spouse must meet all
17 five requirements to qualify for relief. *Alt v.*
18 *Commissioner*, 119 T.C. 306, 313 (2002), *aff'd*, 101 F.
19 App'x 34 (6th Cir. 2004).

20 Based on the record before us, we conclude that
21 Ms. DeGuzman failed to establish her compliance with at
22 least two of the requirements. First, she did not show
23 that she had no reason to know about the understatements
24 on the 2016, 2017, and 2018 returns. Second, she did not
25 show that it would be inequitable to hold her liable for

1 the deficiencies related to those understatements.

2 On the first point, a taxpayer has reason to
3 know of an understatement if a reasonable person in
4 similar circumstances could be expected to know that there
5 was an understatement or that further investigation was
6 warranted. *Soler v. Commissioner*, T.C. Memo. 2022-78, at
7 *7 (citing *Butler v. Commissioner*, 114 T.C. 276, 283
8 (2000); Treas. Reg. § 1.6015-2(c)); see also *Price v.*
9 *Commissioner*, 887 F.2d 959, 965 (9th Cir. 1989) (applying
10 the standard and listing factors for consideration); *Di*
11 *Giorgio v. Commissioner*, T.C. Memo. 2023-44, at *30-33
12 (discussing the knowledge requirement and collecting
13 authorities); *Rogers v. Commissioner*, T.C. Memo. 2021-20,
14 at *9-10 (collecting authorities setting out the relevant
15 standards governing unreported income and improper
16 deductions).

17 In this case, the record reflects a long history
18 of noncompliance of which Ms. DeGuzman was at least
19 substantially aware. Ms. DeGuzman is a college graduate
20 who appeared to the Court to be well-versed in financial
21 matters, including interpreting financial documents. And
22 Ms. DeGuzman's numerous and sophisticated communications
23 with Ms. Hale and her colleagues, many of which concern
24 the DeGuzmans' tax troubles, and which took place over a
25 number of years, call into question her claims of



1 ignorance regarding the erroneous items on the returns.
2 Ms. DeGuzman presented no credible evidence to offset
3 these considerations. We note that, although Ms. DeGuzman
4 testified that she had experienced abuse, she offered no
5 specific testimony that, as a result of the alleged abuse,
6 she was unable to challenge the treatment of any items on
7 the return for fear of the nonrequesting spouse's (Dr.
8 DeGuzman's) retaliation. *Cf.* Rev. Proc. 2013-34, §
9 4.01(7)(d), 2013-43 I.R.B. 397, 400. In our judgement,
10 the record as a whole would not support such a finding,
11 and we decline to make it. Nor does the record support a
12 finding that Dr. DeGuzman maintained such control over the
13 household finances that it restricted Ms. DeGuzman's
14 access to financial information. *Cf. id.* § 4.02(3)(a),
15 2013-43 I.R.B. at 400. We decline to make such a finding
16 as well.

17 On the second point, in determining whether it
18 would be inequitable to hold a requesting spouse liable
19 for a tax deficiency, our Court considers all the facts
20 and circumstances. *Alt*, 119 T.C. at 314. This includes,
21 among others, (1) whether the requesting spouse derived a
22 significant benefit from the understatement of tax, (2)
23 any wrongdoing on the part of the nonrequesting spouse,
24 and (3) economic hardship to the requesting spouse if she
25 is not excused from the liability. *See id.*; *Podlucky v.*

1 *Commissioner*, T.C. Memo. 2022-45, at *26 (applying factors
2 from Rev. Proc. 2013-34, § 4.03(2), 2013-34 I.R.B. at 400-
3 03); *see also* Treas. Reg. § 1.6015-2(d).

4 Here again, Ms. DeGuzman's long-time knowledge
5 of the DeGuzmans' noncompliance, and her apparent
6 participation in that noncompliance, cuts against her. So
7 too does her enjoyment of the DeGuzmans' lavish lifestyle,
8 facilitated in part by the understatements at issue. As
9 Dr. DeGuzman candidly and credibly testified, because the
10 DeGuzmans did not report the proper amounts of tax, they
11 had more cash to spend on things Ms. DeGuzman wanted to
12 buy. Nor is this a case where the nonrequesting spouse
13 controlled the household and business finances such that
14 the nonrequesting spouse made the decision on spending
15 funds for a lavish lifestyle. See Rev. Proc. 2013-34, §
16 4.03(2)(e), 2013-34 I.R.B. at 402.

17 Additionally, any claim of economic hardship
18 lacks support in the record and is questionable
19 considering the division of property implemented in the
20 divorce proceedings. As just one illustration, as we have
21 noted, shortly before trial, Ms. DeGuzman decided to trade
22 in a 2018 Mercedes-Benz for a new one costing about
23 \$78,000. She testified that she decided to purchase the
24 new Mercedes-Benz rather than a Kia Telluride that would
25 also have accommodated her family because the transaction

1 afforded her a better trade-in value for the existing car
2 and the financing was more attractive. Regardless of
3 whether one agrees with Ms. DeGuzman's economic analysis
4 here (and it is difficult not to view it skeptically),
5 these are not the actions of a taxpayer experiencing
6 economic hardship.

7 In light of these considerations, Ms. DeGuzman
8 has not shown that she meets the requirements of section
9 6015(b). We therefore turn to section 6015(c).

10 III. Section 6015(c)

11 Under section 6015(c), a requesting spouse may
12 seek to limit her liability for a deficiency in the same
13 manner as if she had filed her original tax return
14 separate from her spouse. See I.R.C. § 6015(d)(3)(A); see
15 also *Hopkins v. Commissioner*, 121 T.C. 73, 80 (2003).
16 Determinations made under section 6015 preempt state
17 community property laws with respect to the allocation of
18 items on the tax return to one spouse or the other.
19 I.R.C. § 6015(a) (flush language); see also *Ordlock*, 533
20 F.3d at 1141-42.

21 To qualify for relief under section 6015(c), the
22 requesting spouse must establish that she meets three
23 requirements: (1) a joint return was filed for the tax
24 year at issue, (2) at the time of election of relief under
25 section 6015(c), she was divorced or legally separated

1 from the nonrequesting spouse or was not a member of the
2 same household as him at any time during the 12 month
3 period ending on the date of the request for relief, and
4 (3) she made a timely election for relief. I.R.C.
5 § 6015(c)(3)(A)(i); see also *Freman v. Commissioner*, T.C.
6 Memo. 2023-10, at *18. If the Commissioner demonstrates
7 that the requesting spouse had actual knowledge of the
8 item giving rise to a deficiency at the time she signed
9 the return, then we will deny her relief. I.R.C. §
10 6015(c)(3)(C); see also *Culver v. Commissioner*, 116 T.C.
11 189, 194-96 (2001). The parties do not dispute that Ms.
12 DeGuzman meets the general requirements of section
13 6015(c)(3)(A), so we do not address them further.

14 As the Court has recognized before, if, as here,
15 all of the other requirements of section 6015(c) have been
16 satisfied, then "the burden of proof is shifted to the
17 Commissioner and relief is denied to the requesting spouse
18 only if the Commissioner 'demonstrates that . . . [the
19 requesting spouse] had actual knowledge, at the time such
20 individual signed the return, of any item giving rise to a
21 deficiency'." *Lassek v. Commissioner*, T.C. Memo. 2019-
22 145, at *13 (quoting section 6015(c)(3)(C); other
23 citations omitted).

24 But, as the Court has also acknowledged before,
25 "[a]n issue arises where the burden of proof shifts to the

1 Commissioner in cases when the Commissioner favors
2 granting relief and the nonrequesting spouse intervenes to
3 oppose it." *Id.* at *13. Those are the circumstances
4 here. The Commissioner has not raised any arguments that
5 Ms. DeGuzman had actual knowledge of the items giving rise
6 to the deficiency. Instead, Dr. DeGuzman has intervened
7 to allege that the exception should apply to prevent Ms.
8 DeGuzman from receiving relief under section 6015(c).

9 Because the text of section 6015(c)(3)(C) places
10 on the Commissioner the burden to prove the actual
11 knowledge exception, there is a question whether that
12 burden shifts to Dr. DeGuzman as the intervenor. See,
13 e.g., *Knight v. Commissioner*, T.C. Memo. 2010-242, 2010 WL
14 4536996, at *2. But we do not need to answer that
15 question today because, regardless of who has the burden
16 (the Commissioner or Dr. DeGuzman), the record lacks
17 sufficient evidence to permit us to conclude that it is
18 more likely than not that Ms. DeGuzman had actual
19 knowledge of the understatements. See also *Lassek*, T.C.
20 Memo. 2019-145, at *13-14 ("The Court has previously
21 resolved this issue of burden shifting by deciding the
22 case on a preponderance of the evidence as presented by
23 all three parties." (citations omitted)).

24 A. Actual Knowledge

25 Under section 6015(c)(3)(C), a requesting spouse

1 is not entitled to relief under subsection (c) if she had
2 "actual knowledge . . . of any item giving rise to a
3 deficiency (or portion thereof)." A requesting spouse
4 lacks actual knowledge if she lacks "'an actual and clear
5 awareness . . . of the existence of an item which gives
6 rise to the deficiency.'" *Culver*, 116 T.C. at 194 (citing
7 *Cheshire v. Commissioner*, 115 T.C. 183, 195 (2000)). In
8 the case of unreported income, actual knowledge of the
9 item includes knowledge that the income was received.
10 Treas. Reg. § 1.6015-3(c)(2)(i)(A). In the case of a
11 disallowed deduction, actual knowledge means "knowledge of
12 the facts that made the item not allowable." *Id.*
13 § 1.6015-3(c)(2)(i)(B)(1).

14 Applying these standards, most of the erroneous
15 return items for 2016, 2017, and 2018 were related to Dr.
16 DeGuzman's various businesses. For several of them, the
17 record lacks sufficient specificity as to what the error
18 was. Furthermore, the record does not demonstrate that
19 Ms. DeGuzman had any special knowledge of Dr. DeGuzman's
20 businesses, including any specific items of income derived
21 from them or expenses that Dr. DeGuzman incurred. And
22 apart from the parties' contradictory and general
23 testimony, there is no evidence that Ms. DeGuzman accessed
24 accounts or account statements where the items were
25 reflected or that she discussed the items with Dr.

1 DeGuzman or Ms. Hale. As a result, we cannot conclude
2 that Ms. DeGuzman had actual knowledge of the items
3 related to Dr. DeGuzman's businesses.

4 With regard to interest expense reflected on the
5 Schedules A for the years at issue, the record does
6 contain a few indications that Ms. DeGuzman was aware of
7 one or more of the loans that gave rise to the disallowed
8 amounts. But again, apart from inconsistent and general
9 testimony, the parties introduced little evidence of what
10 the expenses actually consisted of, let alone evidence
11 that Ms. DeGuzman was aware of sufficient facts (for
12 example, the balances of the loans and the amount of
13 interest paid annually) to constitute actual knowledge.
14 See, e.g., *King v. Commissioner*, 116 T.C. 198, 204-06
15 (2001); *McDaniel v. Commissioner*, T.C. Memo. 2009-137,
16 2009 WL 1658581, at *6-9; *Stergios v. Commissioner*, T.C.
17 Memo. 2009-15, 2009 WL 151485, at *4-6. Again, the record
18 falls short of the requisite showing.

19 B. Allocation of Deficiencies

20 Generally under section 6015(c) and (d) an item
21 giving rise to a deficiency is allocated between the
22 requesting spouse and nonrequesting spouse "in the same
23 manner as it would have been allocated if [they] had filed
24 separate returns for the taxable year." I.R.C. §
25 6015(d)(3)(A); *Hopkins*, 121 T.C. at 82. An exception to

1 this general rule is provided in section 6015(d)(3)(B),
2 which provides that "an item otherwise allocable to an
3 individual under subparagraph (A) shall be allocated to
4 the other [spouse] to the extent the item gave rise to a
5 tax benefit on the joint return to the other [spouse]."
6 See also Treas. Reg. § 1.6015-3(d)(2)(i).

7 The record in this case supports the conclusion
8 that the items giving rise to the deficiencies for 2016,
9 2017, and 2018 are allocable to Dr. DeGuzman under the
10 rules of section 6015(d) either because the items were
11 related exclusively to his businesses or because the items
12 provided him with a tax benefit. First, the adjustments
13 to Schedule C in 2016, 2017, and 2018 were all related to
14 Dr. DeGuzman's businesses. Second, the interest income
15 and capital gain that the Commissioner determined should
16 have been reported as net investment income on Form 8960
17 for 2016 were items from Dr. DeGuzman's businesses.
18 Finally, Dr. DeGuzman derived a tax benefit from

19 deductions claimed on the Schedules A and C that were
20 disallowed by the Commissioner for 2016 and 2017 because
21 the corresponding deductions were used to reduce the
22 amount of taxable income he received from his businesses.

23 The parties have not argued that section 6015(d)
24 requires the deficiencies to be allocated in any other
25 way, so we consider the parties to have forfeited any such

1 argument. See *Chapman Glen Ltd. v. Commissioner*, 140 T.C.
2 294, 350 (2013) (explaining that an argument not raised is
3 forfeited).

4 We conclude that the deficiencies are allocable
5 to Dr. DeGuzman under sections 6015(c) and (d).
6 Accordingly, Ms. DeGuzman is entitled to full relief from
7 the Commissioner's determinations set forth in the notice
8 of deficiency for 2016, 2017, and 2018 under section
9 6015(c).

10 IV. Section 6015(f)

11 Having concluded that section 6015(c) provides
12 Ms. DeGuzman full relief from the deficiencies challenged
13 in the Petition, we have no occasion to consider whether
14 she would be entitled to relief from those deficiencies
15 under section 6015(f), I.R.C. § 6015(f)(1)(B), and the
16 Petition raises no other issues with respect to section
17 6015(f).

18 To reflect the foregoing, an appropriate
19 decision will be entered.

20 This concludes the Court's oral findings of fact
21 and opinion in this case.

22 (Whereupon, at 4:43 p.m., the above-entitled
23 matter was concluded.)

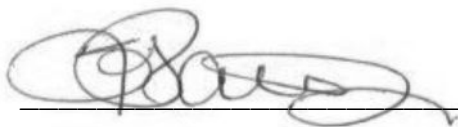
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CERTIFICATE OF TRANSCRIBER AND PROOFREADER

CASE NAME: Keri A. deGuzman, Petitioner and Brian
deGuzman, Intervenor v. Commissioner
DOCKET NO.: 13230-20

We, the undersigned, do hereby certify that the
foregoing pages, numbers 1 through 25 inclusive, are the
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Self on May 2, 2023 before the United States Tax Court at
its session in Las Vegas, NV, in accordance with the
applicable provisions of the current verbatim reporting
contract of the Court and have verified the accuracy of
the transcript by comparing the typewritten transcript
against the verbal recording.



Susan Patterson, CDLT-174

5/20/23

Transcriber

Date



Lori Rahtes, CDLT-108

5/20/23

Proofreader

Date

