

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAR 19 2014

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

JOAN THOMASSEN, Deceased; MARK
D. THOMASSEN, Special Administrator,

Petitioners - Appellants,

v.

COMMISSIONER OF INTERNAL
REVENUE,

Respondent - Appellee.

No. 11-73458

Tax Ct. No. 21803-06

MEMORANDUM*

Appeal from a Decision of the
United States Tax Court
Joseph H. Gale, Judge, Presiding

Submitted March 11, 2014**
San Francisco, California

Before: WALLACE, McKEOWN, and GOULD, Circuit Judges.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Joan Thomassen¹ appeals from the Tax Court’s denial of her petition for redetermination of federal income tax liabilities for 1964 to 1971. We have jurisdiction pursuant to 26 U.S.C. § 7482(a), and we affirm.

Thomassen argues that the Tax Court clearly erred in denying her Innocent Spouse Relief under Internal Revenue Code (“IRC”) § 6015 for two particular years, 1966 and 1971, because it found she did not file joint tax returns in those years.

Under IRC § 1615(b)(1)(A), the taxpayer bears the burden of showing that the “couple filed a joint return.” *Ordlock v. Comm’r.*, 533 F.3d 1136, 1139 (9th Cir. 2008). Lacking copies of her tax returns for 1966 and 1971, Thomassen attempts to make this showing by inference, arguing that her typical filing of joint returns in the other years for which she sought Innocent Spouse Relief demonstrates that the same held true for 1966 and 1971. Thomassen fails to substantiate this inference. To the contrary, a certified copy of the transcript of account for her husband Dr. Thomassen’s 1966 income tax return states his filing status as “single,” a Tax Court order from 1975 held Dr. Thomassen separately liable for deficiencies and additions to tax for 1966, and two notices of deficiency

¹ Joan Thomassen is now deceased, and Mark Thomassen, the special administrator of her estate, has been substituted as a proper party.

were issued for 1971, in different amounts and with one to “taxpayer” and one to Dr. Thomassen. In light of this evidence, the Tax Court did not clearly err in finding that Thomassen failed to show that she filed joint tax returns in 1966 and 1971.

AFFIRMED.