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Panayiotis Xenakis

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Panayiotis Xenakis, J.D Candidate 2025

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Introduction

Innocent-spouse relief is an equitable remedy provided by Internal Revenue Code section 6015(f), where the Secretary of the Treasury may "relieve [an] individual of . . . liability" if "taking into account all the facts and circumstances, it is inequitable to hold the individual liable for any unpaid tax or any deficiency" ¹ Essentially, it provides a joint-filer who normally is jointly and severally liable for the tax liabilities of his or her spouse relief from liability if it would be inequitable to do otherwise.

An individual debtor is generally allowed to claim innocent-spouse relief under Internal Revenue Code Section 6015(f) so long as the claim (1) was not addressed for the first time in bankruptcy, and (2) has not been fully adjudicated by the appellate process provided by the Internal Revenue Code. The bankruptcy court gains subject matter jurisdiction for such claims under section 505 of title 11 of the United States Code (the "Bankruptcy Code"), which states that "the court may determine the amount or legality of any tax . . . whether or not contested before and adjudicated by a judicial or administrative tribunal of competent jurisdiction."² This

¹ 26 U.S.C. § 6015(f).

² 11 U.S.C. § 505(a)(1).

conferring of jurisdiction is limited by subsection 505(a)(2), which states that "[t]he court may not so determine . . . the amount or legality of a tax . . . if such amount or legality was contested before and adjudicated by a judicial or administrative tribunal of competent jurisdiction before the commencement of the case under this title"³ In other words, bankruptcy cannot serve as an opportunity to re-litigate the issue.

As to the permissibility of such claims being adjudicated by bankruptcy courts, subsection 6015(e)(1)(A) of the Internal Revenue Code points to "any other remedy provided by law" that may also be petitioned in addition to the Tax Court to determine whether such relief is available.⁴

This memorandum addresses: (1) the limits of a bankruptcy court's jurisdiction over innocent-spouse and other tax claims under Bankruptcy Code section 505, with regard to (a) the bankruptcy court's lack of initial subject matter jurisdiction over innocent-spouse relief claims, and (b) the preclusion towards adjudicating a tax dispute that has been finally concluded; and (2) a recent decision from the Western District of Pennsylvania which denied bankruptcy court jurisdiction over innocent-spouse claims. The decision appears to be an outlier and will not likely be followed by other jurisdictions.

I. Nearly every jurisdiction allows for innocent-spouse claims to be heard in a bankruptcy court, subject to two limitations.

Pursuant to section 505 of the Bankruptcy Code, the court "may determine the amount or legality of any tax, any fine or penalty relating to a tax, or any addition to tax, whether or not previously assessed, whether or not paid, and whether or not previously assessed, whether or not paid, and whether or not contested before and adjudicated by a judicial administrative tribunal of

³ 11 U.S.C. § 505(a)(2)(A).

⁴ 26 U.S.C. § 6015(e)(1)(A).

competent jurisdiction."⁵ Subsection 2 prevents a court from determining the same "if such amount or legality was contested before and adjudicated by a judicial or administrative tribunal of competent jurisdiction before the commencement of the case under this title[.]" Furthermore, Internal Revenue Code section 6015(b) provides that all those who wish to claim innocent-spouse relief must file with the Secretary, with subsection (f) listing the venues for appeal after this initial filing as either (1) the Tax Court, or (2) any other remedy provided by law.⁶ As discussed further below, courts have interpreted these two statutes as (1) precluding bankruptcy courts from having initial subject matter jurisdiction over innocent-spouse claims, and (2) preventing bankruptcy courts from adjudicating an innocent-spouse claim that has already been conclusively adjudicated.

A. Bankruptcy courts do not have initial subject matter jurisdiction over forms of tax relief like innocent-spouse relief as the claimant must first seek relief from the internal remedies provided by the Internal Revenue Code.

Bankruptcy Courts do not have initial subject matter jurisdiction over forms of tax relief like innocent-spouse relief despite the fact that nearly every jurisdiction permits their adjudication. Instead, a debtor must generally first exhaust his or her initial remedies with the Secretary of the Treasury. In *Pendergraft v. United States Dep't of the Treasury IRS (In re Pendergraft)*, an individual debtor who was jointly liable for over \$2.5 million in tax debt liability to the Internal Revenue Service ("IRS") filed for bankruptcy. In response to the IRS's proof of claim against her, the debtor sought a determination from the bankruptcy court that she qualified for innocent-spouse relief.⁷ The Bankruptcy Court for the Southern District of Texas stated that section 6015(f) provides the Secretary of the Treasury with the equitable power to

⁵ 11 U.S.C.S § 505(a)(1).

⁶ See 26 U.S.M.C. § 6015(b-f).

⁷ 2017 Bankr. LEXIS 771, *7 (Bankr. S.D.T.X. Mar. 22, 2017)

grant innocent-spouse relief "under procedures prescribed by the secretary" and that only "the Secretary may relieve such individual of such liability."⁸ Nevertheless, section 6015(e)(1)(A) allows a claimant to petition "any other remedy provided by law" as well as the Tax Court so long as such petition is either denied by the Secretary or if the Secretary fails to make a determination within 6 months.⁹ After considering the legislative history of section 505, the Bankruptcy Court held that section 505 grants subject matter jurisdiction to bankruptcy courts to adjudicate innocent-spouse claims, so long as the debtor either (1) attempted to file a claim with the Secretary, or (2) was denied such relief by the Secretary.¹⁰

In *Chandler v. United States*, a spouse twice sent in Form 8857 with the IRS in order to claim innocent-spouse relief but was denied both times by the Secretary.¹¹ Rejecting the federal government's claim that only the Tax Court had subject matter jurisdiction over the claim, the district court held that if the spouse petitioner "was unsatisfied with the Secretary's decision, or if the Secretary fails to give notice of a decision within six months . . . the requesting spouse may petition the Tax Court . . . 'in addition to any other remedy provided by law,'" which includes the bankruptcy court.¹² Although this case dealt with the issue of a district court having jurisdiction to adjudicate an innocent-spouse claim, *Chandler* is significant because it affirms that a debtor must first pursue internal IRS remedies prior to petitioning a review from the bankruptcy court.

The decisions on tax abatement claims in bankruptcy seem to mirror decisions on claims for innocent-spouse relief. In *In re St. John's Nursing Home*, a debtor failed to file an application for a tax abatement for the current year. Nevertheless, he later sought an abatement

⁸ See *id.* at 9 (quoting 26 U.S.C. § 6015(f))

⁹ See *id.*

¹⁰ See *id.*

¹¹ 388 F.Supp. 3d 592, 602 (N.D.T.X. 2018).

¹² *Id.* at 603 (quoting 26 USCS § 6015).

from the bankruptcy court despite not waiting the 120 days after nonresponse or denial provided by section 505(a)(2)(B).¹³ The Bankruptcy Court held that under Massachusetts law, "compliance with the . . . timely filing of an abatement application is a prerequisite to this Court's review" ¹⁴ Essentially, section 505(a)(2)(B) expressly prohibits the bankruptcy court from adjudicating a tax refund unless it was first "properly request[ed]" through IRS remedies.¹⁵ The decision in *St. John's Nursing Home* provides a similar limitation to another tax claim (abatement) that also would fall within the purview of section 505, essentially stating that the debtor must first consult proper tax remedies prior to having its claim adjudicated by a bankruptcy court.

B. Bankruptcy courts may not adjudicate a tax claim that has already been conclusively decided.

A bankruptcy court is obligated to deny the adjudication of tax claims that have already been decided. Section 505 prevents a bankruptcy court from determining the legality or amount of a tax or penalty relating to a tax "if such amount or legality was contested before and adjudicated by a judicial or administrative tribunal of competent jurisdiction before the commencement of the case under this title[.]"¹⁶

In the Fourth Circuit, the general rule for tax liabilities is that they are within the subject matter jurisdiction of bankruptcy courts so long as they have not been adjudicated with finality by the Secretary of Treasury's internal adjudication process. In *United States v. Wilson*, the Fourth Circuit was confronted for the first time with the issue of whether the bankruptcy court had subject matter jurisdiction over tax proceedings in general.¹⁷ Here, because the debtor's tax

¹³ 154 B.R. 117, 118 (Bankr. Mass. 1993).

¹⁴ *See id.* at 125.

¹⁵ *See id.*

¹⁶ 11 U.S.C. § 505(a)(2)(A).

¹⁷ 974 F.2d 514 (4th Cir. 1992).

claim was still pending to be heard in Tax Court, the Internal Revenue Service claimed that the bankruptcy court never possessed jurisdiction over the issue.¹⁸ The Fourth Circuit rebutted the IRS by concluding that "[t]he Bankruptcy Code requires bankruptcy courts to defer to the tax court only where the claim was contested *and* adjudicated by the tax court *before* the commencement of the bankruptcy case."¹⁹ Accordingly, the Circuit Court claimed that the plain language of section 505 granted bankruptcy courts concurrent jurisdiction to determine certain tax liabilities.²⁰ Consequently, the general rule for tax liabilities according to the Fourth Circuit is that they are within the subject matter jurisdiction of bankruptcy courts so long as they have not been adjudicated with finality by the Secretary of Treasury's internal adjudication process.

In *In re Galvano*, the debtor failed to appeal a Tax Bureau denial of relief for tax liability.²¹ After signing a settlement with the Tax Bureau acknowledging his liability, he filed a petition for relief under Chapter 7 of the Bankruptcy Code seeking to contest his tax liability for those very same years he previously acknowledged.²² In deciding whether to adjudicate the debtor's original tax liability, the bankruptcy court concluded that it was "precluded from reviewing any determination of a debtor's tax liability where that liability has already been contested or adjudicated."²³ The Bankruptcy Court for the Eastern District of New York held that a significant policy behind section 505 is to "ensure the finality of tax determinations by prohibiting a debtor from having the Bankruptcy Court redetermine tax liability already contested and decided to be legitimate by an administrative or judicial tribunal."²⁴ The

¹⁸ *Id.* at 516.

¹⁹ *Id.* at 517.

²⁰ *See id.*

²¹ 116 B.R. 367, 370 (Bankr. E.D.N.Y. 1990)

²² *See id.*

²³ *See id.* at 372 (quoting *In re Monongahela Rye Liquors, Inc.*, 141 F.2d 864 (3d Cir. 1944)).

²⁴ *See id.*

bankruptcy court further likened adjudicating previously determined tax liability as operating similarly to *res judicata*, preventing a debtor from getting a "second bite of the apple."

In *In re D'Alessio*, a debtor with tens of thousands in tax liability for the years of 1979 and 1980 filed a Chapter 7 petition partially to determine his tax liability for those years.²⁵ The Southern District of New York Bankruptcy Court held that section 505(a)(2)(A) "expressly precludes a bankruptcy court from reviewing any determination of a debtor's tax liability where that liability has already been contested or adjudicated," pointing out that "it is clear that Congress never intended to create a second tax adjudication system" through section 505.²⁶ It does not appear that any court has disagreed with this characterization of section 505(a)(2)(A), so it seems like a bankruptcy court does not have the jurisdiction to adjudicate tax claims once they have been decided with finality.

II. The decision in *Geary* is unique in denying subject matter jurisdiction for bankruptcy courts over innocent-spouse claims.

A decision by the Western District of Pennsylvania Bankruptcy Court is unique in denying subject matter jurisdiction to bankruptcy courts regarding innocent-spouse claims. In *Geary v. United States (In re Geary)*, a debtor filed a bankruptcy petition in the Bankruptcy Court for the Western District of Pennsylvania to seek a determination of whether she owed any taxes for the years of 2015, 2016, and 2017 due to her claimed status of being an innocent-spouse.²⁷ In response to the federal government's claim that bankruptcy courts lack subject matter jurisdiction to adjudicate such a claim, the Bankruptcy Court for the Western District of Pennsylvania agreed, stating that innocent-spouse relief does not fit within section 505 of the Bankruptcy Code as the claim involves a waiver for equitable reasons, as opposed to the legality

²⁵ 181 B.R. 756, 759 (Bankr. S.D.N.Y. 1995)

²⁶ *See id.* at 760 (citing *In re Galvano*, 116 B.R. at 372).

²⁷ 650 B.R. 486 (Bankr. W.D.Penn. 2023).

of a tax.²⁸ The bankruptcy court in *Geary* held that section 505 does not confer subject matter jurisdiction to bankruptcy courts to hear innocent-spouse and other equitable claims deriving from the Internal Revenue Code.²⁹

The *Geary* case is significant as it is the first example of a bankruptcy court entirely rejecting its own subject matter jurisdiction over innocent-spouse claims. It does not appear that any court, preceding or following *Geary*, has denied a bankruptcy court section 505 jurisdiction over all equitable remedies, including innocent-spouse claims. In *Geary*, the bankruptcy court cited to district court cases that denied district court jurisdiction over innocent-spouse claims in order to support its own denial of jurisdiction.³⁰ The bankruptcy court in *Geary* cited these cases despite the fact that they were outside of bankruptcy court, which is expressly granted jurisdiction over such claims through section 505, whereas district courts are nowhere mentioned within the same statute.³¹

In *In re French*, another case cited in the *Geary* decision, the district court explained that "the purpose of section 505 is to afford a forum for the ready determination of the legality and/or amount of a tax claim, the determination of which, if left to another proceeding, might delay the administration of the bankruptcy estate."³² The bankruptcy court further explains that this grant of power is "entirely jurisdictional, and therefore decisions rendered under section 505 must be strictly confined to interpreting the appropriate provisions of the Tax Code."³³ Following these two statements, the district court then proceeded to substantively adjudicate the debtor's

²⁸ *See id.* at 490.

²⁹ *See id.*

³⁰ *See In re Geary*, 650 B.R. at 489; *e.g.* *United States v. Elman*, 2012 U.S. Dist. LEXIS 173026 (N.D. Ill. Dec. 6, 2012); *United States v. Boynton*, 2007 U.S. Dist. LEXIS 7764 (S.D. Cali. Feb. 1, 2007).

³¹ *See* 11 U.S.C. § 505(a).

³² *French v. United States (In re French)*, 242 B.R. 369, 376 (Bankr. N.D. Ohio 1999).

³³ *See id.*

innocent-spouse claim on the merits. Despite being cited by *Geary* as proof that "Congress granted only the Secretary of the Treasury the equitable power to grant innocent-spouse relief," the Bankruptcy Court for the Northern District of Ohio refused to deny itself jurisdiction over the claim and decided it substantively.³⁴ Although the exact limitation provided by *French* has not been discussed by other jurisdictions, it does not seem to amount to a blanket preclusion of jurisdiction as suggested by *Geary*.

Conclusion

An individual debtor is generally allowed to claim innocent-spouse relief under Internal Revenue Code Section 6015(f) so long as the matter has not been first raised in bankruptcy or has been fully adjudicated by the appellate process provided by the Internal Revenue Code. As to the significance of *Geary*, it remains alone in refusing all equitable relief within the context of a section 505 jurisdiction. Although it is impossible to predict whether other jurisdictions will follow the holding in *Geary*, for the time being it remains an outlier. As a result, it appears that a debtor seeking innocent-spouse relief may proceed in bankruptcy court, subject to the limitations of (1) not being raised for the first time in bankruptcy court, i.e., seeking remedies through the proper tax authorities first, and (2) not being conclusively adjudicated by the Internal Revenue Code process.

³⁴ *In re Geary*, 650 B.R. at 488; *See also In re French*, 242 B.R. at 376–78.