

## Joint Return Valid Even With Forged Signature

Alice & Phil Coggin were married for many years. Phil was responsible for family financial matters. In November 2009 he filed married filing jointly (MFJ) tax returns for calendar years 2002-2006. In August 2010, he filed the 2007 return, also as MFJ. District Court stated it was undisputed that Phil forged Alice's signature on the returns.

Phil died in 2011. In 2012 Alice filed married filing separately (MFS) returns for 2002-2007 and requested refunds of the some of the MFJ taxes paid.

IRS denied Alice's refund request, stating the MFJ returns were valid returns and changing from MFJ to MFS after the due date is not permitted, except in very limited situations (which are not discussed in this article). Alice argued that the MFJ returns were not valid returns since her signature had been forged by her husband and she did not intend to file MFJ returns. Thus the matter before the District Court is whether or not the MFJ returns were valid MFJ returns.

IRC Section 6013 states a MFJ return must be signed, typically by both taxpayer and spouse. District Court cites several cases, including Heim (8th Circuit, 1958) where the court stated "where a husband files a joint return without objection of the wife, who fails to file a separate return, it will be presumed the joint return was filed with the tacit consent of the wife." Thus the issue for Alice Coggin is whether she intended to file MFJ.

Alice testified that before 2000, the preparation of the tax returns was Phil's responsibility and she gave him her tax documents for this purpose. She assumed he was handling the taxes and trusted him to do the right thing. She did not file MFS returns for 2002-2007 until 2012, years after the MFJ returns were filed.

District Court ruled in favor of IRS, denying Alice the requested refunds. The Court determined Alice gave tacit approval to file MFJ returns based on her past history of filing MFJ returns PLUS the fact that she did not file MFS returns until well past the MFJ filings.

NOTE – We are not recommending MFJ returns be filed without both spouses' signatures. We are merely pointing out that there are times when one signature may be determined to be sufficient by the Court IF THERE is sufficient evidence the couple wanted to file MFJ. Be cautious – the day you efile, or paperfile, a return without having both signatures will be the day BEFORE you find out they are in the process of a divorce and both parties did NOT want to file MFJ. Continue to protect yourself and get both signatures before you efile a MFJ return.

Alice J, Coggin, District Court, Middle District of North Carolina, 1:16-VC-106,  
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