TAX COURT REVIEW OF JEOPARDY ASSESSMENTS, TERMINATION ASSESSMENTS, OR JEOPARDY LEVIES CHECK LIST

Tax Court Jurisdiction

- Did the petitioner file a timely petition with the Tax Court for redetermination of a deficiency under I.R.C. § 6213(a) prior to the jeopardy assessment, the termination assessment, or the jeopardy levy?
- Did the petitioner file a motion for review under I.R.C. § 7429 in the docketed case?
- Is at least one of the tax liabilities (type of tax and period) that is included in the written statement that the IRS provided the petitioner under I.R.C. § 7429 also involved in the docketed case? I.R.C. § 7429(b)(2); Treas. Reg. § 301.7429-3(c).
- Was the I.R.C. § 7429 motion filed by a possessor of cash? Treas. Reg. § 301.6867-1(d),(e).

Timeliness of Motion

- Was the motion for I.R.C. § 7429 review timely filed? *See* Treas. Reg. § 301.7429-3(a).

Timeliness of Motion Service

- Was the petitioner's motion received by Counsel on the day that the motion was received by the Tax Court?
- If not, was service made in a manner to produce a reasonable presumption that receipt by Counsel would occur no later than the date the court received the motion?
- Was Counsel properly served with the motion within five days after commencement of the I.R.C. § 7429 review proceeding? I.R.C. § 7429(b)(3)?

Content of Motion

- Does the motion contain a statement that
    - the making of the jeopardy assessment was not reasonable;
    - a statement that the amount that was assessed was not appropriate; or
    - a statement that the levy was not reasonable under the circumstances?
- Does the motion contain a statement of the amount of the assessment, if any, that the taxpayer deems appropriate?
- Are there clear and concise statements of every assignment of error which petitioner alleges were committed by the Commissioner, and the facts upon which the assignments of error are based?
- Are the bases for any hearing request by the taxpayer set forth?
- Does the taxpayer provide a list of all other Tax Court cases in which this jeopardy assessment or jeopardy levy challenge could have been filed?
- Is a copy attached of the Commissioner's written statement, and was it issued within five days after the jeopardy assessment or jeopardy levy?
- Is a copy attached of the taxpayer's request for administrative review of jeopardy?
- Is a copy attached of the determination made by the Commissioner upon the administrative

review?

- Is a copy attached of each deficiency notice issued with respect to a jeopardy assessment or termination assessment of a tax subject to the deficiency procedures that is included in the written statement?
- In the case of jeopardy assessments, was each deficiency notice issued within 60 days after the jeopardy assessment was made?
- In the case of termination assessments, was each deficiency notice issued within 60 days after the later of the due date of the return or the date the taxpayer filed such return?

Review the Administrative File

Are the following documents in the file and do they contain the necessary signatures?

- Jeopardy/termination assessment
    - Assessment requested on Form 2644, with approval shown by required signatures. *See* IRM 4.3.9.2.4.1.5; IRM 1.2.2.121 Order No. 219 (Rev. 4).
- Jeopardy levy
    - Has it been approved by an authorized official? *See* IRM 5.11, Notice of Levy, Exhibit 5.11-1, Delegations of Authority, subsection III.D, G, H.
- The file contains the written statement comprised of the following items
    - Pattern Letter 1583 (termination), 1584 (jeopardy), 1929 (termination possessor of cash), or 1930 (jeopardy possessor of cash)
    - Tax computation, and
    - Narrative. *See* IRM 4.3.9.2.4.1.3.1 and 4.3.9.4.2.1.
- If the taxpayer has not received a due process notice under I.R.C. § 6330, has the taxpayer has been given an opportunity for a CDP hearing within a reasonable time after levy? IRM 5.11.3.6:(2).

Merits

- Can the Service sustain its burden of proving that under the circumstances, it was reasonable to make the assessment or levy?
- Do one of the following conditions of jeopardy exist?
        - Was taxpayer designing quickly to depart or conceal self?
        - Was taxpayer designing quickly to conceal/dissipate/transfer assets beyond IRS' reach?
        - Was taxpayer's financial solvency imperiled (not including the instant assessment)?
        - Was the individual in physical possession of cash or equivalents in excess of $10,000 and did not claim ownership or identify the owner? *See* Policy Statements P-4-88 or P-4-89; IRM 4.3.9.2.4.1.2.4.
    - Did the Commissioner provide a written statement of how the amount was determined?

Collection

- Has a bond been filed under in respect of a jeopardy or termination assessment staying collection of the assessment? *See* I.R.C. § 6863.

- If bond was not filed under I.R.C. § 6863, and if property was seized for collection of a jeopardy or termination assessment, was the property sold prematurely? *See* Treas. Reg. § 301.6863-2.

Contents of Response to Petitioner's Motion for Tax Court Review

- Does the response contain all of the information required by Tax Court Rule 56? *See* CCDM 35.4.3.1.
- Has the response been reviewed by APJP?
- Will the motion been served in such a manner to produce a reasonable presumption that the motion will be received by petitioner or petitioner's counsel no later than the date that the motion is received by the Tax Court?

Sources of information on jeopardy and termination assessments:

IRM 1218, P-4-88 and P-4-89
CCDM 34.12.2.5, 35.4.3.1
General Litigation Coursebook, 1-24 through 1-34 (tax computation and other problems)