

MOTION FOR TAX COURT REVIEW OF PROPOSED SALE OF JEOPARDY-LEVIED PROPERTY CHECK LIST (T.C. RULE 57)

Commencement of Tax Court Review

- Did either the petitioner or the Commissioner file a motion for the court to review the Commissioner's determination that the seized property should be sold?
- Does the motion reflect the same docket number as the pending case that addresses the underlying tax liability?
- Is the petitioner's motion styled: "Motion to Stay Proposed Sale of Seized Property--Section 6863(b)(3)(C)"?
- Is the Commissioner's motion styled: "Motion to Authorize Proposed Sale of Seized Property--Section 6863(b)(3)(C)"?
- Has the motion been filed not less than 15 days before the date of the proposed sale and not more than 20 days after the petitioner's receipt of the Commissioner's notice of sale?

Service of Motion by Commissioner

- Has 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?

Required Content of Commissioner's Motion

- Does the motion refer to the time and place of the proposed sale?
- Does the motion refer to a description of the property proposed to be sold, with copies of the Notice of Seizure and Notice of Sale attached?
- If the motion is not filed timely, does the motion contain a statement of the reasons for the late filing?
- Does the motion contain a statement that the petitioner does not consent to the proposed sale?
- Does the motion contain a statement whether the property proposed to be sold is or is not likely to perish, is or is not likely to be reduced in value during the delay, and is or is not greatly expensive to conserve or maintain?
- Does the motion contain the bases for each of the aforementioned statements, with supporting documentation attached (e.g., appraisals, affidavits, valuation reports)?
- Does the motion contain a statement whether an evidentiary or other hearing on the motion is requested and, if so, the reasons for such a request?
- Does the motion contain a certificate showing service of the motion? *See T.C. Rule 57*

Contents of Commissioner's Response to Petitioner's Motion

- Does the response contain admission or denial of each allegation of the petitioner's motion with the same paragraph designations as the motion?
- Does the response contain clear and concise statements of the bases of the Commissioner's positions (with supplementing facts)?

- Does the response contain the Commissioner's request for a hearing, if any, and the reasons for such a request?
- Does the response attach a copy of any documentation needed for proper review of the petitioner's motion, if such documentation was not attached to the petitioner's motion?
- Does the response contain a certificate of service reflecting the timely service of the response on the petitioner?

Timely Service of the Commissioner's Response

- Has the Commissioner's response been reviewed by APJP?
- Will the response be filed so that the Tax Court will receive the response no later than 10 days after the petitioner's motion was received by the Court?
- Will service of Commissioner's response be made in a manner to produce a reasonable presumption that receipt of the response by petitioner or petitioner's counsel will occur no later than the date that the Court receives the response?