R. JEOPARDY AND TERMINATION ASSESSMENTS

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Jeopardy assessments are made in situations where, prior to the assessment of a deficiency, it is determined that the assessment or the collection of such deficiency would be endangered if regular assessment procedures were followed. There are three IRC sections authorizing jeopardy assessments.

IRC 6861 authorizes assessment where the due date for filing of a return has expired. IRC 6862 authorizes assessment of taxes other than income, estate, gift and certain excise taxes, even when the due date for filing a return has not expired and IRC 6867 authorizes assessment in situations where an individual is in possession of cash in excess of $10,000 and does not claim ownership of the cash or who claims the cash belongs to another individual, whose identity can be determined, and who claims ownership of the cash.

Prior to making a jeopardy assessment, at least one of the factors outlined in Policy Statement P-4-88 must be present. Those factors are: (a) the taxpayer is or appears to be designing quickly to depart from the United States or to conceal him/herself; (b) the taxpayer is or appears to be designing quickly to place his/her property beyond the reach of the government either by removing it from the United States, by concealing it, by dissipating it, or by transferring it to another person; or (c) the taxpayer's financial solvency is or appears to be imperiled. (This does not include cases where the insolvency is created by an assessment.)

Jeopardy assessments should be used prudently and care taken to avoid excess and unreasonable assessments. The amount of the assessment should be limited to an amount that reasonably can be expected to equal the liability due.

While jeopardy assessments may be appropriate in many types of cases, they most likely will be more prevalent in cases involving taxpayers engaged in organized crime, wagering cases, cases involving taxpayers who are believed to be receiving income from illegal sources, and cases involving taxpayers known or suspected of having plans to leave the United States without making provisions for tax payments.

All jeopardy assessments must be approved by the Assistant Commissioner (International) or the District Director. If neither of these can give the approval, it must be given by the Assistant District Director, the Chief, EP/EO Division, the Chief, Collection Division, or the Chief, Criminal Investigation Division. IRM 7(10)(12)(19).3 contains a full listing of all individuals authorized to approve a jeopardy assessment.

The normal responsibility for recommending jeopardy assessments for cases under active consideration by EP/EO lies with that division. For EP/EO cases under active consideration by Criminal Investigation, the responsibility lies with CI. Collection Division has responsibility for all EP/EO cases not under active consideration by EP/EO or CI. However, a recommendation may also be received from another part of the Service, from Treasury or from Justice.

Within five days of the issuance of a jeopardy assessment, the taxpayer must be provided a written statement of the information upon which the Service relied in making the assessment. To the extent possible, every effort should be made to deliver the statement in person. The taxpayer has 30 days from the date of receiving the written statement of the reasons for making the jeopardy assessment, or 35 days from the date of the assessment to file a written request for review of the assessment action which will be reviewed by the Appeals Office. If possible, an immediate conference will be held and a decision made within 15 days after the request is filed. In addition, under the provisions of IRC 7429(b)(1), taxpayers can initiate judicial review of the assessment, if they have first requested an administrative review.

If administrative or judical review finds that the assessment was not proper or that it was excessive, abatement, in whole or in part, must be made.

Termination assessments are very similar to jeopardy assessments except that, under the provisions of IRC 6851, they are made only for the current or immediately preceding taxable year and can be made any time prior to the due date for filing those years returns. Termination assessment action makes the tax for those years immediately due and payable.

The conditions which must be present for a termination assessment to be made are contained in Policy Statement P-4-89 and include cases involving taxpayers engaged in organized crime, wagering cases, Strike Force cases, cases involving taxpayers who are believed to be receiving income from an illegal activity, cases involving taxpayers believed to be about to leave the country without making provisions for tax payment or cases outlined in IRC 6867.

Procedures involving assessment, review, abatement, etc., are contained in IRM 7(10)(12)(20).