



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

5.17.15

FEBRUARY 28, 2022

EFFECTIVE DATE

(02-28-2022)

PURPOSE

- (1) This transmits revisions to IRM 5.17.15, Termination and Jeopardy Assessments and Jeopardy Collection.

MATERIAL CHANGES

(1)

IRM Subsection	Description
IRM 5.17.15.1	Added Program Scope and Objectives, including IRM 5.17.15.1.1 Background, which replaced prior Overview subsection.
IRM 5.17.15.2.1	Moved information relating to financial solvency to bullet in IRM 5.17.15.2.1 (1) to clarify financial solvency is one of the factors considered for jeopardy and is not required for all jeopardy assessments.
IRM 5.17.15.2.2	<ul style="list-style-type: none">IRM 5.17.15.2.2 (1): Added reference to IRM 1.2.2.5.18, Delegation Order 4-21 (Rev. 2) (formerly DO-219, Rev. 4), Jeopardy and Termination Assessments, and removed reference to information that is further elaborated in IRM 5.1.4, Jeopardy, Termination, Quick and Prompt Assessments.IRM 5.17.15.2.2 (2): Expanded on the example provided that there is proof of income despite prior tax returns showing little to no income, consistent with description of factors listed in IRM 5.17.15.2.1, Grounds for Jeopardy Assessment.

IRM Subsection	Description
IRM 5.17.15.3	<ul style="list-style-type: none"> Moved definition of cash goods up to IRM 5.17.15.3 (2) where it is more relevant. IRM 5.17.15.3 (4): Clarified that Examination function sends the notice of assessment and added reference to Examination IRM 4.15.1.10.6, Possessor of Cash.
IRM 5.17.15.4	<ul style="list-style-type: none"> Reworded and reorganized throughout. IRM 5.17.15.4 (1): Added notice of third-party contact per IRM 5.11.1.3.2, Required Notices. IRM 5.17.15.4 (6): Added note regarding Collection Appeals Program. IRM 5.17.15.4 (9): Removed unneeded Tax Court reference.
Prior IRM 5.17.15.4.2	Deleted subsection titled "Form and Procedures" as the information was previously stated in other subsections (there were previously two subsections with the same title).

(2) Incorporated changes from IPU 20U0325 issued 02-27-2020 as follows:

IRM Subsection or Paragraph	Description
IRM 5.17.15.4 (6)	Removed reference to IRC7429(a)(1)(a) in note.
IRM 5.17.15.4.1	Updated perishable goods definition and removed older case references relating to perishables goods, per Section 1404 of the Taxpayer First Act, which amended IRC 6336. Also reorganized throughout, changed statement under (2) to an exception, per IRC 6863(b)(3)(B) and addressed procedures that should be followed in this situation.

IRM Subsection or Paragraph	Description
IRM 5.17.15.6 (1)	Added bullet list to clarify judicial review timing requirements.
IRM 5.17.15.6 (2)	Added the word “additional” to clarify the total time of a possible request for extension.
Throughout	Removed outdated tax court references and added web links for existing court cases.

- (3) Editorial changes throughout, including updating links and references to other IRM sections as necessary, and editing grammar and citations in accordance with IRM 1.11.2, Internal Revenue Manual (IRM) process.

EFFECT ON OTHER DOCUMENTS

This material supersedes IRM 5.17.15, dated October 23, 2014.

AUDIENCE

SBSE revenue officers and collection advisors

Kareem Williams
Acting Director, Collection Policy
Small Business/Self-Employed

5.17.15

Termination and Jeopardy Assessments and Jeopardy Collection

Table of Contents

5.17.15.1 Program Scope and Objectives

5.17.15.1.1 Background

5.17.15.1.2 Authority

5.17.15.1.3 Responsibilities

5.17.15.1.4 Program Management and Review

5.17.15.1.5 Program Controls

5.17.15.1.6 Acronyms

5.17.15.2 Jeopardy Assessments Initiated by Collection

5.17.15.2.1 Grounds for Jeopardy Assessments

5.17.15.2.2 Form and Procedure

5.17.15.2.3 Stay of Collection of Jeopardy Assessments

5.17.15.3 Presumption Regarding \$10,000 in Unclaimed Cash

5.17.15.4 Jeopardy Collection

5.17.15.4.1 Sale of Property Seized by Jeopardy Levy

5.17.15.5 Administrative Review

5.17.15.6 Judicial Review

5.17.15.1
(02-28-2022)
Program Scope and Objectives

- (1) **Purpose:** This IRM section provides information on what can be considered for jeopardy and termination assessments, notice requirements, collection of jeopardy assessments and administrative and judicial review.
- (2) **Audience:** The primary users of this IRM are SBSE revenue offices and collection advisors.
- (3) **Policy Owner:** Director, Collection Policy, SBSE
- (4) **Program Owner:** Collection Policy, SBSE, Case Resolution Alternatives (CRA)
- (5) **Primary Stakeholders:**
 - Field Collection, including Civil Enforcement Advice and Support Operations (CEASO), Advisory
 - Insolvency
 - Chief Counsel

Others affected include Appeals, the Taxpayer Advocate Service (TAS), Examination, and Department of Justice attorneys.
- (6) **Program Goals:** The termination and jeopardy assessment and jeopardy collection programs allow the IRS to assess and collect tax on a taxpayer who is (or appears to be):
 - Leaving the country,
 - Moving their property out of the country,
 - Concealing themselves or their property, or,
 - Doing any other act that could threaten the collection of tax for the current or preceding tax year.

5.17.15.1.1
(02-28-2022)
Background

- (1) If collection of an unassessed liability is in jeopardy, the IRS may make an immediate assessment and pursue collection without the need to follow normal assessment and collection procedures. As soon as the jeopardy assessment is made, the tax, penalties and interest become due and payable per IRC 6851 and IRC 6861. See IRM 5.1.4, Jeopardy, Termination, and Quick and Prompt Assessments, for procedures for making jeopardy assessments.
- (2) Generally, if collection of tax is in jeopardy, a jeopardy assessment has already been made. There may be situations, however, where the tax liability has already been assessed through normal procedures before a jeopardy determination is made. In either situation, when collection of the tax liability is in jeopardy, the IRS may immediately proceed to collect by levy without waiting the usual 10-day period after notice and demand per IRC 6331(a) or the 30-day period after notice of intent to levy is issued per IRC 6331(d). See IRM 5.11.3, Jeopardy Levy without a Jeopardy Assessment, for guidance.

5.17.15.1.2
(02-28-2022)
Authority

- (1) The following IRC sections provide authority for jeopardy and termination assessments and jeopardy levies:

IRC Section	Title
IRC 6330	Notice and opportunity for hearing before levy
IRC 6331	Levy and distraint
IRC 6335	Sale of seized property
IRC 6336	Sale of perishable goods
IRC 6851	Termination assessments of income tax
IRC 6861	Jeopardy assessments of income, estate, gift, and certain excise taxes
IRC 6862	Jeopardy assessment of taxes other than income, estate, gift, and certain excise taxes
IRC 6863	Stay of collection of jeopardy assessments
IRC 6867	Presumptions where owner of large amount of cash is not identified
IRC 7429	Review of jeopardy levy or assessment procedures

- (2) The following regulations provide authority relating to jeopardy and termination assessments and jeopardy levies:

CFR Reference	Title
26 CFR 301.6861-1	Jeopardy assessments of income, estate, gift, and certain excise taxes
26 CFR 301.6863-1	Stay of collection of jeopardy assessments; bond to stay collection
26 CFR 301.6867-1	Presumptions where owner of large amount of cash is not identified
26 CFR 301.6330-1	Notice and opportunity for hearing prior to levy

- (3) The following delegation orders pertain to jeopardy and termination assessments and jeopardy levies:

Delegation Order	Title
Delegation Order 4-21 (Rev 2) (formerly DO-219, Rev. 4), per IRM 1.2.2.5.18	Jeopardy and Termination Assessments
Delegation Order 5-3 (Rev. 1)IRM 1.2.2.6.3	Levy on Property in the Hands of a Third Party (not to include Levy Form 668-B)

5.17.15.1.3
(02-28-2022)
Responsibilities

- (1) The Director, Collection Policy, is responsible for all policies relating to jeopardy and termination assessment and jeopardy collection initiated by Collection employees.
- (2) The Program Manager, Case Resolution Alternatives, is responsible for development and delivery of policies within jeopardy and termination assessment and jeopardy levy program.
- (3) Managers of revenue officers who request approval for jeopardy assessments and levies are responsible for ensuring the procedures are followed and employee actions are timely and accurate.
- (4) Revenue officers and Collection advisors are responsible for following the procedures in this IRM.

5.17.15.1.4
(02-28-2022)
Program Management and Review

- (1) Field revenue officers use Integrated Collection System (ICS) to document case actions and to generate levy documents issued to third party levy sources.
- (2) The Collection Activities Report (CAR) 5000-24 records the total number of levies issued. See IRM 5.2.4.11, Levy and Seizure Report (Report Symbol No-5000-24). Jeopardy levies are not reported separately. The IRS has determined that levy data may be made available as national statistics, provided that such data will never be used to evaluate an employee or to suggest or impose production quotas or goals. See IRM 1.5.2, Managing Statistics in a Balanced Measurement System, Uses of Section 1204 Statistics.
- (3) CAR Report 5000-23, Section III- Operational Data, includes a line item which reports inventory and dispositions of miscellaneous situations, including jeopardy. See IRM 5.2.4-15, Description of Collection Workload Indicators Report No-5000-23 (C-23), Section III- Operational Data.
- (4) Management ensures program effectiveness through manager case reviews, territory, area and Collection operational reviews, and National Quality Review System (NQRS) data.

5.17.15.1.5
(02-28-2022)
Program Controls

- (1) The area director and Counsel must approve jeopardy assessments initiated by Collection. See IRM 1.2.2.5.18, Delegation Order 4-21 (Rev.2) (formerly DO-219, Rev. 4), Jeopardy and Termination Assessments.
- (2) The territory manager and Area Counsel must approve jeopardy notices of levy. See IRM 1.2.2.6.3(20) and IRM 1.2.2.6.3(21).

- (3) The territory manager must approve levies issued within the 15-day waiting period following the end of the 30-day period after notice of intent to levy and notice of a right to a hearing. See IRM 1.2.2.6.3(17) and IRM 1.2.2.6.3(18).
- (4) ICS system has programmed safeguards to prevent a levy from being generated on a module where the required notices have not been issued.

5.17.15.1.6
(02-28-2022)
Acronyms

(1)	Acronym	Definition
	CAP	Collection Appeals Program
	CAR	Collection Activities Report
	CDP	Collection Due Process
	CFR	Code of Federal Regulations
	CRA	Case Resolution Alternatives
	DO	Delegation Order
	ICS	Integrated Collection System
	IRC	Internal Revenue Code
	NQRS	National Quality Review System
	SBSE	Small Business/Self-Employed
	TAS	Taxpayer Advocate Service
	TFRP	Trust Fund Recovery Penalty

5.17.15.2
(10-23-2014)
**Jeopardy Assessments
Initiated by Collection**

- (1) The term “jeopardy assessment,” may refer to either a termination assessment under IRC 6851, or a jeopardy assessment under IRC 6861 and IRC 6862. Both types of assessment are based on a determination that the collection of the tax is in jeopardy.
 - A termination assessment applies to income taxes for the current tax year, or the immediately preceding tax year if the due date for the return has not passed. If jeopardy is determined, the taxpayer’s tax year is terminated and treated as a complete tax year for assessment purposes.
 - A jeopardy assessment applies to a closed tax year or tax period, where the due date for filing a return has expired. For income, estate, gift, and certain excise taxes, assessment is made pursuant to IRC 6861. For other kinds of taxes (employment and other excise taxes), assessment is made pursuant to IRC 6862.

Note: Termination and jeopardy assessments should be distinguished from quick and prompt assessments. See IRM 5.1.4.4, Quick Assessment, and IRM 5.1.4.5, Prompt Assessments, for examples of situations in which a quick or prompt assessments may be made and applicable procedures.

- (2) Collection personnel should not initiate termination assessments, but rather refer potential termination assessments to Examination for appropriate action. See IRM 5.1.4.3.2, Termination Pre-Assessment Recommendations. Jeopardy assessments initiated by Collection personnel are limited to proposed:

- Trust Fund Recovery Penalty (TFRP) assessments;
- Employment and excise tax assessments, whether or not the return due date has expired;
- Partnership penalty assessments;
- Income tax assessments when there is no question as to the amount of liability.

(3) See IRM 5.1.4.3, Requesting a Jeopardy Assessment. This IRM section and the sections below are limited to provisions applicable to Collection personnel.

5.17.15.2.1
(02-28-2022)
**Grounds for Jeopardy
Assessments**

- (1) 26 CFR 301.6861-1(a), by reference to 26 CFR 1.6851-1(a), provides that jeopardy will exist if the IRS finds that the taxpayer:
- Is (or appears to be) planning to leave the United States or to remove their property from the United States,
 - Is concealing themselves or their property within the United States, or
 - Is doing any other act threatening the collection of tax for the current or the preceding taxable year, such as transferring or dissipating assets, making oneself financially insolvent, or, in the case of a corporation, liquidating substantially all of its assets. The financial solvency of the taxpayer must be threatened or appears to be imperiled. The calculation of solvency does not take into account the proposed assessment of tax, penalty, and interest. Evidence of a pending bankruptcy alone does not establish insolvency, though evidence of a prior adjudication of bankruptcy may be a factor in establishing insolvency.
- (2) The court may consider many factors in determining whether one of the three circumstances stated above is present. For example, the court may consider whether the taxpayer is involved in illegal activity. See *Mueller v. Commissioner*, 882 F. Supp. 1060, 1062 (S.D. Fla. 1995); *Harvey v. United States*, 730 F. Supp. 1097, at 1106 (S.D. Fla. 1990) (citing *Young v. United States*, 671 F. Supp. 1340 (S.D. Fla. 1987)). The court also may consider whether:
- The taxpayer possesses, or deals in, large amounts of cash.
 - Prior tax returns report little or no income despite taxpayer's possession of large amounts of cash.
 - Assets have been dissipated, such as through forfeiture, expenditures for attorney's fees, or appearance bonds.
 - There is a lack of assets from which potential tax liability can be collected.
 - The taxpayer has used aliases which makes it more difficult to locate either the taxpayer or their assets.
 - The taxpayer has failed to supply appropriate financial information.
 - The taxpayer has used multiple addresses, making it hard to find the taxpayer.
 - The taxpayer has a history of illegal activity, convictions, or probable cause to believe that the taxpayer was engaged in illegal business activities.
 - The taxpayer has a history of concealing assets overseas.
 - The taxpayer recently sold or transferred property, including whether they transferred the property to relatives for inadequate consideration.

See *Magluta v. United States*, 952 F. Supp. 798 (S.D. Fla. 1996), citing *Mesher v. United States*, 736 F. Supp. 233, 235-236 (D. Or. 1990).

5.17.15.2.2
(02-28-2022)

Form and Procedure

- (1) Only the area director has the authority to determine that a jeopardy assessment should be made. See IRM 1.2.2.5.18, Delegation Order 4-21 (Rev. 2) (formerly DO-219, Rev. 4), Jeopardy and Termination Assessments. Written approval by the Chief Counsel or their delegate is also required. See IRM 5.1.4, Jeopardy, Termination, Quick and Prompt Assessments, for procedures to recommend jeopardy assessments.
- (2) Objective facts must support the determination that collection is in jeopardy. The amount assessed must also be supported. For example, there must be a reasonable, factual basis for determining that the taxpayer received income despite prior tax returns reporting little or no income.
- (3) For income, estate, gift, and certain excise taxes, a statutory notice of deficiency for the jeopardy assessment must be issued within 60 days following assessment. See IRC 6861(b).
- (4) A statutory notice of deficiency for the termination assessment of income taxes must be issued within 60 days after the due date of the taxpayer's return, regardless of whether the taxpayer files a return. See IRC 6851(b) and *Perlowin v. Sassi*, 711 F.2d 910 (9th Cir. 1983).

5.17.15.2.3
(12-29-2009)

Stay of Collection of Jeopardy Assessments

- (1) After a jeopardy assessment is made, the IRS is required to send notice and demand to the taxpayer for the amount of the jeopardy assessment. Regardless of whether the taxpayer has filed a petition with the Tax Court, the amount of the assessment must be paid within 10 days unless a bond is filed as provided in IRC 6863. See 26 CFR 301.6861-1(d).
- (2) The bond must be equal to the amount of the jeopardy assessment the collection of which the taxpayer is seeking to stay, plus interest. Upon the filing of such a bond, collection of the amount covered by the bond is stayed. See 26 CFR 301.6863-1.

5.17.15.3
(02-28-2022)

Presumption Regarding \$10,000 in Unclaimed Cash

- (1) If any person is in possession of cash or a cash equivalent in excess of \$10,000, and does not claim it as their own or as that of a readily identifiable person, IRC 6867 provides that the IRS may presume that it represents gross income of a single unidentified individual for that taxable year and that, for purposes of IRC 6861, collection of the tax will be jeopardized by delay.
- (2) Cash equivalents include coins, precious metals, jewelry, precious stones, postage stamps, traveler's checks, negotiable and incomplete instruments, securities or stock in bearer form, and any medium of exchange that has been frequently used in illegal activities, per 26 CFR 301.6867-1(f).
- (3) The entire amount is taxed at the highest rate specified in IRC section 1 and the possessor is treated as the taxpayer for certain limited purposes.
- (4) Examination sends a statutory notice of deficiency for assessments made under IRC 6867. The possessor is entitled to contest the assessment in Tax Court. See IRM 4.15.1.10.6, Possessor of Cash, for more information.
- (5) The possessor is entitled to the same information that the taxpayer would receive as provided under IRC 7429(a)(1). This section mandates that the Secretary provide the taxpayer with a written statement indicating the information relied upon in making the assessment within five days after the assessment is made.

- (6) The possessor is not entitled to the administrative or judicial review provided by IRC 7429(a). See *Commissioner v. Hendrickson*, 873 F.2d 1018 (7th Cir. 1989); *Robrish v. United States*, 579 F. Supp. 477 (D. Mass. 1983).
- (7) Should the true owner come forward, the assessment against the possessor will be abated and replaced by an assessment against the owner. The right to challenge the assessment will vest in the true owner, and they will be entitled to full review rights under IRC 7429(a) and IRC 7429(b). *Matut v. Commissioner*, 858 F.2d 683 (11th Cir. 1988), vac'g & rem'g 88 T.C. 1250 (1987).

5.17.15.4
(02-28-2022)
Jeopardy Collection

- (1) In most cases, before property can be levied, the taxpayer must be given a:
 - Notice and demand (taxpayer has 10 days to pay the amount due)
 - Notice of intent to levy (taxpayer has 30 days to pay before property can be levied)
 - Notice of a right to a Collection Due Process (CDP) hearing under IRC 6330 (taxpayer has 30 days to request a hearing)

Note: Both the notice of intent to levy and the notice of a right to a CDP hearing are provided by Letter 1058, Notice of Intent to Levy and Notice of Your Right to a Hearing.

 - Notice of third-party contact
See IRM 5.11.1.3.2, Required Notices, for more information on required notices.
- (2) If collection of the tax is in jeopardy, the IRS is not required to wait 10 days after giving the taxpayer notice and demand, or 30 days after giving notice of intent to levy and notice of a right to a CDP hearing (or the additional 15 days generally given to allow for receipt of a timely mailed request for CDP hearing per IRM 5.11.1.3.2(5)).
- (3) Delegation Order 5-3 (Rev. 1), as explained in IRM 1.2.2.6.3, Delegation Order 5-3 (Rev. 1), Levy on Property in the Hands of a Third Party (not to include Levy Form 668-B), provides the delegations of authority for issuing notices of intent to levy and notices of the right to a CDP hearing, including the authority to issue notices of levy when collection is in jeopardy.
- (4) Authority to issue notices of levy is delegated to SBSE Collection territory managers, Insolvency territory managers, and Advisory territory managers, among others, in the following scenarios:
 - Collection is in jeopardy (with or without a jeopardy/termination assessment), and
 - Pre-levy notices have not been issued, and/or
 - The waiting periods after the notices have not passed.

See IRM 1.2.2.6.3(20) and IRM 1.2.2.6.3(21). Appropriate Area Counsel or Associate Area Counsel concurrence is also required.
- (5) The authority to issue notices of levy during the 15-day waiting period following the end of the 30-day period for notice of intent to levy and notice of a right to a hearing, if collection is in jeopardy is delegated to, among others, SBSE Collection territory managers, Insolvency territory managers, and Advisory territory managers. See IRM 1.2.2.6.3(17) and IRM 1.2.2.6.3(18).

- (6) Even after all pre-levy notices have been issued and the waiting periods for them have passed, a jeopardy determination **may** be required for a levy in the following situations:
- It is issued on the appearance date of a summons
 - There is a pending or active installment agreement
 - A rejected installment agreement can be appealed or is being appealed
 - An offer in compromise is pending
 - A rejected offer in compromise can be appealed or is being appealed

Note: Collection Appeals Program (CAP) may be available to the taxpayer in the above scenarios. Refer to IRM 5.11.3.2, Jeopardy Levy without a Jeopardy Assessment.

In these situations, the authority to issue the notice of levy is delegated to, among others, SBSE territory managers, Insolvency territory managers, and Advisory territory managers. Appropriate Area Counsel or Associate Area Counsel concurrence is also required. See IRM 1.2.2.6.3(14) and IRM 1.2.2.6.3(15).

Note: Counsel must approve all jeopardy levies. See IRM 5.11.3.4(3).

- (7) See IRM 5.11.1.4.9, Refund Litigation, for information regarding the issuance of a levy to collect certain divisible taxes, such as TFRP, that are included in a suit for a refund. Generally, no levy can be issued to collect such taxes unless collection is in jeopardy and Counsel approves the levy.
- (8) While a tax delinquency need not be 10 days old before a jeopardy levy may be issued, there must be a notice and demand for immediate payment of the tax liability and a failure or refusal to pay before the levy is lawful. Thus, in *Martinez v. United States*, 669 F.2d 568 (9th Cir. 1981), the jeopardy levy was ruled invalid because the taxpayer did not receive notice and demand until after the levy was served. There is no predetermined waiting period for refusal or failure to pay, however, and the levy may be made immediately after failure or refusal to pay, as was the case in *L.O.C. Industries., Inc. v. United States*, 423 F.Supp 265, 273 (M.D. Tenn 1976).
- (9) The IRS must provide the taxpayer with a notice containing the same information as is contained in the pre-levy notice within a reasonable time after the jeopardy levy per 26 CFR 301.6330-1(a)(2)(ii). The notice contains the statement of taxpayer's collection due process rights required by IRC 6330(f).

5.17.15.4.1
(02-27-2020)
**Sale of Property Seized
by Jeopardy Levy**

- (1) Whenever levy is made without waiting the 10-day period after notice and demand required by IRC 6331(a), public notice of sale of the property seized shall not be made within such 10-day period unless IRC 6336 (relating to the sale of perishable goods) applies. See IRC 6335(b). If the area director determines that any property seized is liable to perish, the IRS may return such property to the owner upon their payment of the appraised value of the property or the posting of an acceptable bond. If the owner neither pays the appraised value or posts a bond, the IRS shall make public sale as soon as practicable after the seizure. See IRC 6336. See also IRM 5.10.1.7, Perishable Goods Criteria, Definitions, and Examples, IRM 5.10.1.8, Perishable Goods Pre-Seizure Development, and IRM 5.10.2.6, Perishable Goods, for more information regarding the seizure and sale of perishable goods.

- (2) In the case of a jeopardy assessment of income, estate or gift tax under IRC 6861, property levied upon and seized may not be sold until expiration of the period within which the taxpayer may petition the Tax Court for a redetermination of the assessment, or until the Tax Court decision becomes final. See IRC 6863(b).

Exception: While sales under IRC 6336 are limited to tangible perishable goods, under the exception of IRC 6863(b)(3)(B), property in addition to tangible perishable goods may still be sold in a quick sale if the taxpayer consents or if the expenses of conserving and maintaining the property will greatly reduce the net proceeds. However, because the Tax Court has traditionally applied strict standards in this context, any sale based on these criteria should be approved by and coordinated with Counsel so Counsel can file a pre-sale motion with the Tax Court for approval of the sale under IRC 6863(b).

- (3) Because of the urgency necessary to sell IRC 6336 perishable goods, such sales may proceed without filing a Tax Court petition.
- (4) The IRS should first attempt to obtain the taxpayer's consent prior to a quick sale under IRC 6863(b)(3)(B).
- (5) For jeopardy assessments and seizures made under IRC 6862, where there is no Tax Court review, a different stay provision applies. IRC 6863(c) stays the sale of seized property until the district court's determination under IRC 7429 becomes final.

5.17.15.5 (12-29-2009) **Administrative Review**

- (1) IRC 7429(a)(1) requires that within five days after the jeopardy assessment or levy is made, the IRS must send the taxpayer a written statement of the information relied on in making the assessment or levy. The notice must state the specific facts and reasons (not mere conclusions) relied on by the IRS; if the notice states merely conclusions, the assessment or levy may be held invalid.
- (2) Within 30 days after the written statement is furnished (or 30 days after the five-day period expires), the taxpayer may ask for administrative review. The IRS must determine whether making the assessment or levy was reasonable and whether the amount assessed was appropriate under the circumstances. A request for administrative review is a prerequisite to judicial review.
- (3) See IRM 5.1.4, Jeopardy, Termination, Quick and Prompt Assessments, and IRM 5.11.3, Jeopardy Levy without a Jeopardy Assessment, for more information.

5.17.15.6 (02-27-2020) **Judicial Review**

- (1) The taxpayer may seek judicial review within 90 days after the earlier of:
- the date the IRS notifies the taxpayer of the administrative determination, or
 - the 16th day after the taxpayer requests administrative review.

Normally the proper forum for review is the United States District Court, but the Tax Court has concurrent jurisdiction where a Tax Court petition was filed prior to assessment or levy and one or more of the taxable periods before the Tax Court is covered by the jeopardy assessment. See IRC 7429(b)(1) and (2).

- (2) The court's review is limited to the reasonableness of the assessment or levy and whether the amount is appropriate . The court has 20 days to make its determination. However, the taxpayer, on reasonable grounds, may request an extension of up to 40 additional days. See IRC 7429(b)(3) and IRC 7429(c).
- (3) The court's determination is final and not subject to appeal or review by any court. See IRC 7429(f). However, it is the IRS position that if the court's decision is based on some ground other than the reasonableness of the assessment or levy and the appropriateness of the amount assessed, it is reviewable by an appellate court. See *Meadows v. United States*, 665 F.2d 1009 (11th Cir. 1982).