

§ 301.6862-1

to act) which gave rise to liability for the initial tax.

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7575, 43 FR 58817, Dec. 18, 1978; T.D. 7838, 47 FR 44253, Oct. 7, 1982; T.D. 8084, 51 FR 16305, May 2, 1986; T.D. 8628, 60 FR 62213, Dec. 5, 1995]

§ 301.6862-1 Jeopardy assessment of taxes other than income, estate, gift, and certain excise taxes.

(a) If the district director believes that the collection of any tax (other than income, estate, gift, chapter 41, 42, 43, or 44 tax) will be jeopardized by delay, the director shall, whether or not the time otherwise prescribed by law for filing the return or paying such tax has expired, immediately assess such tax, together with all interest, additional amounts and additions to the tax provided by law. A district director will make an assessment under this section if collection is determined to be in jeopardy because at least one of the conditions described in § 1.6851-1(a)(1)(i), (ii), or (iii) (relating to termination assessments) exists. For example, assume that a taxpayer incurs on January 18, 1977, liability for tax imposed by section 4061, that the last day on which return and payment of such tax is required to be made is May 2, 1977, and that on January 18, 1977, the district director determines that collection of such tax would be jeopardized by delay. In such case, the district director shall immediately assess the tax.

(b) The tax, interest, additional amounts, and additions to the tax will, upon assessment, become immediately due and payable, and the district director shall, without delay, issue a notice and demand for payment thereof in full. Upon failure or refusal to pay the amount demanded, collection thereof by levy shall be lawful without regard to the 10-day period provided in section 6331 (a). However, the collection of the whole or any part of the amount of the jeopardy assessment may be stayed by timely filing with the district director a bond as provided in section 6863.

(c) See section 7429 with respect to requesting the district director to re-

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view the making of the jeopardy assessment.

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7575, 43 FR 58817, Dec. 18, 1978; T.D. 7838, 47 FR 44253, Oct. 7, 1982]

§ 301.6863-1 Stay of collection of jeopardy assessments; bond to stay collection.

(a) *General rule.* (1) The collection of an assessment under section 6851, 6861, or 6862 (referred to as a “jeopardy assessment” for purposes of this section), or under section 6852 (referred to as a political assessment for purposes of this section) of any tax may be stayed by filing with the district director a bond on the form to be furnished by the district director upon request.

(2) The bond may be filed—

(i) At any time before the time collection by levy is authorized under section 6331(a), or

(ii) After collection by levy is authorized and before levy is made on any property or rights to property, or

(iii) In the discretion of the district director, after any such levy has been made and before the expiration of the period of limitations on collection.

(3) The bond must be in an amount equal to the portion (including interest thereon to the date of payment as calculated by the district director) of the jeopardy assessment or political assessment collection of which is sought to be stayed. See section 7101 and § 301.7101-1, relating to the form of bond and the sureties thereon. The bond shall be conditioned upon the payment of the amount (together with interest thereon), the collection of which is stayed, at the time at which, but for the making of the jeopardy assessment, such amount would be due.

(4) Upon the filing of a bond in accordance with this section, the collection of so much of the assessment as is covered by the bond will be stayed. The taxpayer may at any time waive the stay of collection of the whole or any part of the amount covered by the bond. If as a result of such waiver any part of the amount covered by the bond is paid, or if any portion of the jeopardy assessment or political assessment is abated by the district director, then the bond shall be at the request of

the taxpayer be proportionately reduced.

(b) *Additional conditions applicable to income, estate, gift, and chapter 41, 42, 43 and 44 tax assessments.* In the case of jeopardy assessment or political assessment of income, estate, gift, chapter 41, 42, 43, or 44 tax, the bond must be conditioned upon the payment of so much of the amount included therein as is not abated by a decision of the Tax Court which has become final, together with the interest on such amount. If the Tax Court determines that the amount assessed is greater than the correct amount of the tax, the bond will be proportionately reduced at the request of the taxpayer after the Tax Court renders its decision. If the bond is given before the taxpayer has filed his petition with the Tax Court, it must contain a further condition that if a petition is not filed before the expiration of the period provided in section 6213(a) for the filing of such petition the amount stayed by the bond will be paid upon notice and demand at any time after the expiration of such period, together with interest thereon at the annual rate referred to in the regulations under section 6621 from the date of the jeopardy (or political assessment) notice and demand to the date of the notice and demand made after the expiration of the period for filing petition with the Tax Court.

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7384, 40 FR 49325, Oct. 22, 1975; T.D. 7575, 43 FR 58817, Dec. 18, 1978; T.D. 7838, 47 FR 44253, Oct. 7, 1982; T.D. 8628, 60 FR 62213, Dec. 5, 1995]

§ 301.6863-2 Collection of jeopardy assessment; stay of sale of seized property pending Tax Court decision.

(a) *General rule.* In the case of an assessment under section 6851, 6852, 6861, or 6862, any property seized for the collection of such assessment shall not (except as provided in paragraph (b) of this section) be sold until the latest of the following occurs:

(1) The period provided in section 7429(a)(2) to request the district director to review the action taken expires.

(2) The period provided in section 7429(b)(1) to file an action in U.S. District Court expires if a request for a re-

determination is made to the district director.

(3) The U.S. District Court judgment in such action becomes final, if a civil action is begun in accordance with section 7429(b).

(4) In addition to the occurrences described in paragraphs (a), (1), (2), and (3) of this section, in the case of an assessment of income, estate, gift, chapter 41, 42, 43, or 44 excise taxes, until the latest of the following occurs:

(i) The expiration of the period provided in section 6213(a) within which the taxpayer may file a petition with the Tax Court; or

(ii) The decision of the Tax Court becomes final, if a petition for redetermination is filed with the Tax Court (whether before or after the making of the assessment).

However, notwithstanding paragraph (a)(4)(i) of this section, in the case of a termination assessment under section 6851, property seized may be sold after the due date (determined with extensions) of the taxpayer's return if the taxpayer does not file a return by such date. Furthermore, for the purposes of paragraph (a)(4)(ii) of this section, a petition will not operate as a further stay of the sale of the seized property unless the taxpayer files a bond as provided in section 7485.

(b) *Exceptions.* Notwithstanding the provisions of paragraph (a) of this section, any property seized may be sold—

(1) If the taxpayer files with the district director a written consent to the sale, or

(2) If the district director determines that the expenses of conservation and maintenance of the property will greatly reduce the net proceeds from the sale of such property, or

(3) If the property is of a type to which section 6336 (relating to sale of perishable goods) is applicable.

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7575, 43 FR 58817, Dec. 18, 1978; T.D. 8628, 60 FR 62213, Dec. 5, 1995]

§ 301.6867-1 Presumptions where owner of large amount of cash is not identified.

(a) *General rule.* For purposes of section 6851 (relating to termination assessments) and section 6861 (relating to jeopardy assessments), if cash in excess