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Tax Regs in Plain English

IRS Restructuring and Reform Act of 1998

3434 - Approval Required for Jeopardy & Termination Assessments & Jeopardy Levies

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Section 3434

A. Provision covered: RRA § 3434 - Approval Required For Jeopardy and Termination Assessments and Jeopardy Levies. I.R.C. § 7429

B. Background: Under current law, there is no requirement that Chief Counsel pre-approve jeopardy and termination assessments and jeopardy levies, although the IRM does instruct revenue officers to obtain Counsel's approval, if there is time, before such assessments and levies are made, and it is the current practice for Counsel to conduct such reviews.

C. Change(s): The provision will require by statute that Counsel approve all jeopardy and termination assessments and jeopardy levies. The 5-day notice provision remains the same as do the remaining provisions of section 7429. The taxpayer may request an administrative review of the action taken within 30 days after receiving the 5-day notice or within 30 days after the expiration of the 5-day notice period. The pre-levy due process procedures under section 3401 do not apply to jeopardy levies. Although there is no provision in the statute, the Conference Report indicates that if Counsel's approval is not obtained, the taxpayer would be entitled to obtain abatement of the assessment or release of the levy, and, if the Service failed to offer such relief, to appeal to IRS Appeals office under the new due process procedure, and then to court.

D. Impact: Provision will require approval by Counsel in all cases, not just in those cases where time permits.

E. Necessary Actions

1. Actions/Procedures

Instructions will be issued to make it clear that the statutory requirement that Counsel approve the making of jeopardy and termination assessments and jeopardy levies preempts the IRM provisions that call for consultation with Counsel if time permits. IRM will be changed to remove the instruction that District Counsel is to be consulted if there is time before a jeopardy or termination assessment or jeopardy levy is made.

2. Things we CAN'T do: The Service can no longer make jeopardy and termination assessments and jeopardy levies without the prior written approval of District Counsel or Associate District Counsel. It is anticipated that the authority to approve in writing the making of jeopardy and termination assessments and jeopardy levies will be delegated to Regional Counsel who may then redelegate the authority to District Counsel and Associate District Counsel.

F. Other Special Comments: None

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