

Bureau of Alcohol, Tobacco and Firearms, Treasury

§ 70.75

taxable period, if applicable, and the amounts assessed.

(26 U.S.C. 6203)

[T.D. ATF-251, 52 FR 19314, May 22, 1987. Re-designated and amended by T.D. ATF-301, 55 FR 47606 and 47612, Nov. 14, 1990; T.D. ATF-450, 66 FR 29025, May 29, 2001]

§ 70.73 Supplemental assessments.

If any assessment is incomplete or incorrect in any material respect, the appropriate ATF officer, subject to the applicable period of limitation, may make a supplemental assessment for the purpose of correcting or completing the original assessment.

(26 U.S.C. 6204)

[T.D. ATF-301, 55 FR 47612, Nov. 14, 1990]

§ 70.74 Request for prompt assessment.

(a) Except as otherwise provided in § 70.223 of this part, any tax for which a return is required and for which:

(1) A decedent or an estate of a decedent may be liable, or

(2) A corporation which is contemplating dissolution, is in the process of dissolution, or has been dissolved, may be liable, shall be assessed, or a proceeding in court without assessment for the collection of such tax shall be begun, within 18 months after the receipt of a written request for prompt assessment thereof.

(b) The executor, administrator, or other fiduciary representing the estate of the decedent, or the corporation, or the fiduciary representing the dissolved corporation, as the case may be, shall, after the return in question has been filed, file the request for prompt assessment in writing with the appropriate ATF officer. The request, in order to be effective, must be transmitted separately from any other document, must set forth the classes of tax and the taxable periods for which the prompt assessment is requested, and must clearly indicate that it is a request for prompt assessment under the provisions of 26 U.S.C. 6501(d). The effect of such a request is to limit the time in which an assessment of tax may be made, or a proceeding in court without assessment for collection of tax may be begun, to a period of 18 months from the date the request is filed with the proper regional director

(compliance) or with the Chief, Tax Processing Center. The request does not extend the time within which an assessment may be made, or a proceeding in court without assessment shall be begun, after the expiration of 3 years from the date the return was filed. This special period of limitations will not apply to any return filed after a request for prompt assessment has been made unless an additional request is filed in the manner provided herein.

(c) In the case of a corporation the 18-month period shall not apply unless:

(1) The written request notifies the appropriate ATF officer that the corporation contemplates dissolution at or before the expiration of such 18-month period; the dissolution is in good faith begun before the expiration of such 18-month period; and the dissolution so begun is completed either before or after the expiration of such 18-month period; or

(2) The written request notifies the appropriate ATF officer that a dissolution has in good faith begun, and the dissolution is completed either before or after the expiration of such 18-month period; or

(3) A dissolution has been completed at the time the written request is made.

(26 U.S.C. 6501(d))

[T.D. ATF-301, 55 FR 47612, Nov. 14, 1990, as amended by T.D. ATF-353, 59 FR 2522, Jan. 18, 1994]

§ 70.75 Jeopardy assessment of alcohol, tobacco, and firearms taxes.

(a) If the appropriate ATF officer believes that the collection of any tax imposed under provisions of 26 U.S.C. enforced and administered by the Bureau will be jeopardized by delay, the appropriate ATF officer must, 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. An appropriate ATF officer will make an assessment under this section if collection is determined to be in jeopardy because at least one of the following conditions exists.

(1) The taxpayer is or appears to be designing quickly to depart from the

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United States or to conceal himself or herself.

(2) The taxpayer is or appears to be designing quickly to place the taxpayer's property beyond the reach of the Government either by removing it from the United States, by concealing it, or by dissipating it, or by transferring it to other persons.

(3) The taxpayer's financial solvency is or appears to be threatened.

(b) The tax, interest, additional amounts, and additions to the tax will, upon assessment, become immediately due and payable, and the appropriate ATF officer shall, without delay, issue a notice and demand for payment thereof in full.

(c) See 26 U.S.C. 7429 with respect to requesting the appropriate ATF officer to review the making of the jeopardy assessment.

(d) For provisions relating to stay of collection of jeopardy assessments, see § 70.76 of this part.

(26 U.S.C. 6862 and 6863)

[T.D. ATF-301, 55 FR 47612, Nov. 14, 1990, as amended by T.D. ATF-450, 66 FR 29025, May 29, 2001]

§ 70.76 Stay of collection of jeopardy assessment; bond to stay collection.

(a) The collection of taxes assessed under 26 U.S.C. 6862 (referred to as a "jeopardy assessment" for purposes of this section) of any tax may be stayed by filing with the appropriate ATF officer a bond on the form to be furnished by ATF upon request.

(b) The bond may be filed:

(1) At any time before the time collection by levy is authorized under 26 U.S.C. 6331(a), or

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

(3) In the discretion of the appropriate ATF officer, after any such levy has been made and before the expiration of the period of limitations on collection.

(c) The bond must be in an amount equal to the portion (including interest thereon to the date of payment as calculated by the appropriate ATF officer) of the jeopardy assessment collection of which is sought to be stayed. See 26 U.S.C. 7101 and § 70.281, relating to the form of bond and the sureties thereon.

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The bond shall be conditioned upon the payment of the amount (together with interest thereon), for which the collection is stayed, at the time at which, but for the making of the jeopardy assessment, such amount would be due.

(d) 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 of 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 is abated by the appropriate ATF officer, then the bond shall (at the request of the taxpayer) be proportionately reduced.

(26 U.S.C. 6863)

[T.D. ATF-301, 55 FR 47613, Nov. 14, 1990]

§ 70.77 Collection of jeopardy assessment; stay of sale of seized property pending court decision.

(a) *General rule.* In the case of an assessment under 26 U.S.C. 6862, and 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 26 U.S.C. 7429(a)(2) to request the appropriate ATF officer to review the action taken expires.

(2) The period provided in 26 U.S.C. 7429(b)(1) to file an action in U.S. District Court expires if a request for redetermination is made to the appropriate ATF officer.

(3) The U.S. District Court judgment in such action becomes final, if a civil action is begun in accordance with 26 U.S.C. 7429(b).

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

(1) If the taxpayer files with the appropriate ATF officer a written consent to the sale, or

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