

**RULE 56. MOTION FOR REVIEW OF
JEOPARDY ASSESSMENT OR JEOPARDY LEVY**

(a) Commencement of Review:

- (1) *How Review Is Commenced:* Review of a jeopardy assessment or a jeopardy levy under Code section 7429(b) shall be commenced by filing a motion with the Court. The petitioner shall place on the motion the same docket number as that of a then-pending action under Code section 6213(a) which provides the jurisdictional nexus for review required by Code section 7429(b)(2)(B). The motion shall be styled “Motion for Review of Jeopardy Assessment” or “Motion for Review of Jeopardy Levy”, as may be appropriate. As to joinder of such motions, see Rule 54(b).
- (2) *When Review Is Commenced:* The motion under subparagraph (1) shall be filed within the time provided by Code section 7429(b)(1).

(b) Service of Motion: A motion filed with the Court pursuant to this Rule shall be served by the petitioner on counsel for the Commissioner (as specified in Rule 21(b)(1)) in such manner as may reasonably be expected to reach the Commissioner’s counsel not later than the day on which the motion is received by the Court.

(c) Content of Motion: A motion filed pursuant to this Rule shall contain the following:

- (1) A statement whether the petitioner contends that:
 - (A) The making of the assessment in respect of which the motion is filed was not reasonable under the circumstances;
 - (B) the amount so assessed or demanded is not appropriate under the circumstances; or
 - (C) the levy in respect of which the motion is filed was not reasonable under the circumstances.
- (2) As to each contention in paragraph (c)(1) of this Rule:
 - (A) Clear and concise assignments of each and every error which the petitioner alleges to have been committed by the Commissioner; and
 - (B) clear and concise lettered statements of the facts on which the petitioner bases the assignments of error.
- (3) As to the contention in paragraph (c)(1)(B) of this Rule, a statement of the amount, if any, that would be appropriate under the circumstances.

- (4) A statement whether the petitioner requests an evidentiary or other hearing on the motion, and if so, the reasons why. For the place of hearing, see paragraph (e) of this Rule.
- (5) A list identifying by caption and number all other dockets in which the motion could have been filed if more than one then-pending action for the redetermination of a deficiency under Code section 6213(a) provides the jurisdictional nexus for review required by Code section 7429(b)(2)(B).
- (6) A copy of:
 - (A) The written statement required to be furnished to the petitioner under Code section 7429(a)(1), together with any notice or other document regarding the jeopardy assessment or jeopardy levy that may have been served on the petitioner by the Commissioner and in respect of which the motion is filed;
 - (B) the request for administrative review made by the petitioner under Code section 7429(a)(2); and
 - (C) the determination made by the Commissioner under Code section 7429(a)(3).
- (7) A certificate showing service of the motion in accordance with paragraph (b) of this Rule.

(d) Response by Commissioner:

- (1) *Content:* The Commissioner shall file a written response to a motion filed pursuant to this Rule. The response shall contain the following:
 - (A) A specific admission or denial of each allegation in the motion, arranged in paragraphs that are designated to correspond to those of the motion to which they relate.
 - (B) A clear and concise statement of every ground, together with the facts in support thereof, on which the Commissioner relies.
 - (C) A statement whether the Commissioner requests a hearing on the motion, and if so, the reasons why.
 - (D) A copy of:
 - (i) The written notification to the Court required by Code section 6861(c); and
 - (ii) any item required for consideration of the basis of the petitioner's motion, if that item has not been attached to the petitioner's motion.

- (E) A certificate showing service of the response in accordance with subparagraph (2) of this paragraph.
- (2) *Time for and Service of Response:* The response required by paragraph (d)(1) of this Rule shall be received by the Court not later than 10 days after the date on which the petitioner's motion is received by the Court. Said response shall be served by the Commissioner in such manner as may reasonably be expected to reach the petitioner or the petitioner's counsel (as specified in Rule 21(b)(2)) not later than the day on which the response is received by the Court.
- (e) **Place of Hearing:** If required, a hearing on the motion filed pursuant to this Rule will ordinarily be held at the place of trial previously requested in accordance with paragraph (a) of Rule 140 unless otherwise ordered by the Court.

(As amended and effective March 1, 2008, [130 T.C. 416–19](#). For prior history, see [93 T.C. 877–82](#) (1989).)