

**RULE 57. MOTION FOR REVIEW OF
PROPOSED SALE OF SEIZED PROPERTY**

(a) Commencement of Review:

- (1) *How Review Is Commenced:* Review of the Commissioner's determination under Code section 6863(b)(3)(B) that seized property may be sold shall be commenced by filing a motion with the Court. The movant shall place on the motion the same docket number as that of the then-pending action under Code section 6213(a) in respect of which the sale of seized property is stayed by virtue of Code section 6863(b)(3)(A)(iii). If filed by the petitioner, the motion shall be styled "Motion to Stay Proposed Sale of Seized Property—Sec. 6863(b)(3)(C)". If filed by the Commissioner, the motion shall be styled "Motion to Authorize Proposed Sale of Seized Property—Sec. 6863(b)(3)(C)".
- (2) *When Review Is Commenced:*
 - (A) *Proposed Sale Not Scheduled:* If a date for a proposed sale has not been scheduled, then the Commissioner may file the motion under subparagraph (1) at any time.
 - (B) *Proposed Sale Scheduled:*
 - (i) *General:* If a date for a proposed sale has been scheduled, then the movant shall file the motion under subparagraph (1) not less than 15 days before the date of the proposed sale and not more than 20 days after receipt of the notice of sale prescribed by Code section 6335(b).
 - (ii) *Motion Not Filed Within Prescribed Period:* If the motion under subparagraph (1) is filed less than 15 days before the date of the proposed sale or more than 20 days after receipt of the notice of sale prescribed by Code section 6335(b), then an additional statement shall be included in the motion as provided by paragraph (c)(3) of this Rule. A motion not filed within the period prescribed by subparagraph (2)(B)(i) shall be considered dilatory unless the movant shows that there was good reason for not filing the motion within that period. As to the effect of the motion's being dilatory, see paragraph (g)(4) of this Rule.

(b) Service of Motion:

- (1) *By the Petitioner:* 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.
- (2) *By the Commissioner:* A motion filed with the Court pursuant to this Rule shall be served by the Commissioner on the petitioner or on the petitioner's counsel (as specified in Rule 21(b)(2)) in such manner as may reasonably be expected to reach the petitioner or the petitioner'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) The time and place of the proposed sale.
- (2) A description of the property proposed to be sold, together with a copy of the notice of seizure prescribed by Code section 6335(a) and the notice of sale prescribed by Code section 6335(b).
- (3) If the motion is filed less than 15 days before the date of the proposed sale or more than 20 days after receipt of the notice of sale prescribed by Code section 6335(b), as the case may be, a statement of the reasons why review was not commenced within the prescribed period.
- (4) A statement that the petitioner does not consent to the proposed sale.
- (5) A statement whether the property proposed to be sold:
 - (A) is or is not likely to perish;
 - (B) is or is not likely to become greatly reduced in price or value by keeping; and
 - (C) is or is not likely to be greatly expensive to conserve or maintain.
- (6) The movant's basis for each statement in subparagraph (5) that the movant expressed in the affirmative, together with any appraisal, affidavit or declaration, valuation report, or other document relied on by the movant to support each statement.
- (7) A statement whether the movant requests an evidentiary or other hearing on the motion, and if so, the reasons why. For the place of hearing, see paragraph (f) of this Rule.

- (8) A certificate showing service of the motion in accordance with paragraph (b) of this Rule.

(d) Response to Motion:

- (1) *Content:* The petitioner or the Commissioner, as the case may be, 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 responding party relies.
 - (C) A statement whether the responding party requests a hearing on the motion, and if so, the reasons why.
 - (D) A copy of:
 - (i) Any appraisal, affidavit or declaration, valuation report, or other document relied on by the responding party; and
 - (ii) any item required for consideration of the basis of the movant's motion, if that item has not been attached to the movant'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 movant's motion is received by the Court. This response shall be served in such manner as may reasonably be expected to reach the movant or the movant's counsel (as specified in Rule 21(b)(1) or Rule 21(b)(2), as the case may be) not later than the day on which the response is received by the Court.

- (e) **Effect of Signature:** The provisions of Rule 33(b), relating to the effect of the signature of counsel or a party, shall apply to a motion filed pursuant to this Rule and to the response required by paragraph (d) of this Rule.
- (f) **Place of Hearing:** If required, a hearing on a 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. For the manner in which the Court may dispose of such a motion, see paragraph (g)(3) of this Rule.

(g) Disposition of Motion:

- (1) *General:* A motion filed pursuant to this Rule may be disposed of in one or more of the following ways, in the discretion of the Court:
 - (A) The Court may:
 - (i) Authorize, or decline to stay, the proposed sale; or
 - (ii) stay the proposed sale temporarily until the Court has had an adequate opportunity to consider the motion.
 - (B) The Court may stay the proposed sale until a specified date or event, or for a specified period, or until further application is made for a sale, or any combination of the foregoing.
 - (C) The Court may stay the proposed sale until specified undertakings or safeguards are effectuated.
 - (D) The Court may provide such other temporary, extended, or permanent relief as may be appropriate under the circumstances.
- (2) *Evidence:* In disposing of a motion filed pursuant to this Rule, the Court may consider such appraisals, affidavits or declarations, valuation reports, and other evidence as may be appropriate, giving due regard to the necessity of acting on the motion within a brief period of time.
- (3) *Disposition on Motion Papers or Otherwise:* The Court may dispose of a motion filed pursuant to this Rule on the motion papers, or after an evidentiary hearing or oral argument, or may require legal memoranda, or any combination of the foregoing that the Court deems appropriate. For the place of hearing, see paragraph (f) of this Rule.
- (4) *Dilatory Motions:* The fact that a motion filed pursuant to this Rule is dilatory within the meaning of paragraph (a)(2)(B)(ii) of this Rule shall be considered by the Court in disposing of the motion.

(As amended and effective March 1, 2008, [130 T.C. 419–23](#); as amended, effective July 6, 2012, [139 T.C. 530–34](#). For prior history, see [93 T.C. 883–91](#) (1989).)