

**RULE 261. PROCEEDING TO REDETERMINE  
INTEREST**

**(a) Commencement of Proceeding:** (1) *How Proceeding Is Commenced:* A proceeding to redetermine interest on a deficiency assessed under Code section 6215 or to redetermine interest on an overpayment determined under Code section 6512(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 the action in which the Court redetermined the deficiency or determined the overpayment.

(2) *When Proceeding May Be Commenced:* Any proceeding under this Rule must be commenced within 1 year after the date that the Court's decision becomes final within the meaning of Code section 7481(a).

**(b) Content of Motion:** A motion to redetermine interest filed pursuant to this Rule shall contain:

(1) *All Motions:* All motions to redetermine interest shall contain the following:

(A) The petitioner's name and current mailing address.

(B) A statement setting forth the petitioner's contentions regarding the correct amount of interest, together with a schedule detailing the computation of that amount.

(C) A statement whether the petitioner has discussed the dispute over interest with the Commissioner, and if so, the contentions made by the petitioner; and if not, the reason or reasons why not.

(2) *Motions To Redetermine Interest on a Deficiency:* In addition to including the information described in paragraph (b)(1) of this Rule, a motion to redetermine interest on a deficiency shall also contain:

(A) A statement that the petitioner has paid the entire amount of the deficiency assessed under Code section 6215 plus interest claimed by the Commissioner in respect of which the proceeding under this Rule has been commenced.

(B) A schedule setting forth—

(i) the amount of each payment made by the petitioner in respect of the deficiency and interest described in paragraph (b)(2)(A) of this Rule,

(ii) the date of each such payment, and

(iii) if applicable, the part of each such payment allocated by the petitioner to tax and the part of each such payment allocated by the petitioner to interest.

(iv) A copy of the Court's decision which redetermined the deficiency, together with a copy of any notice of assessment including any supporting schedules or any collection notice that the petitioner may have received from the Commissioner, in respect of which the proceeding under this Rule has been commenced.

(3) *Motions To Redetermine Interest on an Overpayment*: In addition to including the information described in paragraph (b)(1) of this Rule, a motion to redetermine interest on an overpayment shall also contain:

(A) A statement that the Court has determined under Code section 6512(b) that the petitioner has made an overpayment.

(B) A schedule setting forth—

(i) the amount and date of each payment made by the petitioner in respect of which the overpayment was determined, and

(ii) the amount and date of each credit, offset, or refund received from the Commissioner in respect of the overpayment and interest claimed by the petitioner.

(C) A copy of the Court's decision which determined the overpayment, together with a copy of any notice of credit or offset or other correspondence that the petitioner may have received from the Commissioner, in respect of which the proceeding under this Rule has been commenced.

(4) If the petitioner requests an evidentiary or other hearing on the motion, then a statement of the reasons why the motion cannot be disposed of by the Court without a hearing. For the circumstances under which the Court will direct a hearing, see paragraph (d) of this Rule.

**(c) Response by the Commissioner:** Within 60 days after service of a motion filed pursuant to this Rule, the Commissioner shall file a written response. The response shall specifically address each of the contentions made by the petitioner regarding the correct amount of interest and the petitioner's computation of that amount. The Commissioner shall attach to the Commissioner's response a schedule de-

tailing the computation of interest claimed to be owed to or due from the Commissioner and, in the case of a motion to redetermine interest on an overpayment, the amount and date of each credit, offset, or refund made by the Commissioner and, if applicable, the part of each such credit, offset, or refund allocated by the Commissioner to the overpayment and the part of each such credit, offset, or refund allocated by the Commissioner to interest. If the Commissioner agrees with the petitioner's request for a hearing, or if the Commissioner requests a hearing, then the response shall include a statement of the Commissioner's reasons why the motion cannot be disposed of without a hearing. If the Commissioner opposes the petitioner's request for a hearing, then the response shall include a statement of the reasons why no hearing is required.

**(d) Disposition of Motion:** A motion to redetermine interest filed pursuant to this Rule will ordinarily be disposed of without an evidentiary or other hearing unless it is clear from the motion and the Commissioner's written response that there is a bona fide factual dispute that cannot be resolved without an evidentiary hearing.

**(e) Recognition of Counsel:** Counsel recognized by the Court in the action in which the Court redetermined the deficiency or determined the overpayment the interest in respect of which the petitioner now seeks a redetermination will be recognized in a proceeding commenced under this Rule. Counsel not so recognized must file an entry of appearance pursuant to Rule 24(a)(3) or a substitution of counsel pursuant to Rule 24(d).