

GGD-76-14
7-16-76

*REPORT TO THE JOINT COMMITTEE
ON INTERNAL REVENUE TAXATION
CONGRESS OF THE UNITED STATES
BY THE COMPTROLLER GENERAL
OF THE UNITED STATES*



**Use Of Jeopardy And
Termination Assessments
By The Internal Revenue Service**

Department of the Treasury

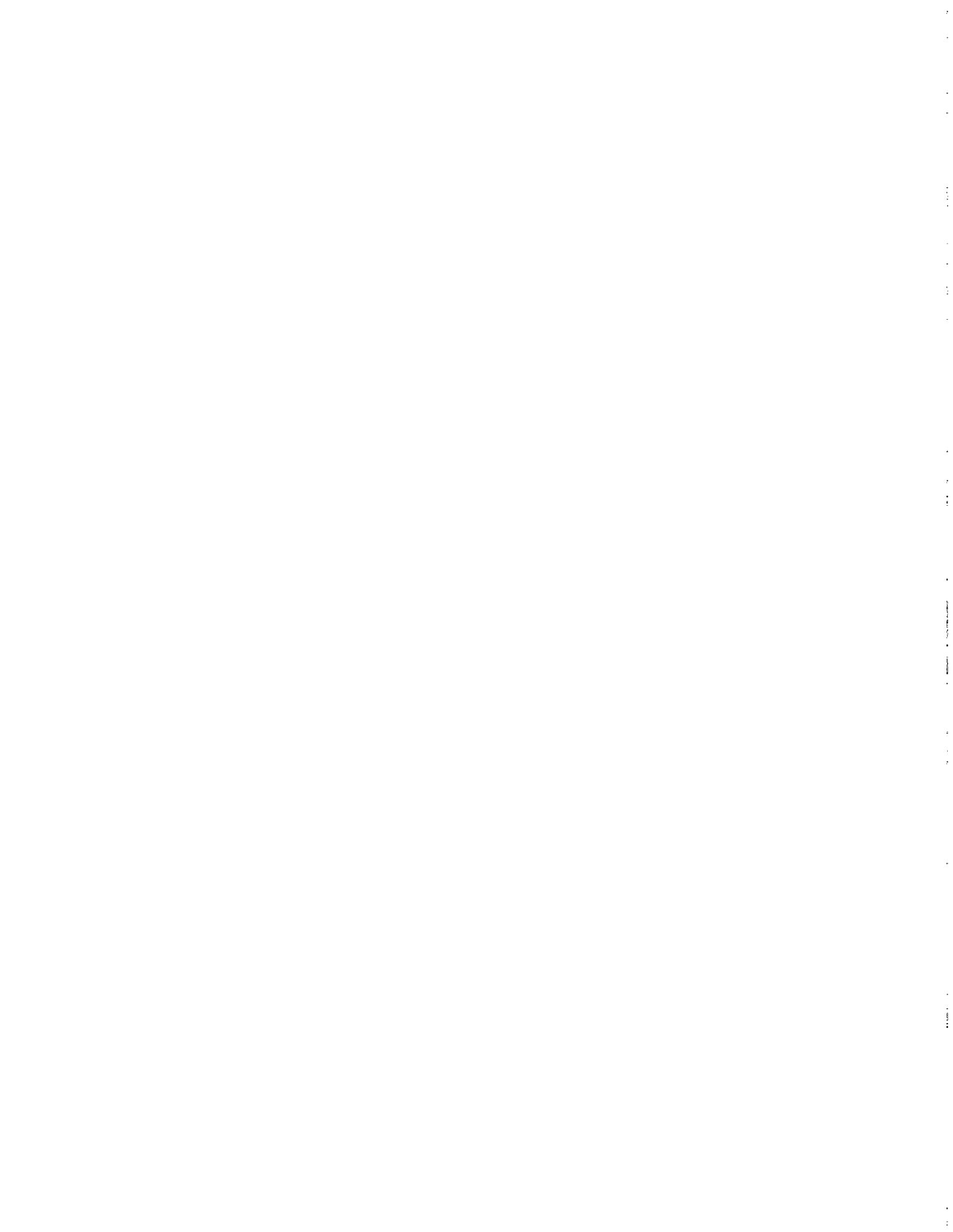
GAO recommends legislative changes to more fully protect the rights of taxpayers by permitting timely judicial appeal.

~~707467~~

GGD-76-14

093703

JULY 16, 1976





COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-137762

To the Chairman and Vice Chairman
Joint Committee on Internal Revenue
Taxation
Congress of the United States

This report discusses how the Internal Revenue Service collects taxes it believes would be jeopardized by delay if normal collection procedures were used. It is one of a series of reports your Committee requested.

We are sending copies of this report to the Director, Office of Management and Budget; the Secretary of the Treasury; and the Commissioner of Internal Revenue.

A handwritten signature in black ink, appearing to read "James R. Atchey".

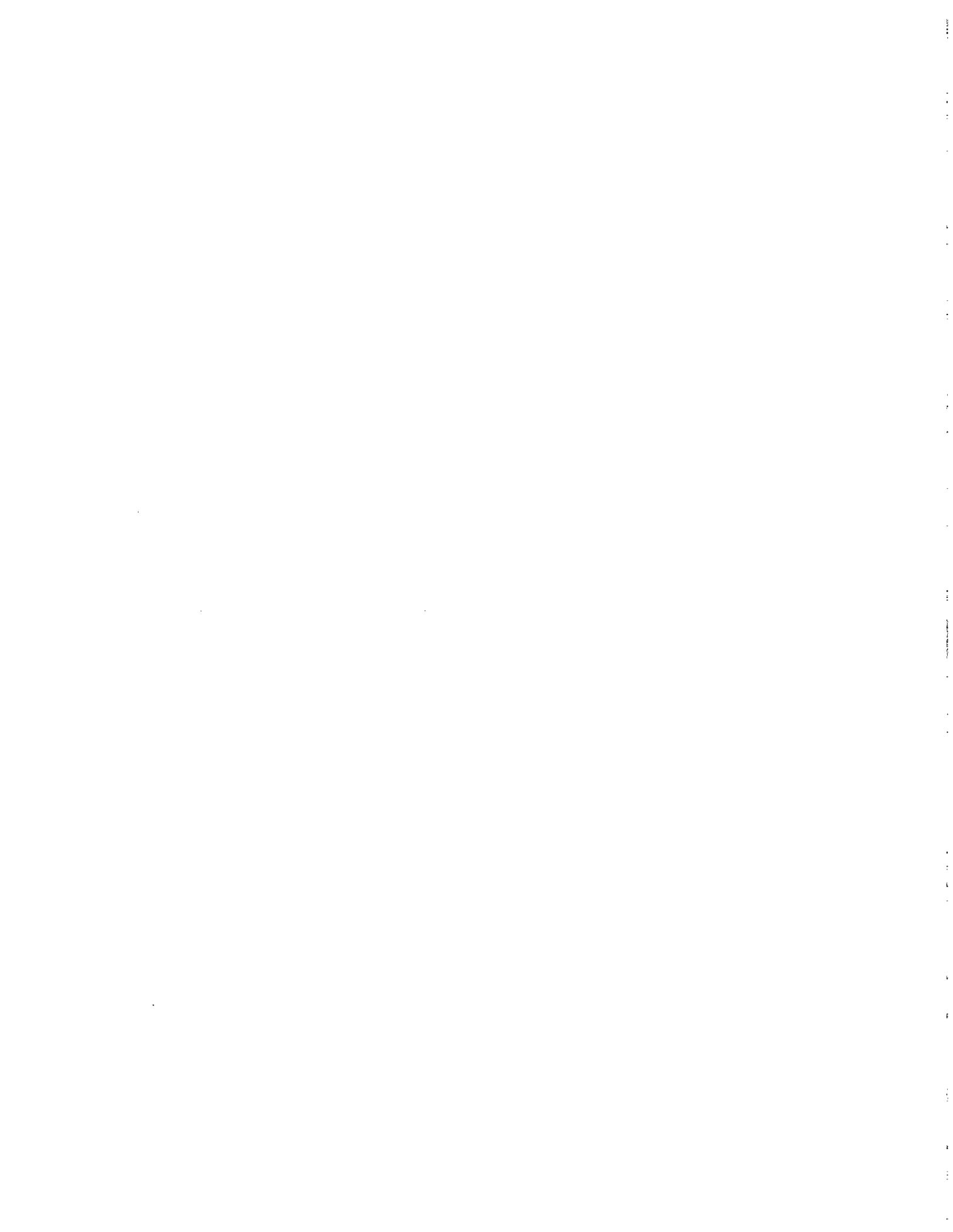
Comptroller General
of the United States

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ABBREVIATIONS

GAO	General Accounting Office
IRS	Internal Revenue Service



D I G E S T

NATURE OF JEOPARDY AND TERMINATION
ASSESSMENTS

The Internal Revenue Code provides that when the Internal Revenue Service (IRS) determines that collection of a tax may be in jeopardy, it may immediately assess and collect the tax--through seizure of property, if necessary. If the due date for filing a return and paying the tax has passed, the action is commonly referred to as a jeopardy assessment. If the date for filing a return and paying the tax has not passed, the action is commonly referred to as a termination assessment.

There are three sections of the code involved.

Section 6861 jeopardy assessments

Section 6861 authorizes jeopardy assessments for income, estate, gift, and certain excise taxes. The judicial remedies available to the taxpayer are identical to the remedies available under normal assessment procedures. Upon receiving a notice of deficiency, the taxpayer may file a petition for redetermination in the U.S. Tax Court. Or the taxpayer may pay the full amount of the deficiency, file a claim for refund with IRS, wait 6 months (unless IRS denies the claim sooner), and then file a refund action in a Federal district court or Court of Claims. IRS cannot sell seized property during the period allowed for filing a petition for redetermination or while the case is before the Tax Court. (See ch. 3.)

Section 6862 jeopardy assessments

Section 6862 relates to jeopardy assessments for all taxes not covered by section 6861. It differs from section 6861 in that the

taxpayer does not have the right to file a petition for redetermination in the Tax Court. His only judicial remedy is to pay the tax deficiency, file for a refund, wait 6 months (unless IRS denies the claim sooner), and then file a refund action in the Federal district court or Court of Claims.

Unlike property seized under a section 6861 jeopardy assessment, property seized as a result of a section 6862 jeopardy assessment can be sold before the taxpayer has a right to contest the tax liability in court. (See ch. 4.)

Section 6851 termination assessments

At the time of GAO's review IRS contended that a taxpayer who had been subject to a termination assessment had the same right to judicial review as the section 6862 taxpayer. That is, he could only pay the assessed tax, file a claim for refund, wait 6 months (unless IRS denies the claim sooner), and then file a refund action in the Federal district court or Court of Claims.

However, he had an additional problem. It was IRS practice not to consider a refund claim until after the end of the taxpayer's normal tax year, thus extending the period before which the taxpayer could obtain judicial review of his case.

These problems were eliminated by the Supreme Court of the United States on January 13, 1976, when it held that a taxpayer is entitled to receive a notice of deficiency. This permits the taxpayer to petition the Tax Court for redetermination of his tax liability. (See ch. 5.)

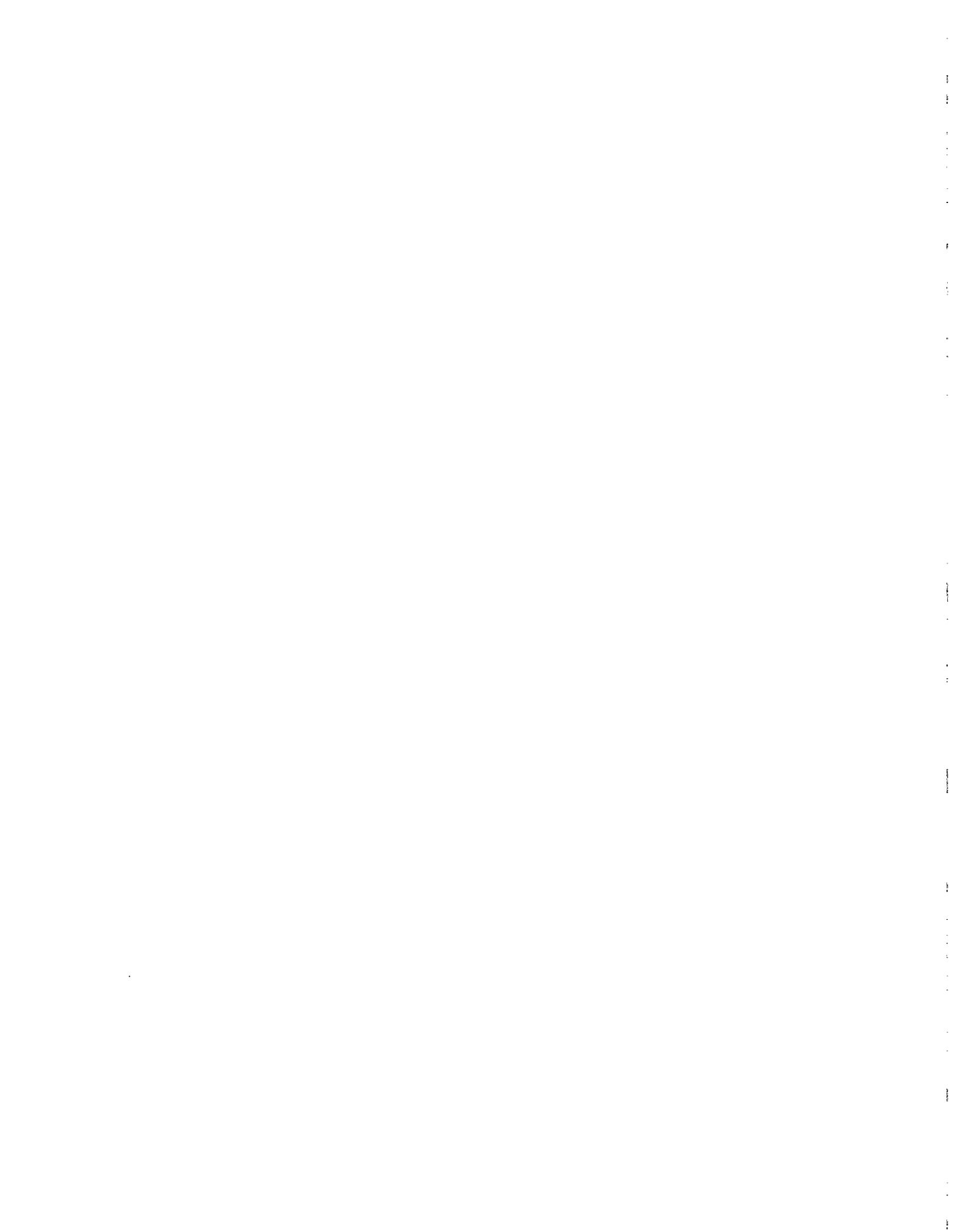
CONCLUSIONS AND RECOMMENDATION

We believe that the taxpayer's right to judicial review under section 6862 should be similar to that provided for jeopardy assessments under section 6861 and for termination assessments under section 6851.

GAO recommends that the Congress amend the Internal Revenue Code to provide that, if a jeopardy assessment is made under section 6862, the taxpayer shall have a more timely right to judicial review and that seized property shall not be sold until the judicial review is completed. (See p. 14.)

The Commissioner of Internal Revenue on December 9, 1975, advised GAO that IRS has no objection to the proposed legislative action. (See app. I.)

House bill 10612 dated November 6, 1975, which is a broad tax reform bill, was passed by the House of Representatives and as of July 1, 1976, was pending in the Senate. The bill includes provisions which encompass GAO's recommendation. If those provisions are enacted, the rights of both the Government and the taxpayer should be protected. (See p. 15.)



CHAPTER 1

INTRODUCTION

In a letter to the Comptroller General dated December 27, 1974, the Joint Committee on Internal Revenue Taxation asked that we review the procedures followed by the Internal Revenue Service (IRS) in making jeopardy assessments. Such assessments are made by IRS when it believes the collection of taxes is in jeopardy and that normal assessments and collection procedures will not safeguard the Government's interest. This report responds to the committee's request.

NORMAL TAX ASSESSMENTS

Assessment of a tax establishes the legal liability of a taxpayer for the amount of tax due and unpaid. IRS cannot take any forceable collection action against a taxpayer until after a tax has been assessed.

For most taxpayers, assessment is made when the taxpayer files a return stating his tax liability. In some cases assessment is made on the basis of an IRS inquiry or investigation showing that (1) a return as filed does not disclose the correct tax liability or (2) a required return has not been filed.

Where IRS makes an inquiry or investigation, agreement may be reached with the taxpayer on the proposed tax changes. IRS then assesses the tax and sends the taxpayer a bill which is required to be paid in 10 days. If the taxpayer then chooses not to pay, IRS may initiate action to collect the tax.

If no agreement is reached between the taxpayer and IRS on the proposed changes, a preliminary notice (30-day letter) is mailed to the taxpayer which advises him of his administrative appeal rights. If no agreement is reached upon appeal within IRS or if the taxpayer does not respond to the preliminary notice, IRS is required to send a statutory notice of deficiency to the taxpayer's last known address, informing the taxpayer that he has 90 days 1/ from the date of the notice to

--pay the deficiency and later file a claim for refund or

--file a petition for redetermination in the U.S. Tax Court.

1/If the notice of deficiency is mailed to a taxpayer outside of the United States, the taxpayer has 150 days to respond.

If the taxpayer chooses the first option and the claim for refund is denied or if IRS fails to act on the claim after 6 months, the taxpayer may bring suit for a refund in the Federal district court or in the U.S. Court of Claims. If the taxpayer chooses the second option and files a petition for redetermination in the Tax Court, he need not pay until the court has redetermined the deficiency. Should the taxpayer fail to petition the court within the 90-day period, this avenue of review is then closed. During this period IRS may not take any formal action to collect the tax, such as seizing the taxpayer's property or instituting a collection action in Federal court.

At the conclusion of the 90-day period, IRS may then assess the tax deficiency if the taxpayer has not petitioned the Tax Court or paid the tax in full. IRS is required to send a notice and demand for payment to the taxpayer within 60 days of the assessment, and the amount of the deficiency must be paid within 10 days of notice and demand for payment. If full payment is not received, IRS may initiate collection action.

JEOPARDY AND TERMINATION ASSESSMENTS

Jeopardy and termination assessments differ from normal tax assessments in that, when there is an indication that the collection of a tax may be in jeopardy, IRS may avoid the normal time-consuming assessment and collection procedures and immediately assess and collect the tax. Assessments made under the authority of sections 6861 and 6862 of the Internal Revenue Code are called jeopardy assessments, and those made pursuant to section 6851 are called termination assessments.

Jeopardy assessments are made when collection of any tax is in jeopardy after the due date for filing a return and paying the tax has passed. Jeopardy assessments under section 6861 are for income, estate, gift, and certain excise taxes, and jeopardy assessments under section 6862 are for all other taxes.

Termination assessments are made when IRS finds that the collection of income tax is in jeopardy before the expiration of a taxpayer's normal tax year or before the date the taxpayer is required to file a return and pay the tax. In such cases, IRS serves on the taxpayer a notice of termination of his tax year, or a segment of the tax year, and demands immediate payment of tax due for the period.

The IRS manual provides that jeopardy and termination assessments should be used sparingly, care should be taken to avoid excessive and unreasonable assessments, and such

assessments should be personally approved by the district director. In addition, the district director is not to approve a termination or jeopardy assessment unless at least one of three conditions is met:

- The taxpayer is or appears to be designing quickly to depart from the United States or to conceal himself.
- The taxpayer is or appears to be designing quickly to place his property beyond the reach of the Government either by removing it from the United States, or by concealing it, or by transferring it to other persons, or by dissipating it.
- The taxpayer's financial solvency is or appears to be endangered.

Criteria for assessments

The IRS manual lists the following eight situations that represent prima facie cases in which jeopardy and termination assessments should be made.

1. Major operators in the criminal field.
2. Gamblers who frequently wager large amounts.
3. Individuals engaged in taking wagers.
4. Individuals in activities, generally regarded as illegal, where there are possibilities of large unexpected losses or interference with their businesses or activities by others of the criminal element, such as hijackers and blackmailers.
5. Individuals with a background and history of activity in illegal enterprises, such as gambling, bootlegging, or narcotics, who are presently engaged in so-called legitimate business ventures.
6. Taxpayers in legitimate business who are consistently suffering business or personal losses.
7. Taxpayers known or suspected of having plans for leaving the United States without providing for tax payments.
8. Other taxpayers when the facts and circumstances indicate that the taxpayer's present financial condition or future possibilities are such as to make tax collection doubtful.

The IRS manual also cites two additional situations that represent prima facie cases in which jeopardy assessments should be made. These situations involve taxpayers (1) against whom large damage suits are pending or against whom such suits are threatened and (2) who have a past record for resisting or avoiding payment of their taxes.

SCOPE OF REVIEW

We reviewed pertinent sections of the Internal Revenue Code, its legislative history, and the IRS policies, regulations, and procedures applicable to jeopardy and termination assessments. We also reviewed all jeopardy assessments initiated from January 1973 to June 1975 for the two IRS districts included in our review, except for four cases that were in litigation. Our review included 21 jeopardy assessments under section 6861 of the Internal Revenue Code and 14 under section 6862. In addition, we reviewed 68 termination assessments under section 6851 of the Internal Revenue Code, including 59 randomly selected fiscal year 1973 and 1974 cases and 9 arbitrarily selected fiscal year 1975 cases. At the national office, we reviewed 19 internal audit reports relating to jeopardy and termination assessments.

We interviewed IRS supervisory and staff personnel who had responsibilities relating to the cases selected for review. Of the 103 jeopardy and termination assessment cases reviewed, 18 of the jeopardy assessment cases were not related to suspected illegal activities. We attempted to interview all 18 taxpayers but were successful in interviewing only 5 of them. The remaining 13 taxpayers either could not be located, did not respond to our requests for interviews, or refused to consent to interviews. We did not attempt to interview the 85 taxpayers (17 jeopardy and 68 termination assessment cases) who were thought to be involved in illegal activities.

We made our review at IRS headquarters in Washington, D.C.; district offices in Los Angeles, California, and Phoenix, Arizona; and the service center in Fresno, California. Because our review was limited to two IRS districts, we are not able to provide information on the procedures employed by IRS nationwide.

CHAPTER 2

JEOPARDY AND TERMINATION ASSESSMENTS

USED ON NARCOTICS TRAFFICKERS

Before fiscal year 1972, IRS made relatively few jeopardy and termination assessments. However, in response to the President's announcement of an expanded effort to combat drug abuse, IRS in July 1971 established a high-priority project called the narcotics traffickers program. The purpose of the program was to make a systematic tax investigation of middle and upper echelon narcotics dealers.

IRS statistics show that after the trafficker program was initiated many of the jeopardy assessments and the majority of the termination assessments made were directed at individuals suspected of or arrested for drug law violations.

In March 1974 IRS revised the objective of the narcotics traffickers program to that of achieving maximum compliance with the internal revenue laws rather than disrupting the distribution of narcotics. Subsequently, in May 1974 IRS issued instructions emphasizing that the same selection criteria that are applied to other assessments should also be applied to jeopardy and termination assessments, regardless of the background or criminal history of the taxpayer. This was to assure that only cases with substantial and documentable tax violations were included in the program. As a result, the number of jeopardy and termination assessments against suspected narcotics traffickers was reduced drastically.

The following tabulation shows the impact of the narcotics traffickers program on nationwide IRS use of jeopardy and termination assessments during fiscal years 1972 through 1975 as well as the reduction in such assessments during fiscal year 1975.

	Fiscal year				Total
	1972	1973	1974	1975	
Jeopardy assessments (note a):					
Narcotics traffickers program	98	141	113	60	412
Other	<u>200</u>	<u>358</u>	<u>413</u>	<u>150</u>	<u>1,121</u>
Total	<u>298</u>	<u>499</u>	<u>526</u>	<u>210</u>	<u>1,533</u>
Termination assessments:					
Narcotics traffickers program	999	2,448	1,523	304	5,274
Other	<u>73</u>	<u>143</u>	<u>125</u>	<u>34</u>	<u>375</u>
Total	<u>1,072</u>	<u>2,591</u>	<u>1,648</u>	<u>338</u>	<u>5,649</u>
Combined assessments:					
Narcotics traffickers program	1,097	2,589	1,636	364	5,686
Other	<u>273</u>	<u>501</u>	<u>538</u>	<u>184</u>	<u>1,496</u>
TOTAL	<u>1,370</u>	<u>3,090</u>	<u>2,174</u>	<u>548</u>	<u>7,182</u>

a/A nationwide statistical breakdown of section 6861 jeopardy assessments and section 6862 jeopardy assessments is not available.

In a letter to the Deputy Secretary of the Treasury, dated June 7, 1975, the Commissioner explained the reorientation of the program. He said the narcotics traffickers program had raised significant operational issues. Because of the special nature of the cases involved, IRS had been called upon to make disproportionate use of jeopardy and termination assessments. He explained that these collection measures are powerful tools, originally intended for extreme exigencies.

The Commissioner stated that, after detailed full year followup examinations, such assessments have often resulted in substantial reductions and refunds. He further stated that this left IRS open to charges of improper behavior. Therefore, action was taken to insure that restraint and careful judgment were exercised and to avoid excessive and unreasonable jeopardy and termination assessments.

Our review of termination assessments used against suspected narcotic traffickers supports the Commissioner's findings in that only a small portion of the original assessments was upheld by later IRS review. Sixty-four of the 68 termination assessment cases covered by our review involved alleged

narcotics traffickers. Forty of these had been finalized as of March 1976. The original assessments in these cases totaled \$1,254,233. The final assessment totaled \$220,677.

Section 6861 jeopardy assessments were also used against suspected narcotics traffickers but with much greater success. Twenty-one section 6861 jeopardy cases were examined of which 12 involved suspected narcotics traffickers. Of these, nine were finalized as of March 1976. The original assessments for these cases totaled \$353,210 and the final assessments totaled \$342,105.

At the time of our review, termination cases were not afforded the same opportunities for judicial review as Section 6861 jeopardy assessments (See chapter 5). This may be the reason why the latter were better supported.

CHAPTER 3

USE OF SECTION 6861

JEOPARDY ASSESSMENTS

Under normal assessment procedures, there is considerable delay from IRS' first proposal of a tax adjustment through judicial review in the Tax Court before formal collection action is begun. Under a section 6861 jeopardy assessment, however, IRS may determine that a deficiency exists and immediately assess the tax, send a notice and demand for payment, and levy upon all the taxpayer's property whenever there is reason to believe that the assessment or collection of the deficiency would be jeopardized by delay. The 10-day waiting period normally required between demand for payment and seizure of a taxpayer's property does not apply to jeopardy assessments. If the jeopardy assessment is made before the statutory notice of deficiency is sent to the taxpayer, IRS is required to send the notice within 60 days after the jeopardy assessment is made.

The judicial remedies available to a taxpayer who has been subject to a section 6861 jeopardy assessment are identical to the remedies available for a normal assessment. Upon receiving a notice of deficiency, the taxpayer may (1) file a petition for redetermination in the Tax Court or (2) pay the full amount of the deficiency, file a claim for refund with IRS, wait 6 months (unless IRS denies the claim sooner), and then file a refund action in a Federal district court or the Court of Claims.

The taxpayer who has been subjected to jeopardy assessment under section 6861, however, does not have all the protection afforded the ordinary taxpayer during judicial review. In the normally assessed tax case, IRS is prohibited from taking collection action against a taxpayer's property or assets before the time allowed for filing a petition for redetermination and while litigation is pending in the Tax Court. In the case of section 6861 jeopardy assessments, however, IRS is authorized upon assessing the deficiency and demanding payment to take immediate collection action, including seizure of the taxpayer's property. Although IRS is precluded from selling any property seized before or during Tax Court litigation, the jeopardy taxpayer--unlike the ordinary taxpayer--loses the use and benefit of whatever property and assets are seized by IRS while his case is pending in the Tax Court.

The 21 section 6861 jeopardy assessments made by the IRS Los Angeles and Phoenix districts from January 1973 through June 1975 consisted of the following cases:

- 12 suspected narcotics traffickers,
- 3 parties (2 individuals and 1 corporation) involved in distribution of estate assets without estate taxes being paid,
- 1 alleged embezzler who had a history as a con man,
- 2 aliens who were under investigation for questionable practices in preparing tax returns and who could not be located by IRS, and
- 3 salesmen with suspected involvement in fraudulent activities, including 1 who had fled to Canada and against whom extradition proceedings had begun, 1 who had attempted to flee the United States, and 1 whose assessment had been abated but who was being audited by IRS.

The 12 suspected narcotics traffickers cases are discussed in chapter 2. For the remaining nine cases listed above we are satisfied that the use of jeopardy assessments was reasonable.

CHAPTER 4

USE OF SECTION 6862

JEOPARDY ASSESSMENTS

As in the case of a section 6861 jeopardy assessment, IRS is authorized under section 6862 to determine that a tax is due and to immediately assess and levy upon all the taxpayer's property whenever it believes that the assessment or collection of the deficiency would be jeopardized by delay. A section 6862 jeopardy assessment, however, differs from a section 6861 jeopardy assessment in that section 6862 applies to taxes other than those covered by section 6861 and in that the taxpayer does not have a right to timely judicial review of his tax liability.

A taxpayer who has been subject to a section 6862 jeopardy assessment has no right to judicial review until after he pays the tax deficiency, files for a refund with IRS, and waits 6 months (unless IRS denies the claim sooner). The taxpayer may then file a refund action in the Federal district court or Court of Claims. In addition, property seized as a result of a section 6862 jeopardy assessment, unlike property seized pursuant to a section 6861 jeopardy assessment, can be sold before the taxpayer has had the opportunity to contest his tax liability in court.

Records for the 14 section 6862 jeopardy assessments made by the Los Angeles and Phoenix districts from January 1973 through June 1975 indicate that, in each instance, a tax deficiency existed and the individuals assessed were liable for the deficiency.

Of the 14 jeopardy assessments, 7 were for penalties which were imposed on officers of insolvent corporations. These officers were found by IRS to have been responsible for withholding taxes from employees' wages and for not paying the withheld taxes to the Government. The penalties were imposed under section 6672 of the Internal Revenue Code which provides that such persons are liable for a penalty equal to the total amount of the tax collected but not paid to the Government (normally referred to as a 100-percent penalty assessment).

Four of the jeopardy assessments were made against employers for taxes withheld from the wages of employees but not paid to the Government. The basic reason jeopardy assessments were made was because the financial solvency of the employers appeared to be endangered.

The three remaining assessments were made against taxpayers for the nonpayment of wagering taxes. These taxpayers were arrested by the local police departments for conducting bookmaking operations. IRS records indicated that they had not filed the appropriate wagering tax returns.

Jeopardy assessments appeared to be justified in 13 of the 14 cases. The file was incomplete for the remaining case. We, therefore, are unable to comment on the justification for jeopardy assessing this case.

CHAPTER 5

USE OF

TERMINATION ASSESSMENTS

If IRS finds that the collection of an income tax is in jeopardy, IRS is authorized under section 6851 to

- serve notice on the taxpayer of the termination of his taxable period,
- demand immediate payment of any tax determined due for the terminated period, and
- immediately levy upon all of the taxpayer's property if payment is not received.

Moreover, the 10-day waiting period normally required between demand for payment and seizure of property does not apply when a termination assessment is made.

At the time of our review, IRS maintained that the only judicial remedy available to a taxpayer who had been subject to a termination assessment was to pay the assessed tax, file a claim for refund with IRS, wait 6 months (unless IRS denied the claim sooner), and file a refund petition with the Federal district court or Court of Claims. Because it was IRS practice not to consider a refund claim until after the end of the taxpayer's normal tax year, there could be considerable delay before the taxpayer obtained judicial review of his case. During this period he would be deprived of the use and benefit of any property that IRS had seized.

On January 13, 1976, however, the Supreme Court decided two cases in which IRS' interpretation of section 6851 and the relationship between section 6851 and section 6861 were at issue. 1/ The question before the Court was whether IRS is required to issue a notice of deficiency--a jurisdictional prerequisite to litigation in the Tax Court--to a taxpayer whose tax year is terminated pursuant to section 6851. The Supreme Court held that such a taxpayer is entitled to receive a notice of deficiency affording him the opportunity to petition the Tax Court for review of his tax deficiency. Those taxpayers subjected to termination assessments now can obtain more expeditious judicial review of their tax liabilities.

1/Laing v. United States and United States v. Hall,
44 U.S.L.W. 4035 (U.S. Jan. 13, 1976).

The 68 termination assessments in our review consisted of:

- 64 suspected narcotics traffickers,
- 2 individuals suspected of taking wagers,
- 1 alien who was under investigation for questionable practices in preparing tax returns and who could not be located by IRS, and
- 1 individual who allegedly maintained a house for prostitution.

The 64 suspected narcotics traffickers cases are discussed in chapter 2. For the remaining 4 cases listed above we are satisfied that use of termination assessments was reasonable.

CHAPTER 6

CONCLUSIONS, RECOMMENDATION, AGENCY COMMENTS, AND PENDING LEGISLATION

CONCLUSIONS

Records of the 14 section 6862 jeopardy assessment cases indicated that in each instance the tax liability existed and the individuals assessed were liable for the tax. Nonetheless, it is disturbing that under section 6862 of the Internal Revenue Code, IRS may assess a tax and seize and sell a taxpayer's property before the taxpayer has the opportunity to contest his liability in court.

We believe that a taxpayer who is jeopardy assessed under section 6862 should have a more timely right to judicial review. The taxpayer's right to judicial review should be similar to that provided for jeopardy assessments under section 6861 and for termination assessment under section 6851. In addition, IRS should be precluded from selling taxpayer's property seized pursuant to a section 6862 jeopardy assessment until the judicial review process is completed.

RECOMMENDATION

We recommend that the Congress amend the Internal Revenue Code to provide that, if a jeopardy assessment is made under section 6862, the taxpayer shall have a more timely right to judicial review than is currently provided under the Internal Revenue Code and that seized property shall not be sold until the judicial review process is completed.

In the draft of this report, which was submitted to IRS for review and comment on September 20, 1975, we also proposed that a taxpayer whose taxable period has been terminated under section 6851 should have a more timely right to judicial review. However, in view of the Supreme Court's recent decision, discussed on page 12, we have deleted this proposed recommendation from the report.

AGENCY COMMENTS

By letter dated December 9, 1975, the Commissioner of Internal Revenue commented on our draft report. (See app. I.) He said IRS had no objections to our proposals for judicial review of jeopardy and termination assessments. However, he

said IRS could envision some tax collection problems created by delays which would develop.

The collection problems envisioned by IRS to a large extent are now moot since, in response to the January 13, 1976, Supreme Court decision, the IRS national office issued preliminary instructions for handling section 6851 termination assessments in a manner similar to the handling of section 6861 jeopardy assessments. The preliminary instructions included procedures for issuing a statutory notice of deficiency providing the taxpayer with the right to file a petition for redetermination in the Tax Court. The notice must be issued within 60 days after the section 6851 termination assessment is made.

If legislation is enacted to provide taxpayers with a more timely right to judicial review under section 6862 and to prohibit the sale of seized property until the review process is completed, we believe that the IRS procedures now applicable to section 6851 and 6861 assessments could be extended to section 6862 assessments with a minimum of administrative difficulties.

PENDING LEGISLATION

On September 19, 1975, we provided a draft of this report to the Joint Committee on Internal Revenue Taxation to consider in developing tax reform legislation. The staff of the Joint Committee summarized the draft report--including our proposed legislative recommendations--and provided it to the House Committee on Ways and Means.

Subsequently, a broad tax reform bill (H.R. 10612, dated November 6, 1975) was introduced and passed by the House of Representatives. As of July 1, 1976, the bill was under consideration by the Senate Committee on Finance. The bill includes provisions that:

- Within 30 days after the day on which there is notice and demand for payment under section 6861(a) or 6862(a) or notice of termination of a taxable period under section 6851(a), the taxpayer may file a petition with the Tax Court.
- Within 20 days after a petition is filed, the Tax Court shall determine whether (1) reasonable cause exists for the assessment or termination of the taxable period, (2) the amount assessed or demanded was appropriate under the circumstances, and (3) reasonable cause exists for rescinding the action taken under section 6861, 6862, or 6851.

--Where a jeopardy assessment has been made under section 6861(a) or 6862(a) or a taxable period has been terminated under section 6851(a), the property seized for collection of the tax shall not be sold until after the period for filing a petition with the Tax Court has expired or, if the taxpayer files a timely petition, until the Tax Court makes its determination.

If these provisions of House bill 10612 are enacted, the Government will continue to be able to take immediate action to seize a taxpayer's property if collection of a tax is considered to be in jeopardy. Taxpayers, however, will be able to obtain prompt judicial review of jeopardy and termination assessments in the Tax Court, and the Government generally will not be authorized to sell the taxpayer's property until after the taxpayer is given an opportunity for judicial review. Thus, the rights of both the Government and the taxpayer should be protected, and the objective of our recommendation will be met.

Department of the Treasury / Internal Revenue Service / Washington, D.C. 20224

Commissioner

December 9, 1975

Mr. Victor L. Lowe
Director, General Government Division
General Accounting Office
Washington, D.C.

Dear Mr. Lowe:

We have reviewed your draft report to the Joint Committee on Internal Revenue Taxation concerning the Use of Jeopardy and Termination Assessments by the Service.

Generally, we have no objections to the proposals for judicial review of jeopardy and termination assessments; however, we can envision some tax administration (collection) problems created by the delays which would develop. As mentioned in the report, there are two cases pending before the Supreme Court relating to the judicial remedies available to taxpayers subject to termination assessments. The decision of the Court and the pending legislation in this subject should clarify the Service's authority in jeopardy and termination assessments.

GAO note: Technical changes suggested by IRS have been deleted from this letter. The suggested changes have been incorporated in the report.

APPENDIX I

APPENDIX I

Mr. Victor L. Lowe

Thanks for the opportunity to provide our comments on your report. We hope the delay in responding has not created any undue hardship. As requested, the copies of the report are enclosed.

With kind regards,

Sincerely,

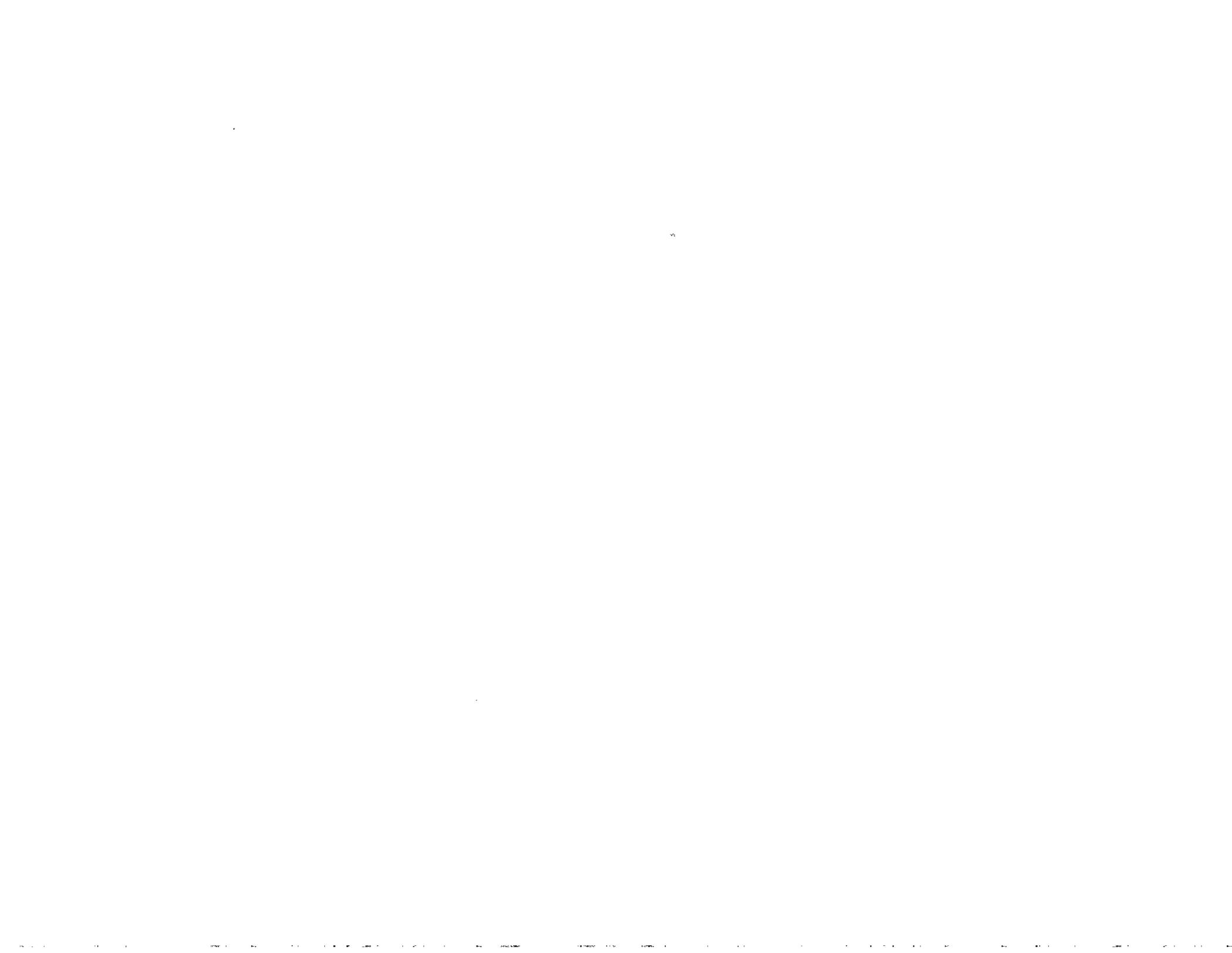
A handwritten signature in cursive script, appearing to read "Dale C. Alward".

Commissioner

Enclosures

PRINCIPAL OFFICIALS RESPONSIBLE
FOR ADMINISTERING ACTIVITIES
DISCUSSED IN THIS REPORT

	<u>Tenure of office</u>	
	<u>From</u>	<u>To</u>
SECRETARY OF THE TREASURY:		
William E. Simon	Apr. 1974	Present
George P. Shultz	June 1972	Apr. 1974
COMMISSIONER OF INTERNAL REVENUE:		
Donald C. Alexander	May 1973	Present
Raymond F. Harless (acting)	May 1973	May 1973
Johnnie M. Walters	Aug. 1971	Apr. 1973
ASSISTANT COMMISSIONER (COMPLIANCE):		
Singleton B. Wolfe	Mar. 1975	Present
Harold A. McGuffin (acting)	Feb. 1975	Mar. 1975
John F. Hanlon	Jan. 1972	Jan. 1975
John F. Hanlon (acting)	Nov. 1971	Jan. 1972
ASSISTANT COMMISSIONER (ACCOUNTS, COLLECTION, AND TAXPAYER SERVICE):		
Robert H. Terry	Aug. 1973	Present
Dean J. Barron	July 1971	Aug. 1973
ASSISTANT COMMISSIONER (INSPECTION):		
Warren A. Bates	Jan. 1975	Present
Francis I. Geibel	Sept. 1972	Dec. 1974
Francis I. Geibel (acting)	May 1972	Sept. 1972



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