been assessed has been determined by a decision of the Tax Court which has become final, then any unpaid portion, the collection of which has been stayed by bond as provided in section 6863(b) shall be collected as part of the tax upon notice and demand from the Secretary, and any remaining portion of the assessment shall be abated. If the amount already collected exceeds the amount determined as the amount which should have been assessed, such excess shall be credited or refunded to the taxpayer as provided in section 6402, without the filing of claim therefor. If the amount determined as the amount which should have been assessed is greater than the amount actually assessed, then the difference shall be assessed and shall be collected as part of the tax upon notice and demand from the Secretary.

### (g) Abatement if jeopardy does not exist

The Secretary may abate the jeopardy assessment if he finds that jeopardy does not exist. Such abatement may not be made after a decision of the Tax Court in respect of the deficiency has been rendered or, if no petition is filed with the Tax Court, after the expiration of the period for filing such petition. The period of limitation on the making of assessments and levy or a proceeding in court for collection, in respect of any deficiency, shall be determined as if the jeopardy assessment so abated had not been made, except that the running of such period shall in any event be suspended for the period from the date of such jeopardy assessment until the expiration of the 10th day after the day on which such jeopardy assessment is abated.

### (h) Cross references

**(1) For the effect of the furnishing of security for payment, see section 6863.**

**(2) For provision permitting immediate levy in case of jeopardy, see section 6331(a).**

(Aug. 16, 1954, ch. 736, 68A Stat. 834; Pub. L. 93–406, title II, §1016(a)(24), Sept. 2, 1974, 88 Stat. 931; Pub. L. 94–455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

#### Editorial Notes

##### Amendments

1976—Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1974—Pub. L. 93–406 substituted '', gift, and certain excise taxes'' for ''and gift taxes'' in section catchline.

#### Statutory Notes and Related Subsidiaries

##### Effective Date of 1974 Amendment

Amendment by Pub. L. 93–406 applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93–406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93–406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93–406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

### § 6862. Jeopardy assessment of taxes other than income, estate, gift, and certain excise taxes

#### (a) Immediate assessment

If the Secretary believes that the collection of any tax (other than income tax, estate tax, gift tax, and the excise taxes imposed by chapters 41, 42, 43, and 44) under any provision of the internal revenue laws will be jeopardized by delay, he shall, whether or not the time otherwise prescribed by law for making return and paying such tax has expired, immediately assess such tax (together with all interest, additional amounts, and additions to the tax provided for by law). Such tax, additions to the tax, and interest shall thereupon become immediately due and payable, and immediate notice and demand shall be made by the Secretary for the payment thereof.

#### (b) Immediate levy

**For provision permitting immediate levy in case of jeopardy, see section 6331(a).**

(Aug. 16, 1954, ch. 736, 68A Stat. 836; Pub. L. 93–406, title II, §1016(a)(25), Sept. 2, 1974, 88 Stat. 931; Pub. L. 94–455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96–222, title I, §108(b)(1)(C), Apr. 1, 1980, 94 Stat. 226; Pub. L. 96–223, title I, §101(f)(9), Apr. 2, 1980, 94 Stat. 253; Pub. L. 100–418, title I, §1941(b)(2)(N), Aug. 23, 1988, 102 Stat. 1324.)

#### Editorial Notes

##### Amendments

1988—Subsec. (a). Pub. L. 100–418 substituted ''and 44'' for ''44, and 45''.

1980—Subsec. (a). Pub. L. 96–223 which directed the substitution of ''the excise taxes imposed by chapters 41, 42, 43, 44, and 45'' for ''certain excise taxes'' was executed by inserting reference to chapter 45 in view of the amendment by Pub. L. 96–222.

Pub. L. 96–222 substituted ''the taxes imposed by chapters 41, 42, 43, and 44'' for ''certain excise taxes''.

1976—Subsec. (a). Pub. L. 94–455 struck out ''or his delegate'' after ''Secretary'' wherever appearing.

1974—Pub. L. 93–406 substituted '', gift, and certain excise taxes'' for '', and gift taxes'' in section catchline and ''gift tax, and certain excise taxes)'' for ''and gift tax)'' in subsec. (a).

#### Statutory Notes and Related Subsidiaries

##### Effective Date of 1988 Amendment

Amendment by Pub. L. 100–418 applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100–418, set out as a note under section 164 of this title.

##### Effective Date of 1980 Amendments

Amendment by Pub. L. 96–223 applicable to periods after Feb. 29, 1980, see section 101(i) of Pub. L. 96–223, set out as a note under section 6161 of this title.

Amendment by Pub. L. 96–222 effective as if included in the provisions of the Black Lung Benefits Revenue Act of 1977, Pub. L. 95–227, see section 108(b)(4) of Pub. L. 96–222, set out as a note under section 192 of this title.

##### Effective Date of 1974 Amendment

Amendment by Pub. L. 93–406 applicable as otherwise provided in section 1017(c) through (i) of Pub. L. 93–406, for plan years beginning after Sept. 2, 1974, but, in the case of plans in existence on Jan. 1, 1974, amendment by Pub. L. 93–406 applicable for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93–406, set out as an Effective Date; Transitional Rules note under section 410 of this title.

### § 6863. Stay of collection of jeopardy assessments

#### (a) Bond to stay collection

When an assessment has been made under section 6851, 6852, 6861 or 6862, the collection of the