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April 27, 2016

Ms. Stephanie A. Servoss
Clerk of the Court
United States Tax Court
400 Second St., N.W., Room 111
Washington, D.C. 20217

RE: Comments on March 28, 2016 Proposed Amendments to
United States Tax Court Rules of Practice and Procedure

Dear Ms. Servoss:

On behalf of the Tax Section of the State Bar of Texas, I am pleased to submit the enclosed response to the request of the United States Tax Court for comments regarding the proposed amendments to the Court's Rules of Practice and Procedure which were announced on March 28, 2016 (the "Proposed Amendments").

THE COMMENTS ENCLOSED WITH THIS LETTER ARE BEING PRESENTED ONLY ON BEHALF OF THE TAX SECTION OF THE STATE BAR OF TEXAS. THE COMMENTS SHOULD NOT BE CONSTRUED AS REPRESENTING THE POSITION OF THE BOARD OF DIRECTORS, THE EXECUTIVE COMMITTEE OR THE GENERAL MEMBERSHIP OF THE STATE BAR OF TEXAS. THE TAX SECTION, WHICH HAS SUBMITTED THESE COMMENTS, IS A VOLUNTARY SECTION OF MEMBERS COMPOSED OF LAWYERS PRACTICING IN A SPECIFIED AREA OF LAW.

THE COMMENTS ARE SUBMITTED AS A RESULT OF THE APPROVAL OF THE COMMITTEE ON GOVERNMENT SUBMISSIONS OF THE TAX SECTION AND PURSUANT TO THE PROCEDURES ADOPTED BY THE COUNCIL OF THE TAX

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SECTION, WHICH IS THE GOVERNING BODY OF THAT SECTION. NO APPROVAL OR DISAPPROVAL OF THE GENERAL MEMBERSHIP OF THIS SECTION HAS BEEN OBTAINED AND THE COMMENTS REPRESENT THE VIEWS OF THE MEMBERS OF THE TAX SECTION WHO PREPARED THEM.

We commend the Court for the time and thought that has been put into preparing the Proposed Amendments, and we appreciate being extended the opportunity to participate in this process.

Respectfully submitted,



Alyson Outenreath, Chair
State Bar of Texas, Tax Section

cc: The Honorable William J. Wilkins
Chief Counsel
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

**COMMENTS ON PROPOSED AMENDMENTS TO UNITED STATES TAX COURT'S
RULES OF PRACTICE AND PROCEDURE ANNOUNCED MARCH 28, 2016**

These comments on the Proposed Amendments ("Comments") are submitted on behalf of the Tax Section of the State Bar of Texas. The principal drafter of these Comments was Richard L. Hunn, who is Chair of the Tax Controversy Committee of the Tax Section of the State Bar of Texas. The Committee on Government Submissions (COGS) of the Tax Section of the State Bar of Texas has approved these Comments. Robert Probasco, Co-Chair of COGS, reviewed these Comments. Lawrence R. Jones, Jr. also reviewed the Comments and made substantive suggestions on behalf of COGS.

Although members of the Tax Section who participated in preparing these Comments have clients who would be affected by the principles addressed by these Comments or have advised clients on the application of such principles, no such member (or the firm or organization to which such member belongs) has been engaged by a client to make a government submission with respect to, or otherwise to influence the development or outcome of, the specific subject matter of these Comments.

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Date: April 27, 2016

These Comments are provided in response to the Court's request for comments regarding the Proposed Amendments to its Rules of Practice and Procedure (the "Rules"). The Tax Section commends the Court for its efforts to amend its Rules in response to several recent enactments by Congress and thanks the Court for the opportunity to provide comments regarding the Proposed Amendments.

The Tax Section has only one subject for comment: proposed Form 2 for Appendix I to the Rules. Form 2 is the form that a petitioner may use to file a small tax case petition with the Court. Paragraph 1 of proposed Form 2 provides five categories of petition, and next to each a box may be checked to indicate the type of case that is being filed. Paragraph 1 of proposed Form 2 reads as follows:

1. Please check the appropriate box(es) to show which IRS NOTICE(s) you dispute:

Notice of Deficiency

Notice of Determination Concerning Collection Action

Notice of Final Determination Not to Abate Interest*

Determination of Worker Classification*

Notice of Determination Concerning Your Request for Relief From Joint and Several Liability*

*Please see the Court's Web site, www.ustaxcourt.gov, or information booklet for additional information if (1) you filed a claim for interest abatement or requested relief from joint and several liability, and the IRS has not made a determination, or (2) the petition involves a worker classification case.

We believe that most petitioners who will consider using this form to file a small tax case petition will be filing *pro se* and may be confused by paragraph 1 in the form that it is currently proposed, because it may not be entirely clear to them why there are asterisks next to three of the choices in paragraph 1. No such asterisks appear in the prior version of Form 2. Moreover, the note at the asterisk does not guide the petitioner to specific information about the topic.

With respect to two of the options—"Notice of Final Determination Not to Abate Interest" and "Notice of Determination Concerning Your Request for Relief From Joint and Several Liability"—the note indicates, but does not explicitly state, the reason for the asterisk. The note indicates that a person may be able to file a petition if the Commissioner fails to act upon a claim requesting an abatement of interest or fails to act upon a request for relief from joint and several liability. In those two instances, we believe it would be helpful to explicitly state that alternative in a parenthetical next to that option. Consequently, we suggest that the Court consider revising paragraph 1 in pertinent part to read as follows, with proposed additional language underlined:

1. Please check the appropriate box(es) to show which IRS NOTICE(s) you dispute:

- Notice of Deficiency
- Notice of Determination Concerning Collection Action
- Notice of Final Determination Not to Abate Interest (or Failure of IRS to Make a Final Determination Within 180 Days After Claim for Abatement)*
- Determination of Worker Classification*
- Notice of Determination Concerning Your Request for Relief From Joint and Several Liability (or Failure of IRS to Make a Determination Within 6 Months After Election or Request for Relief)*

With respect to the option "Determination of Worker Classification," no substantive explanation for the asterisk is provided. With respect to all three of the options in question, we believe that the hyperlink to the Court's website that appears in the note may be confusing to petitioners, because the hyperlink redirects the petitioner only to the main page of the Court's website. We suggest that the Court consider revising the note to provide three specific hyperlinks to explanatory information with respect to each of the three topics.

We appreciate the opportunity to comment on the Proposed Amendments and to be a part of the Court's efforts to update and improve its Rules of Practice and Procedure.