

**SUBMITTING A COMPLAINT  
OF JUDICIAL MISCONDUCT OR JUDICIAL DISABILITY  
AGAINST A  
UNITED STATES TAX COURT JUDGE:**

## **A User's Guide**

The process for complaining that a Tax Court Judge has committed misconduct or has become disabled is explained in detail in the *Rules for Judicial Conduct and Disability Proceedings for the United States Tax Court* (“Rules”) which you should consult before making a complaint. The [Rules](#) and a [complaint form](#) are available on this website and from the Office of the Clerk of the Court, United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217. This User's Guide is a short explanation of the Rules; it does not amend or supersede the Rules in any manner.

### **1. Who may be complained about?**

This process may be used only for complaints about Judges, Senior Judges, and Special Trial Judges of the United States Tax Court. If you have concerns about the behavior of a Tax Court employee other than a Judge, you may report them to the Chief Judge of the Tax Court. To complain about lawyers and other persons admitted to practice before the Tax Court, contact the Admissions Section of the Office of the Clerk of the Tax Court.

### **2. Where do I submit a complaint?**

If you believe that a Tax Court Judge committed misconduct or has a disability, you may submit a complaint to the Tax Court's Office of the Clerk of the Court. That office is the only place authorized to receive your complaint.

### **3. What is “misconduct”? What is a “disability”?**

“Misconduct” is “conduct prejudicial to the effective and expeditious administration of the business of the courts.” A “disability” is a “temporary or permanent impairment, physical or mental” that renders the Judge “unable to discharge the duties” of the judicial office.

A few examples of misconduct are:

- Using the Judge's office to obtain special treatment for friends or relatives; accepting bribes, gifts, or other personal favors related to the judicial office; having improper discussions with parties or counsel for one side in a case; treating parties or counsel in a demonstrably egregious and hostile manner; engaging in partisan political activity or making inappropriately partisan statements; soliciting funds for organizations; or violating other specific, mandatory standards of judicial conduct, such as those pertaining to restrictions on outside income and requirements for financial disclosure.

Actions taken by a Judge outside of his or her official role may qualify as misconduct if they would cause a substantial and widespread lowering of confidence in the Tax Court among reasonable people.

Examples of disability are:

- Substance abuse, the inability to stay awake during Court proceedings, or impairment of cognitive abilities that renders the judge unable to function effectively.

#### **4. Can a Judge's rulings be complained about under these procedures?**

Generally, no. If you think that a Judge made a wrong decision in a case, that does not in itself establish misconduct or disability. For example, you cannot invoke this process to claim merely that a Judge was mistaken in failing to recuse, in determining that you must pay fees, in setting hearings and deadlines, in dismissing parties from a case, or in the ultimate decision of the case. Claims such as these are related to the merits of the case and therefore are improper under the judicial misconduct and disability complaint rules. If you wish to challenge the correctness of a Judge's ruling or decision, you may do so only under the proper procedural rules, such as by a motion for reconsideration addressed to the Judge or by an appeal to the Court of Appeals.

If, however, a merits-related complaint includes supported allegations that the Judge had an improper motive, or that the Judge habitually delayed in many unrelated cases, those allegations may be made under these judicial conduct and disability procedures.

## **5. What should I include in a complaint?**

Your complaint should be submitted on the prescribed complaint form. It must be legible and if possible should be typed or printed (e.g., by a printer attached to a computer). It must include a contact address, a description of the relevant events, a description of when and where they took place, and any other information that would help an investigator check the facts. The complaint should contain as much pertinent detail as possible, including information that identifies transcripts and witnesses supporting your account of what happened. You must sign the complaint under penalty of perjury.

When your complaint is ready to be submitted, make two copies of the original. Place the original and copies in an envelope marked “COMPLAINT OF CONDUCT” or “COMPLAINT OF DISABILITY.” Do not write the name of the Judge you are complaining about (“the subject Judge”) on the envelope. Submit them, in person or by mail, to the Office of the Clerk of the Court, United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217.

## **6. After a complaint is submitted, what happens first?**

Your complaint will be conveyed to the Judge who will consider it (usually the Chief Judge) and to the subject Judge. The Chief Judge may conduct a limited inquiry, interviewing witnesses and examining other available information. You may or may not be contacted as part of this process.

Although the Chief Judge will review your complaint expeditiously, you should not expect an immediate decision. Inquiries about the complaint’s status will not speed the process.

After considering your complaint, the Chief Judge will take one of two actions:

First, the Chief Judge may, by order, terminate your complaint (by “dismissing” or “concluding” it) if there is reason to do so. A complaint will be dismissed if it simply challenges the merits of a Judge’s ruling or decision, if the facts that the complaint describes do not amount to misconduct or disability as described in the Rules, if the complaint does not identify evidence tending to show misconduct or disability, or if the complaint is conclusively refuted by objective evidence from transcripts, witnesses, or other sources. Or the Chief Judge may conclude your complaint if the subject Judge voluntarily takes corrective action that acknowledges and remedies the problem you

complained about. The Chief Judge will conclude your complaint if intervening events--such as the subject Judge's retirement, resignation, or death--have eliminated the need for further action.

Second, if the complaint is not terminated, then the Chief Judge will appoint a Special Committee of Judges to investigate the complaint, as explained in the answer to question 8, below.

**7. If the Chief Judge terminates my complaint and I am not satisfied with the reasons given, do I have any further remedy under these procedures?**

Yes. If the Chief Judge terminates your complaint, you will receive a copy of the resulting order, and you will be notified of your right to petition the Tax Court's Judicial Conduct and Disability Council for review. If you wish to exercise this option, you must submit a petition within 42 days from the date on the Court's order that informed you of the Chief Judge's order. If you do not make a timely request for such review, the Chief Judge's order will be the final action on your complaint.

Your petition for review by the Tax Court's Judicial Conduct and Disability Council must be in letter form, addressed to the Clerk of the Court, in an envelope marked "MISCONDUCT PETITION" or "DISABILITY PETITION." The name of the subject Judge must not be written on the envelope. The letter should be typed or otherwise legible and should begin with "I hereby petition the Judicial Conduct and Disability Council for review of ..." and state the reasons why the petition should be granted. It must be signed.

After considering your petition for review, the Judicial Conduct and Disability Council will act on it. The Council might affirm the Chief Judge's disposition (i.e., it might agree that the complaint was properly terminated), or it might return the matter to the Chief Judge for further inquiry or for appointment of a special investigating committee.

You will be given a copy of the Judicial Conduct and Disability Council's order acting on your petition. If the order is not in your favor and no member of the Judicial Conduct and Disability Council dissented, you have no further right of review. If there is a dissent, you may submit a petition for further review by the Committee on Judicial Conduct and Disability of the Judicial Conference of the United States. Your petition must be submitted within 42 days from the date of the order issued by the Tax Court's Judicial Conduct and Disability Council. To submit such a petition, send a brief written

statement to the Committee on Judicial Conduct and Disability at JCD\_PetitionforReview@ao.uscourts.gov or to: Judicial Conference Committee on Judicial Conduct and Disability, Attn: Office of General Counsel, Administrative Office of the United States Courts, One Columbus Circle, N.E., Washington, D.C. 20544.

**8. What happens if my complaint is not terminated but instead is referred to a Special Committee?**

If the Chief Judge refers your complaint to a Special Committee, you will receive a copy of the order naming the Committee's members. That Committee will investigate the matter and report to the Judicial Conduct and Disability Council.

In its investigation, the Special Committee may conduct any interviews and hearings it considers necessary. If the Special Committee determines that you might possess evidence not already available in writing, its representative may interview you. You may, unaided or through counsel, submit written argument to the Special Committee.

Upon concluding its investigation, the Special Committee will submit a report of its findings and recommendations to the Judicial Conduct and Disability Council. The Judicial Conduct and Disability Council may, but need not, provide you with a copy of the report.

The Judicial Conduct and Disability Council will consider the Special Committee's report and, once its review of the complaint is complete, will prepare an order acting on the complaint. The order may terminate the complaint (by dismissing or concluding it). Or the order may prescribe other remedial action. The possible remedial actions are set out in Rule 20(b)(D) of the Rules, and they range from private censure of the subject Judge to a recommendation of removal of that Judge from office.

You will be given a copy of the Judicial Conduct and Disability Council's order. If you disagree with the order, and the Council has not referred your complaint to the Judicial Conference of the United States, you may submit a petition for review with the Committee on Judicial Conduct and Disability of the Judicial Conference. Your petition must be submitted within 42 days from the date of the order issued by the Tax Court's Judicial Conduct and Disability Council. See the answer to question 7 for information on where and how to submit your petition.

**9. To what extent is the consideration of my complaint confidential?**

The consideration of a complaint is confidential, although, in extraordinary circumstances, the Chief Judge may publicly disclose the complaint's existence. You should not give or copy your complaint to any Judge or any other office or Tax Court employee. Also, you should not communicate in any way about your complaint with Judges or other Tax Court employees except at their request or as otherwise allowed by the Rules.

When a complaint has received final action and is no longer subject to any right of review, orders on that complaint are made publicly available in the Office of the Clerk of the Court and will also be posted on the Tax Court's website. Public orders usually will not disclose the name of the complainant or the subject judge.

**10. What happens if I abuse the conduct and disability complaint process?**

If you abuse the judicial conduct or disability complaint process by submitting frivolous or repetitive complaints, you may be restricted from submitting further complaints. You would first be given an opportunity to show cause in writing why your right to submit further complaints should not be restricted.