



OFFICE OF THE CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

April 26, 2016

Stephanie A. Servoss
Clerk of the Court
United States Tax Court
400 Second Street, NW, Room 111
Washington, DC 20217

Reference: Interim and Proposed Amendments to the Tax Court Rules
of Practice and Procedure

Dear Ms. Servoss:

On behalf of the IRS Office of Chief Counsel, thank you for the opportunity to comment on the interim and proposed amendments to the Tax Court Rules of Practice and Procedure, announced by press release dated March 28, 2016. The interim and proposed amendments affect Rules 13(e) and 143, Title XXIV.A (Rules 255.1-255.6), Title XXVII (Rules 280-281), Title XXXIV (Rules 350-354), and Form 2, Petition (Simplified Form).

Rule 13. Jurisdiction

We do not have any comments on the text of amended Rule 13(e), but recommend a revision to the explanation of the Rule. The Internal Revenue Code (section 6015(e)(6)) provides an additional 60 days to petition an innocent spouse determination following the suspension under title 11 of the United States Code, but provides only an additional 30 days following the bankruptcy suspension to file a petition for review of a lien or levy action. I.R.C. § 6330(d)(2). The additional 30 days provided in section 6330(d)(2) also applies to petitions under section 6320. Accordingly, we recommend the following revision to the explanation for the amendment to Rule 13(e):

Rule 13(e) is proposed to be amended to reflect amendments to Code sections 6015(e) and 6330(d). Section 424 of the Protecting Americans from Tax Hikes Act of 2015 (PATH Act), Pub. L. 114-113, ____ Stat. ____, amended Code sections 6015(e) and 6330(d) to provide that the period for filing a petition for review of a claim for spousal relief or a petition for review of a lien or levy action is suspended during the period that a bankruptcy filing under title 11 of the United States Code prevents a taxpayer from petitioning this Court ~~and for 60 days thereafter~~. Thereafter, the period to petition is suspended for an additional 60 days for petitions for review of a claim for spousal relief or for an additional 30 days for petitions for review of a lien or levy action. The amendments made by

PATH Act section 424 apply to petitions filed under section 6015(e), 6320, or 6330 after Dec. 18, 2015.

Title XXIV.A Partnership Actions Under BBA Section 1101

Rule 255.1(b)(3) defines the term “partnership representative” as the person the partnership designates under I.R.C. § 6223(a). Pursuant to section 6223(a), the partnership representative can also mean a person the Secretary selects as the representative, in cases when the partnership has not designated a representative or, for example, the identified representative is not a valid choice. We suggest that the Rule be revised as follows:

(3) The term “partnership representative” means the person designated by the partnership or selected by the Secretary pursuant to Code section 6223(a).

Rule 255.1(c)(1) contemplates that the “partnership representative” will make the election under BBA section 1101(g)(4) to apply the partnership provisions of BBA section 1101. The statute, however, does not state that the partnership representative must make this election. Accordingly, we recommend that proposed Rule 255.1(c)(1) delete the words “through its partnership representative” so that the Rule will read as follows:

(1) A partnership elects under BBA section 1101(g)(4) to apply the partnership provisions of BBA section 1101.

Rule 255.2(b) directs that the petition in a partnership action be titled “Petition for Partnership Action Under BBA Section 1101(b).” Section 1101(b) of the BBA provides for the repeal of the existing electing large partnership provisions. Section 1101(c) enacts the new partnership procedures. Accordingly, we recommend that the flush language of proposed Rule 255.2(b) be revised as follows:

(b) Content of Petition: A petition filed pursuant to this Rule shall be entitled “Petition for Partnership Action Under BBA Section 1101” and shall contain the following:

Rule 255.2(b)(1) requires that the petition provide “[t]he partnership representative’s name, State of legal residence, and mailing address as of the date that the petition is filed.” In the event that the partnership representative is not an individual, but instead an entity that has no legal residence, the Rule should require a statement of the entity’s principal place of business or principal office or agency. In addition, the Rule should account for situations in which the Secretary selects the partnership representative. We therefore recommend that the proposed Rule be revised as follows:

(1) The partnership representative’s name, State of legal residence (or in the case of a partnership representative other than an individual, the partnership

representative’s principal place of business or principal office or agency), and mailing address, each as of the date that the petition is filed, and a separate numbered paragraph stating that the partnership designated or the Secretary selected the partnership representative as its partnership representative.

Form 2. Petition (Simplified Form)

We recommend that amended Form 2, Petition (Simplified Form), include a check-the-box option for the new cause of action under Code section 7345 for Certification and Failure to Reverse Certification Action[s] With Respect to Passports. The draft notice of determination that the Service is developing to implement section 7345 is entitled “Notice of Certification of Your Seriously Delinquent Federal Tax Debt to The Department of State.” Accordingly, we recommend adding a new checkbox styled “Notice of Certification of Your Seriously Delinquent Federal Tax Debt to The Department of State” to paragraph 1 of Form 2.

We also recommend revising the checkbox labels in paragraph 1 of Form 2 to conform with the titles of the interest abatement, worker classification, and innocent spouse determination letters used by the IRS, as follows:

<u>Current petition label</u>	<u>Recommendation</u>
Notice of Final Determination Not to Abate Interest	Notice of Final Determination for [Full/Partial] Disallowance of Interest Abatement Claim
Determination of Worker Classification	Notice of Determination of Worker Classification
Notice of Determination Concerning Your Request for Relief from Joint and Several Liability	Notice of Determination Concerning Relief from Joint and Several Liability Under Section 6015

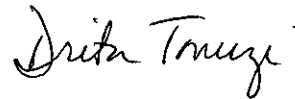
The description of the notices of determination under “Dollar Limits” in the information sheet attached to the form should also be conformed accordingly.

Stephanie A. Servoss

4

We appreciate this opportunity to comment on the interim and proposed amendments to the Court's Rules of Practice and Procedure. Please do not hesitate to contact me if you desire any additional information or wish to discuss our comments and recommendations in further detail.

Sincerely,

A handwritten signature in black ink that reads "Drita Tonuzi". The signature is written in a cursive, flowing style.

Drita Tonuzi
Associate Chief Counsel
(Procedure & Administration)

cc: Juan F. Vasquez, Jr.
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