UNITED STATES TAX COURT

RULES OF PRACTICE AND PROCEDURE

AS AMENDED THROUGH AUGUST 2024

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RULE 1. RULEMAKING AUTHORITY, SCOPE OF RULES, PUBLICATION OF RULES AND AMENDMENTS, CONSTRUCTION

(a) Rulemaking Authority: The United States Tax Court, after giving appropriate public notice and an opportunity for comment, may make and amend rules governing its practice and procedure.

(b) Scope of Rules: These Rules govern the practice and procedure in all actions and proceedings before the Court. If the Rules provide no governing procedure, the Court or the Judge before whom the matter is pending may prescribe the procedure, giving particular weight to the Federal Rules of Civil Procedure to the extent that they are suitably adaptable to govern the matter at hand.

(c) Publication of Rules and Amendments: When the Court proposes new rules or amendments to these Rules, the Court will provide notice of those proposals on its website and provide the Bar and the general public an opportunity for comment. If the Court determines that there is an immediate need for a particular rule or amendment to an existing rule, the Court may proceed without providing a prior opportunity for comment, but will promptly provide public notice and opportunity for comment after the adoption of the rule or amendment.

(d) Construction: The Court's Rules should be construed, administered, and employed by the Court and the parties to secure the just, speedy, and inexpensive determination of every action and proceeding.

(As amended and effective September 20, 2005, 125 T.C. 340–41 and 130 T.C. 374–75; as amended, effective March 20, 2023, 160 T.C. 579. For prior history, see 60 T.C. 1069 (1973); 125 T.C. 340–41 (2005).)

RULE 2. EFFECTIVE DATE

(a) Adoption: These Rules, except as otherwise provided, are effective as of October 3, 2008. They govern all proceedings and cases commenced after they take effect, and also all further proceedings in cases then pending, except to the extent that in the opinion of the Court their application, in a particular case pending when the Rules take effect, would not be feasible or would work injustice, in which event the former procedure applies.

(b) Amendments: Amendments to these Rules shall state their effective date. Amendments shall likewise govern all proceedings both in cases

pending on or commenced after their effective date, except to the extent otherwise provided, and subject to the further exception provided in paragraph (a) of this Rule.

(As amended and effective October 3, 2008, 130 T.C. 375–76. For prior history, see 60 T.C. 1069 (1973); 71 T.C. 1179 (1979); 81 T.C. 1045 (1983); 82 T.C. 1071 (1984); 93 T.C. 844–45 (1989); 109 T.C. 530–31 (1997); 120 T.C. 507–08 (2003).)

RULE 3. TERMS AND DEFINITIONS

(a) **Clerk:** Reference to the Clerk is to the Clerk of the United States Tax Court.

(b) **Code:** Any reference or citation to the Code is to the Internal Revenue Code of 1986, as in effect for the relevant period or the relevant time.

(c) **Commissioner:** Reference to the Commissioner is to the Commissioner of Internal Revenue.

(d) **Division:** The Chief Judge may from time to time divide the Court into Divisions of one or more Judges and, in case of a Division of more than one Judge, designate the chief thereof.

(e) **Paper:** Unless the context indicates otherwise, the term "paper" means a pleading, motion, brief, entry of appearance, or any other document that these Rules require or permit to be filed. A paper filed electronically in compliance with the Court's electronic filing procedures is a written paper for purposes of these Rules.

(f) **Party:** With respect to a common matter in cases consolidated for trial, the references to a "party" in Titles VII, VIII, IX, and X mean any party to any of the consolidated cases involving the common matter.

(g) **Special Trial Judge:** Reference to a Special Trial Judge is to a judicial officer appointed pursuant to Code section 7443A(a). See Rule 180.

(h) **Time:** As provided in these Rules and in orders and notices of the Court, time means standard time in the location mentioned except when advanced time is substituted therefor by law. For computation of time, see Rule 25.

(i) **Website:** Any reference to the Court's website is to the website at www.ustaxcourt.gov.

(As effective October 3, 2008, 130 T.C. 376; as amended, effective November 30, 2018, 153 T.C. 245; effective March 20, 2023, 160 T.C. 580–81. For prior history, see 60 T.C. 1069–70 (1973); 71 T.C. 1179–80 (1979); 85 T.C. 1123 (1985); 93 T.C. 845–46 (1989); 109 T.C. 531 (1997).)

TITLE II. THE COURT

RULE 10. NAME, OFFICE, AND SESSIONS

(a) Name: The Court's name is the United States Tax Court.

(b) Office of the Court: The Court's principal office is in the District of Columbia, but the Court or any of its Divisions may sit at any place within the United States. See Code secs. 7445, 7701(a)(9).

(c) Sessions: The Chief Judge prescribes the times and places of the Court's sessions.

(d) Business Hours: The Clerk's office in Washington, D.C., is open from 8 a.m. to 4:30 p.m. on all days, except Saturdays, Sundays, and legal holidays, for the purpose of receiving any papers. For the definition of the term "legal holiday," see Rule 25(a)(5).

(e) Mailing Address: Mail to the Court must be addressed to the United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217. Other addresses, such as locations at which the Court may be in session, should not be used, unless the Court orders otherwise.

(As effective October 3, 2008, 130 T.C. 377; as amended, effective May 5, 2011, 136 T.C. 603–04; effective March 20, 2023, 160 T.C. 581–82. For prior history, see 60 T.C. 1070–71 (1973); 71 T.C. 1180 (1979); 85 T.C. 1123–24 (1985); 93 T.C. 846–47 (1989).)

RULE 11. PAYMENTS TO THE COURT

(a) General Rule: Payments to the Court for fees or charges may be made either in cash or by check, money order, or other draft made payable to the order of "Clerk, United States Tax Court", and shall be mailed or delivered to the Clerk at Washington, D.C. Alternatively, in accordance with procedures that the Court establishes, payments to the Court for fees or charges may be made electronically through Pay.gov.

(b) Specific Fees: For specific fees and charges, see the Court's Fee Schedule on the Court's website at www.ustaxcourt.gov.

(As amended and generally effective March 1, 2008, 130 T.C. 377–78; as amended, generally effective September 18, 2009, 134 T.C. 305; effective November 30, 2018, 153 T.C. 245–46; effective January 15, 2020, 154 T.C. 307. For prior history, see 60 T.C. 1071 (1973); 87 T.C. 1557 (1986); 93 T.C. 847 (1989); 109 T.C. 532–33 (1997); 120 T.C. 509 (2003).)

RULE 12. COURT RECORDS

(a) Removal of Records: An original record, paper, document, or exhibit filed with the Court shall not be taken from the courtroom, from the offices of the Court, or from the custody of a Judge, a Special Trial Judge, or an employee of the Court, except as authorized by a Judge or Special Trial Judge or except as may be necessary for the Clerk to furnish copies or to transmit the same to other courts for appeal or other official purposes. With respect to return of exhibits after a decision of the Court becomes final, see Rule 143(e)(2).

(b) Copies of Records: After the Court renders its decision in a case, a plain or certified copy of any document, record, entry, or other paper, pertaining to the case and still in the custody of the Court, may be obtained upon application to the Court's Copywork Office and payment of the required fee. Unless otherwise permitted by the Court, no copy of any exhibit or original document in the files of the Court shall be furnished to other than the parties until the Court renders its decision. With respect to protective orders that may restrict the availability of exhibits and documents, see Code section 7461 and Rule 103(a).

(c) Fees: The fees to be charged and collected for any copies will be determined in accordance with Code section 7474. See the Court's Fee Schedule on the Court's website at www.ustaxcourt.gov.

(As effective October 3, 2008, 130 T.C. 378; as amended, effective January 1, 2010, 134 T.C. 305–06; effective May 5, 2011, 136 T.C. 604–05; effective January 15, 2020, 154 T.C. 307–08. For prior history, see 60 T.C. 1071–72 (1973); 93 T.C. 848 (1989); 120 T.C. 510 (2003).)

RULE 13. JURISDICTION

(a) Notice of Deficiency or of Transferee or Fiduciary Liability Required: Except in actions for declaratory judgment (Title XXI), for disclosure (Title XXII), for readjustment or adjustment of TEFRA partnership items (Title XXIV), for BBA partnership actions (Title XXIV.A), for administrative costs (Title XXVI), for review of failure to abate interest (Title XXVII), for redetermination of employment status (Title XXVIII), for determination of relief from joint and several liability (Title XXXI), for lien and levy (Title XXXII), for review of whistleblower awards (Title XXXIII), or for certification actions with respect to passports (Title XXXIV), the jurisdiction of the Court depends: (1) In a case commenced in the Court by a taxpayer, upon the issuance by the Commissioner of a notice of deficiency in income, gift, or estate tax or,

in the taxes under Code Chapter 41, 42, 43, or 44 (relating to the excise taxes on certain organizations and persons dealing with them), or in the tax under Code Chapter 45 (relating to the windfall profit tax), or in any other taxes which are the subject of the issuance of a notice of deficiency by the Commissioner; and (2) in a case commenced in the Court by a transferee or fiduciary, upon the issuance by the Commissioner of a notice of liability to the transferee or fiduciary. See Code secs. 6212, 6213, 6901.

(b) **Declaratory Judgment, Disclosure, Partnership, Administrative Costs, Review of Failure To Abate Interest, Redetermination of Employment Status, Determination of Relief From Joint and Several Liability, Lien and Levy, Whistleblower Action, or Certification Action With Respect to Passports:** For the jurisdictional requirements in an action for declaratory judgment, see Rule 210(c), for a disclosure action, see Rule 220(c), for readjustment or adjustment of TEFRA partnership items, see Rule 240(c), for BBA partnership actions, see Rule 255.1(c), for administrative costs, see Rule 270(c), for review of failure to abate interest, see Rule 280(b), for redetermination of employment status, see Rule 290(b), for large partnership actions, see Rule 300(c), for determination of relief from joint and several liability, see Rule 320(b), for lien and levy actions, see Rule 330(b), for review of whistleblower awards, see Rule 340(b), or for certification actions with respect to passports, see Rule 350(b).

(c) **[Reserved]**

(d) **Contempt of Court:** Contempt of Court may be punished by fine or imprisonment within the scope of Code section 7456(c).

(e) **Bankruptcy and Receivership:** With respect to the filing of a petition or the continuation of proceedings in this Court after the filing of a bankruptcy petition, see 11 U.S.C. section 362(a)(8) and Code sections 6015(e)(6), 6213(f)(1), 6320(c), and 6330(d)(2). With respect to the filing of a petition in this Court after the appointment of a receiver in a receivership proceeding, see Code section 6871(c)(2).

(As amended and generally effective October 3, 2008, 130 T.C. 379–81; as amended, generally effective November 30, 2018, 153 T.C. 246–48; effective August 8, 2024, 161 T.C. ___. For prior history, see 60 T.C. 1072 (1973); 71 T.C. 1181 (1979); 77 T.C. 1427 (1981); 81 T.C. 1046 (1983); 85 T.C. 1124 (1985); 90 T.C. 1355–56 (1988); 93 T.C. 849–50 (1989); 109 T.C. 533–35 (1997); 120 T.C. 510–12 (2003).)

TITLE III. COMMENCEMENT OF CASE, SERVICE AND FILING OF PAPERS, FORM AND STYLE OF PAPERS, APPEARANCE AND REPRESENTATION, COMPUTATION OF TIME

RULE 20. COMMENCEMENT OF CASE

(a) General: A case is commenced by filing a petition with the Court. See Rule 13.

(b) Statement of Taxpayer Identification Number: The petitioner must submit with the petition a statement of the petitioner's taxpayer identification number (e.g., Social Security number or employer identification number) or lack thereof. The statement must be substantially in accordance with Form 4 (Statement of Taxpayer Identification Number) shown in the Appendix.

(c) Disclosure Statement:

(1) *Who Must File; Contents.* A nongovernmental corporate party or a nongovernmental corporation that seeks to intervene must file a disclosure statement that:

(A) identifies any parent corporation and any publicly held corporation owning 10% or more of its stock, or

(B) states that there is no such corporation.

(2) *Time to File; Supplemental Filing.* A party or proposed intervenor must:

(A) file the disclosure statement with its first appearance, pleading, motion, response, or other request addressed to the Court; and

(B) promptly file a supplemental statement if any required information changes.

For the form of a disclosure statement, see Form 6 (Corporate Disclosure Statement) shown in the Appendix.

(d) Filing Fee: A fee of $60 must be paid at the time of filing a petition. The payment of any fee under this paragraph may be waived if the petitioner establishes to the satisfaction of the Court by an affidavit or a declaration containing specific financial information the inability to make the payment.

(As amended and effective March 1, 2008, 130 T.C. 381–83; as amended, effective January 1, 2010, 134 T.C. 306–08; effective May 5, 2011, 136 T.C. 605–07; effective July 6, 2012, 139 T.C. 523–24; generally effective November 30, 2018, 153 T.C. 248–49; effective March 20, 2023, 160 T.C. 582–83. For prior history, see 60 T.C. 1073 (1973); 71 T.C. 1182 (1979); 77 T.C. 1428 (1981); 85 T.C. 1124–25 (1985); 90 T.C. 1356 (1988); 93 T.C. 851 (1989); 109 T.C. 535–36 (1997); 120 T.C. 512–13 (2003).)

RULE 21. SERVICE OF PAPERS

(a) When Required: Unless the Court orders otherwise, any paper relating to a case, including a disciplinary matter under Rule 202, must be served on every party and other person involved in the matter to which the paper relates.

(b) Manner of Service:

(1) *General:*

(A) *Service by the Clerk:* The Clerk will serve all petitions. Unless a paper is served through the Court's electronic filing and case management system as provided in paragraph (b)(2)(A) of this Rule, the Clerk will serve any paper on a person whose address is sealed or protected due to privacy or security reasons.

(B) *Service by a Party:* Unless these Rules provide otherwise or the Court orders otherwise, all other papers required to be served on a party must be served by the party filing the paper. Unless a paper is served through the Court's electronic filing and case management system, the original paper must be filed with a certificate by a party or a party's counsel that service of that paper has been made on the party to be served or the party's counsel. See Form 9 (Certificate of Service) shown in the Appendix.

(2) *Service Methods:* A paper is served under this Rule by:

(A) sending it to a registered user by filing it with the Court's electronic filing and case management system or sending it by other electronic means that the person to be served consented to in writing–in either of which events service is complete upon filing or sending, but is not effective if the serving party learns that it did not reach the person to be served;

(B) mailing it to a party or a party's counsel at the person's address of record. Service by mail is complete when the

paper is mailed, and the date of mailing will be the date of service;

(C) delivering it to a party, or a party's counsel or authorized representative in the case of a party other than an individual (see Rule 24(b)); or

(D) mailing or delivering it to the Commissioner's counsel at the office address shown in the Commissioner's answer filed in the case or a motion filed in lieu of an answer. If no answer or motion in lieu of an answer has been filed, mail must be directed or delivered to the Chief Counsel, Internal Revenue Service, Washington, D.C. 20224.

(3) *Service on Nonparty:* The rules for service on a party also apply to service on a person who is not a party, unless these Rules provide or the Court orders otherwise.

(4) *Consolidated Cases:* In cases consolidated pursuant to Rule 141, unless a paper is served through the Court's electronic filing and case management system, a party making service of a paper must serve each of the other parties or counsel for each of the other parties, and the original of each paper required to be filed with the Court must have a certificate of service attached.

(5) *Counsel of Record:* Whenever these Rules require or permit service to be made on a party represented by counsel who has entered an appearance, service must be made on that counsel unless the Court orders service on the party. In the case of paper service, if more than one counsel appears for a party, service ordinarily is required to be made only on that counsel whose appearance was first entered of record. If that counsel files a designation of counsel to receive service, however, and notifies the Court that other counsel is to receive service, service is required to be made only on the person so designated.

(6) *Writs and Process:* Service and execution of writs, process, or similar directives of the Court may be made by a United States marshal, by a deputy marshal, or by a person specially appointed by the Court for that purpose, except that a subpoena may be served as provided in Rule 147(b). The person making service must make proof thereof to the Court promptly and in any event within the time in which the person served must respond. Failure to make proof of service does not affect the validity of the service.

(c) Change of Mailing Address or Email Address: A party, party's counsel, or party's duly authorized representative in the case of a party other than an individual (see Rule 24(e)) whose mailing address or email address has changed must promptly notify the Court by a notice of

change of address. A separate notice of change of address must be filed for each docket number. For the form of such notice, see Form 10 (Notice of Change of Address) shown in the Appendix.

(As amended and generally effective October 3, 2008, 130 T.C. 383–86; as amended, effective January 1, 2010, 134 T.C. 308–12; effective October 6, 2020, 155 T.C. 301–03; effective March 20, 2023, 160 T.C. 583–87. For prior history, see 60 T.C. 1073–75 (1973); 71 T.C. 1182–84 (1979); (1983); 109 T.C. 536–37 (1997).)

RULE 22. FILING

(a) General Rule: Except for a paper filed electronically in accordance with electronic filing procedures established by the Court, a paper must be filed with the Clerk in Washington, D.C., during business hours.

(b) Exceptions: A Judge or Special Trial Judge presiding at a trial session of the Court may permit or require a paper pertaining thereto to be filed at that session. The Court also may direct that a paper be filed in accordance with another procedure other than the general rule.

(c) Timely Mailing: For the circumstances under which a timely mailed paper will be considered timely filed, see Code section 7502.

(d) Timely Electronic Filing: A paper will be considered timely filed if it is electronically filed at or before 11:59 p.m., eastern time, on the last day of the applicable period for filing.

(As effective October 3, 2008, 130 T.C. 386; as amended, effective May 5, 2011, 136 T.C. 607; effective November 30, 2018, 153 T.C. 249–50. For prior history, see 60 T.C. 1075 (1973); 109 T.C. 538 (1997).)

RULE 23. FORM AND STYLE OF PAPERS

(a) Caption, Date, Signature, and Contact Information Required: Any paper filed with the Court must include the following:

(1) *Caption:* All papers filed with the Court must include a proper caption and must comply with the requirements of Rule 32(a). The caption must include the full name and surname of each individual petitioner, omitting all prefixes and titles such as "Mr.", "Ms.", or "Dr." The name of an estate or trust or other person for whom a fiduciary acts must precede the fiduciary's

name and title, as for example "Estate of Mary Doe, Deceased, Richard Roe, Executor."

(2) *Date:* The date of signature must be placed on all papers filed with the Court.

(3) *Signature and Contact Information:* A person's name on a signature block on a paper that the person authorized to be filed electronically, and that is so filed, constitutes the person's signature. Any other paper to be filed with the Court must bear the original signature of the party's counsel, or of the party personally if the party is self-represented, unless these Rules provide otherwise. An individual rather than a firm name must be used, except that the signature of a petitioner corporation or unincorporated association must be in the name of the corporation or association by one of its active and authorized officers or members, as for example "Mary Doe, Inc., by Richard Roe, President." Except as Rule 23(a)(4) provides, the name, mailing address, email address, and telephone number of the party or the party's counsel, as well as counsel's Tax Court bar number, must be typed or printed immediately beneath the signature. The mailing address of a signatory must include a firm name if it is an essential part of the accurate mailing address.

(4) *Decision Documents:* A decision document, including a proposed decision document, must omit a party's mailing address, email address, and telephone number.

(b) Number Filed: Unless these Rules provide otherwise, a party filing a document in paper form must file a signed original with any attachments. Only one transmission of an electronically filed document is required. As to stipulations, see Rule 91(b).

(c) Legible Papers Required: A paper filed with the Court may be prepared by any process, as long as the paper is clear and legible.

(d) Size and Style:

(1) *Papers:* A paper, including a paper that is filed electronically, must be prepared on a page that is 8½ inches wide by 11 inches long, with side margins on each page that are no less than 1 inch wide, and margins on the top and bottom of each page that are no less than 3/4 inch wide. A typewritten or printed paper must be typed or printed only on one side on opaque, unglazed paper.

(2) *Text, footnotes, and quotations:* Text and footnotes must appear in consistent typeface no smaller than 12 characters per inch produced by a typewriting element, 12-point type produced by a nonproportional print font (e.g., Courier), or 14-point type

produced by a proportional print font (e.g., Times New Roman or Century Schoolbook), with double spacing between each line of text and single spacing between each line of indented quotations and footnotes. Quotations in excess of five lines must be set off from the surrounding text and indented.

(3) *Lines:* Double-spaced lines must be no more than three lines to the vertical inch, and single-spaced lines must be no more than six lines to the vertical inch.

(e) Binding and Covers: A paper filed with the Court in paper form should not have a back or cover and may only be bound using a removable fastener.

(f) Citations: All citations of case names must be underscored or in italics.

(g) Acceptance by the Clerk: Except as otherwise directed by the Court, the Clerk must not refuse to file a paper solely because it is not in the form prescribed by these Rules.

(As effective October 3, 2008, 130 T.C. 386–88; as amended, generally effective July 6, 2012, 139 T.C. 524–28; effective November 30, 2018, 153 T.C. 250–52; effective March 20, 2023, 160 T.C. 587–90. For prior history, see 60 T.C. 1075–77 (1973); 81 T.C. 1047–48 (1983); 93 T.C. 853–55 (1989); 109 T.C. 538–40 (1997).)

RULE 24. APPEARANCE AND REPRESENTATION

(a) Appearance:

(1) *General:* Counsel may enter an appearance by signing and filing:

(A) the petition or other initial pleading or document;

(B) an entry of appearance; or

(C) a substitution of counsel in accordance with paragraph (d).

See Rules 22, 23, and 26 relating to signing and filing papers with the Court.

(2) *Required Information:* Any paper that counsel may use to enter an appearance must include:

(A) the case name and docket number (if any); and

(B) counsel's name, mailing address, email address (if any), telephone number, and Tax Court bar number.

(3) *Counsel Not Admitted to Practice:* An entry of appearance filed by counsel not admitted to practice before the Court is not

effective until counsel is admitted. Where it appears that counsel who is not admitted to practice can and will be promptly admitted to practice, the Court may recognize that counsel in a pending case. See Rule 200 regarding the procedure for admission to practice before the Court and Rule 201(a) regarding conduct of practice before the Court.

(4) *Limited Appearance and Special Recognition:*

(A) *Limited Appearance:* Counsel may file a limited entry of appearance to the extent permitted by the Court.

(B) *Special Recognition:* The Court may, in its discretion, temporarily recognize an individual as the party's representative, and no entry of appearance is necessary.

(5) *Law Student Assistance:* A law student may assist counsel with drafting a pleading or other document to be filed with the Court. In addition, with the permission of the presiding Judge or Special Trial Judge, and under counsel's direct supervision, a law student may present all or any part of the party's case at a hearing or trial. A law student may not, however, enter an appearance in any case, be recognized as counsel in a case, or sign a pleading or other document filed with the Court.

(b) Representation Without Counsel:

(1) *General:* A party that is not represented by counsel may proceed as follows:

(A) an individual may represent himself or herself;

(B) an authorized officer may represent a corporation;

(C) an authorized individual may represent an unincorporated association; and

(D) a fiduciary may represent an estate or trust.

See Rule 60 regarding proper parties and capacity.

(2) *Required Information:*

(A) The initial pleading or other paper filed by a party must include the party's name, mailing address, email address (if any), and telephone number.

(B) If the initial pleading or other paper is filed by an authorized officer, authorized individual, or fiduciary, it must also include that person's name, mailing address, email address (if any), telephone number, and capacity in which that person is appearing.

(c) Withdrawal of Counsel:

(1) *Notice of Withdrawal as Counsel:* Counsel desiring to withdraw as counsel for a party may file a notice of withdrawal as counsel if:

(A) more than one counsel entered appearances for that party and at least one counsel will continue to serve as counsel for that party;

(B) the notice of withdrawal is filed no later than 30 days before the first day of the Court's session at which the case is calendared for trial; and

(C) there is no objection to the withdrawal.

(2) *Motion To Withdraw as Counsel:* Counsel desiring to withdraw as counsel for a party but who is ineligible to do so under paragraph (c)(1) must file a motion to withdraw as counsel.

(3) *Motion To Withdraw Counsel by Party:* A party desiring to withdraw the appearance of that party's counsel must file a motion to withdraw counsel by party.

(4) *General Requirements:*

(A) Any notice or motion under this paragraph must include a statement that counsel or the party provided prior notice of the notice or motion to the counsel's client or the party's counsel and to each of the other parties to the case or their counsel and whether there is any objection to the motion.

(B) Any motion to withdraw as counsel or to withdraw counsel must also include the party's then-current mailing address, email address (if any), and telephone number.

(d) Substitution of Counsel:

(1) No later than 30 days before the first day of the Court's session at which the case is calendared for trial, counsel who has not previously appeared for a party in that case may enter an appearance by filing a substitution of counsel substantially in the form set forth in the Appendix, Form 8.

(2) The substitution of counsel must state that:

(A) substituted counsel enters an appearance for the party;

(B) current counsel's appearance is withdrawn for the party;

(C) current counsel provided prior notice of the substitution to the counsel's client and to each other party or their counsel; and

(D) there is no objection to the substitution.

(3) The substitution of counsel must be signed by current counsel and by substituted counsel, contain the information required by paragraph (a)(2), and be filed by the substituted counsel.

(4) Counsel entering an appearance as substituted counsel within 30 days of the first day of the Court's session at which the case is calendared for trial must file an entry of appearance under paragraph (a), and any related withdrawal of counsel must be undertaken in accordance with paragraph (c).

(e) Change in Required Information: A party or counsel must promptly notify the Clerk in writing of any change in the information required under this Rule, or of the death of counsel, for each docket number involving that party or in which counsel has entered an appearance.

(f) Change in Party or Authorized Representative or Fiduciary: Where (1) a party other than an individual participates in a case through an authorized representative (such as an officer of a corporation or a member of an association) or through a fiduciary, and there is a change in the representative or fiduciary, or (2) there is a substitution of parties in a pending case, counsel signing the motion resulting in the Court's approval of the change or substitution will thereafter be deemed first counsel of record for the representative, fiduciary, or party. Counsel of record for the former representative, fiduciary, or party desiring to withdraw as counsel must file a motion in accordance with paragraph (c)(2).

(g) Limitations on Representation:

(1) *Conflict of Interest:* If any counsel of record (A) was involved in planning or promoting a transaction or operating an entity that is connected to any issue in a case, or (B) represents more than one person with differing interests with respect to any issue in a case, then that counsel must either secure the client's informed written consent; withdraw from the case; or take whatever other steps are necessary to obviate a conflict of interest or other violation of the ABA Model Rules of Professional Conduct. See Rules 1.7 and 1.8, ABA Model Rules of Professional Conduct. The Court may inquire into the circumstances of counsel's employment in order to deter such violations. See Rule 201.

(2) *Counsel as Witness:*

(A) Counsel may not represent a party at trial if the counsel is likely to be a necessary witness within the meaning of the ABA Model Rules of Professional Conduct unless: (i) the testimony relates to an uncontested issue; (ii) the

testimony relates to the nature and value of legal services rendered in the case; or (iii) disqualification of counsel would work substantial hardship on the client. See Rule 3.7, ABA Model Rules of Professional Conduct.

(B) Counsel may represent a party at trial in which another professional in the counsel's firm is likely to be called as a witness unless precluded from doing so under the ABA Model Rules of Professional Conduct. See Rules 1.7 and 1.9, ABA Model Rules of Professional Conduct.

(As effective October 3, 2008, 130 T.C. 388–91; as amended, effective May 5, 2011, 136 T.C. 607–11; October 6, 2020, 155 T.C. 303–09. For prior history, see 60 T.C. 1077–79 (1973); 81 T.C. 1048–49 (1983); 93 T.C. 855–59 (1989); 109 T.C. 540–44 (1997).)

RULE 25. COMPUTATION OF TIME

(a) Computing Time: The following Rules apply in computing any time period specified in these rules, in any Court order, or in any statute that does not specify a method of computing time.

(1) *Period Stated in Days:* If a period is stated in days or a longer unit of time:

(A) exclude the day of the event that triggers the period;

(B) count every day, including intermediate Saturdays, Sundays, and legal holidays; and

(C) include the last day of the period, but if the last day is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

(2) *Inaccessibility of the Clerk's Office:* Unless the Court orders otherwise, if the Clerk's Office is inaccessible on the last day of a filing period, the time for filing any paper other than a petition is extended to the first accessible day that is not a Saturday, Sunday, or legal holiday. For the circumstances under which the period for filing a petition is tolled when a filing location is inaccessible, see Code section 7451(b).

(3) *"Last Day" Defined:* Unless a different time is set by a statute or Court order, the last day ends:

(A) for electronic filing, at 11:59 p.m. Eastern Time; and

(B) for filing by other means, when the Clerk's Office is scheduled to close.

(4) *"Next Day" Defined:* The "next day" is determined by continuing to count forward if the period is measured after an event and backward if the period is measured before an event.

(5) *"Legal Holiday" Defined:* "Legal holiday" means:

(A) the day set aside by statute for observation of New Year's Day, Martin Luther King Jr.'s Birthday, Inauguration Day, Washington's Birthday, Memorial Day, Juneteenth National Independence Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, or Christmas Day;

(B) any day declared a holiday by the President or Congress; and

(C) any other day that the District of Columbia has declared a holiday, including District of Columbia Emancipation Day—April 16.

(b) Extending Time:

(1) *In General:* Unless precluded by statute, if an act may or must be done within a specified time, the Court may, for good cause, extend the time:

(A) with or without motion or notice if the Court acts, or if a request is made, before the original time or its extension expires; or

(B) on motion made after the time has expired if the party failed to act because of excusable neglect.

As to continuances, see Rule 133.

(2) *Special Rules:*

(A) If a motion is made concerning jurisdiction or the sufficiency of a pleading, the time for filing a responsive pleading to that pleading begins to run from the date of service of the Court's order disposing of the motion, unless the Court orders otherwise.

(B) If the Court has issued an order directing the filing of an amendment, supplement, or ratification of any pleading, the time for filing a responsive pleading begins to run from the date of service of the amendment, supplement, or ratification, unless the Court orders otherwise.

(C) The period fixed by statute, within which to file a petition with the Court, cannot be extended by the Court.

(D) After the dates for filing briefs are fixed, an extension of time for filing a brief or the granting of leave to file a brief after the due date correspondingly extends the time for filing any other brief due at the same time and for filing succeeding briefs, unless the Court orders otherwise.

(c) Reducing Time: The Court in its discretion may shorten any period provided by these Rules.

(As amended and generally effective October 3, 2008, 130 T.C. 391–94; as amended, generally effective November 30, 2018, 153 T.C. 252–53; effective March 20, 2023, 160 T.C. 591–93. For prior history, see 60 T.C. 1079–81 (1973); 71 T.C. 1184–85 (1979); 81 T.C. 1049–50 (1983); 85 T.C. 1125 (1985); 90 T.C. 1356–57 (1988); 93 T.C. 859–61 (1989); 109 T.C. 544–46 (1997); 120 T.C. 519–21 (2003).)

RULE 26. ELECTRONIC FILING

(a) General: Unless the Court orders otherwise, the Court will accept for filing by a party any papers submitted, signed, or verified by electronic means that comply with procedures established by the Court. See Rule 3(e) (defining the term "Paper") and Rule 23, Form and Style of Papers.

(b) Electronic Filing Requirement:

(1) *Parties Represented by Counsel:*

(A) *General Rule:* Electronic filing is required for all papers filed by a party represented by counsel, unless the Court orders otherwise.

(B) *Exceptions:* Mandatory electronic filing does not apply to:

(i) any papers not eligible for electronic filing (for a complete list of those papers, see the Court's electronic filing instructions on the Court's website); and

(ii) any counsel in a case who for good cause shown is granted an exemption from the electronic filing requirement.

(2) *Self-Represented Petitioners:* A self-represented petitioner, including a petitioner assisted by a low-income taxpayer clinic or Bar-sponsored pro bono program, is not subject to mandatory electronic filing requirements.

(As adopted, effective January 1, 2010, 135 T.C. 617; as amended, generally effective July 6, 2012, 139 T.C. 528–29; effective March 20, 2023, 160 T.C. 594.)

RULE 27. PRIVACY PROTECTION FOR FILINGS MADE WITH THE COURT

(a) Redacted Filings: Unless these Rules provide otherwise or the Court orders otherwise, in an electronic or paper filing with the Court, a party or nonparty making the filing must refrain from including or must take appropriate steps to redact the following information:

(1) *Taxpayer identification numbers:* These include, for example, Social Security numbers and employer identification numbers.

(2) *Dates of birth:* If a date of birth is provided, only the year should appear.

(3) *Names of minor children:* If a minor child is identified, only the minor child's initials should appear.

(4) *Financial account numbers:* If a financial account number is provided, only the last four digits of the number should appear.

(b) Limitations on Remote Access to Electronic Files: Unless the Court orders otherwise, access to electronic files is authorized as follows:

(1) The parties and their counsel may have remote electronic access to any part of the case file maintained by the Court in electronic form; and

(2) any other person may have electronic access at the courthouse to the public record maintained by the Court in electronic form, but may have remote electronic access only to:

(A) the docket record maintained by the Court; and

(B) any opinion, order, or decision of the Court, but not any other part of the case file.

(c) Filings Made Under Seal: The Court may order that a filing containing any of the information described in paragraph (a) of this Rule be made under seal without redaction. The Court may later unseal the filing or order the person who made the filing to file a redacted version for the public record.

(d) Protective Orders: For good cause, the Court may by order:

(1) require redaction of additional information; or

(2) issue a protective order as provided by Rule 103(a).

(e) Option for Additional Unredacted Filing Under Seal: A person making a redacted filing may also file an unredacted copy under seal. The Court will retain the unredacted copy as part of the record.

(f) Option for Filing a Reference List: A document that contains redacted information may be filed together with a reference list that identifies each item of redacted information and specifies an appropriate identifier that uniquely corresponds to each item listed. The list must be filed with a motion to seal and may be amended as of right. Any reference in the case to a listed identifier will be construed to refer to the corresponding item of information.

(g) Waiver of Protection of Identifiers: A person waives the protection of this Rule as to the person's own information by filing it without redaction and not under seal. The Clerk is not required to review documents filed with the Court for compliance with this Rule. The responsibility to redact a filing rests with the person making the filing.

(h) Inadvertent Disclosure: A person may correct an inadvertent disclosure of identifying information in a prior filing by submitting a properly redacted duplicate filing (complete with attachments) within 60 days of the original filing without leave of Court, and thereafter only by leave of Court.

(i) Service on a Party Whose Address Is Subject to a Protective Order: For service of papers on a party whose address is sealed or protected due to privacy or security reasons, see Rule 21(b)(1).

(As adopted, generally effective March 1, 2008, 130 T.C. 394–401; as amended, effective March 20, 2023, 160 T.C. 595–97.)

TITLE IV. PLEADINGS

RULE 30. PLEADINGS ALLOWED

There shall be a petition and an answer, and, where required under these Rules, a reply. No other pleading shall be allowed, except that the Court may permit or direct some other responsive pleading. (See Rule 173 as to small tax cases.)

(As effective October 3, 2008, 130 T.C. 401. For prior history, see 60 T.C. 1081 (1973); 93 T.C. 861–62 (1989); 120 T.C. 521 (2003).)

RULE 31. GENERAL RULES OF PLEADING

(a) Purpose: The purpose of a pleading is to give the parties and the Court fair notice of the matters in controversy and the basis for the parties' respective positions.

(b) Pleading To Be Concise and Direct: Each allegation in a pleading must be simple, concise, and direct. No technical form is required.

(c) Consistency: A party may set forth two or more statements of a claim or defense alternatively or hypothetically. If a party makes alternative statements, the pleading is sufficient if any one of them is sufficient. A party may state as many separate claims or defenses as the party has regardless of consistency or the grounds on which based. All statements are subject to the signature requirements of Rules 23(a)(3) and 33.

(d) Construction of Pleadings: A pleading must be construed so as to do justice.

(As effective October 3, 2008, 130 T.C. 402; as amended, effective March 20, 2023, 160 T.C. 597–98. For prior history, see 60 T.C. 1081–82 (1973); 93 T.C. 862 (1989); 109 T.C. 546–47 (1997).)

RULE 32. FORM OF PLEADINGS

(a) Caption; Names of Parties: Every pleading must have a caption that includes the Court's name (United States Tax Court), the names of the parties (the title of the case), and the docket number after it becomes available (see Rule 35),and must designate the type of pleading under Rule 30. The title of a petition must name all the parties and persons on whose behalf the petition is filed. The title of other pleadings, after naming the first party on each side, may refer generally to other parties.

(b) Paragraphs; Separate Statements: A party must state its claims or defenses in numbered paragraphs, each limited as far as practicable to a single set of circumstances. A later pleading may refer by number to a paragraph in an earlier pleading. Each claim and defense must be stated separately whenever a separation facilitates the clear presentation of the matters set forth.

(c) Adoption by Reference; Exhibits: A statement in a pleading may be adopted by reference elsewhere in the same pleading or in any other pleading or motion. A copy of any notice that is an exhibit to a pleading is a part of the pleading for all purposes. No other exhibit may be attached to a pleading.

(d) Other Provisions: With respect to other provisions relating to the form and style of papers filed with the Court, see Rules 23, 56(a), 57(a), 210(d), 220(d), 240(d), 300(d), and 320(c).

(As effective October 3, 2008, 130 T.C. 402–03; as amended, effective March 20, 2023, 160 T.C. 598–99. For prior history, see 60 T.C. 1082–83 (1973); 71 T.C. 1185–86 (1979); 81 T.C. 1050 (1983); 93 T.C. 862–63 (1989); 120 T.C. 522–23 (2003).)

RULE 33. SIGNING OF PLEADINGS

(a) Signature: Each pleading must be signed in the manner provided in Rule 23. If there is more than one counsel of record, the signature of only one is required.

(b) Effect of Signature: Counsel or a party signing a pleading certifies that the signer has read the pleading; that, to the best of the signer's knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law; and that it is not presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation. Counsel's signature also serves as a representation that counsel is authorized to represent the party or parties on whose behalf the pleading is filed. The Court may strike an unsigned pleading, unless it is signed promptly after the omission is called to the counsel's or party's attention. If, after notice and a reasonable opportunity to respond, the Court determines that a pleading has been signed in violation of this Rule, the Court may impose on the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties

the reasonable expenses incurred because of the filing of the pleading, including reasonable counsel's fees.

(As effective October 3, 2008, 130 T.C. 403; as amended, effective July 6, 2012, 139 T.C. 529–30; effective March 20, 2023, 160 T.C. 599–600. For prior history, see 60 T.C. 1083 (1973); 85 T.C. 1125–26 (1985); 93 T.C. 863–64 (1989).)

RULE 34. PETITION

(a) General: A petition must contain the information required by these Rules and must identify the issues presented. If the petition does not comply with these Rules, the case may be dismissed.

(b) Deficiency or Liability Action:

(1) *Content of Petition:* A petition in a deficiency or liability action must be substantially in accordance with Form 1 (Petition) shown in the Appendix and must contain the following:

(A) If the petitioner is an individual, the petitioner's name and State of legal residence.

(B) If the petitioner is not an individual, the petitioner's name and principal place of business or principal office or agency.

(C) The petitioner's mailing address and the office of the Internal Revenue Service with which the tax return for the period in controversy was filed.

(D) The date of the notice and the City and State of the Internal Revenue Office that issued the notice, or other allegations, establishing the Court's jurisdiction.

(E) If the petitioner's name differs from the name on the notice, a statement of the reasons for the difference.

(F) The amount of the deficiency or liability determined by the Commissioner, the nature of the tax, and the year or years or other periods for which the Commissioner determined the deficiency or liability. If only part of the determination is disputed, the petition must state and identify the approximate amount of taxes in dispute.

(G) In separately lettered paragraphs, clear and concise assignments of each and every error, including any assignments of error as to which the burden of proof is on the Commissioner, that the petitioner alleges the Commissioner made in the determination of the deficiency

or liability. Any issue not raised in the assignments of error will be deemed conceded.

(H) In separately lettered paragraphs, clear and concise statements of the facts on which the petitioner relies to establish the errors alleged in the petition, except for those assignments of error as to which the burden of proof is on the Commissioner.

(I) Any special matters as required by Rule 39.

(J) A request for the relief that the petitioner seeks.

(K) The signature, mailing address, email address, and telephone number of each petitioner or each petitioner's counsel, as well as counsel's Tax Court bar number.

(2) *Copy of Notice:* A copy of the notice of deficiency or notice of liability must be attached to the petition.

(3) *Separate Petition; Permissive Joinder; Severance:*

(A) *Separate Petition:* Ordinarily a separate petition must be filed with respect to each notice of deficiency or notice of liability.

(B) *Permissive Joinder of Parties and Claims:* A single petition may be filed with respect to all notices of deficiency or notices of liability issued:

(i) to the same person; or

(ii) to more than one person, such as two spouses, and each person contests the notice or notices. If the notice of deficiency or notice of liability is issued to more than one person, each person wishing to contest the notice must file either a separate petition or a joint petition, and each person must satisfy all the requirements of this Rule in order for the petition to be treated as filed by or for that person.

(C) *Severance:* The Court may issue orders, including an order for separate trials, to protect a party against embarrassment, delay, undue expense, or other prejudice resulting from the joinder of parties or claims.

(c) Petitions in Other Actions:

(1) *Content of Petition:* See the following Rules for the requirements applicable to petitions in other actions: Rule 173(a) (small tax cases); Rules 211(b)–(g) and 311(b) (declaratory judgment actions); Rule 221(b)–(e) (disclosure actions); Rules 241(b)–(e),

255.2(b), 301(b)–(e) (partnership actions); Rule 271(b) (administrative costs actions); Rule 281(b) (abatement of interest actions); Rule 291(b) (redetermination of employment status actions); Rule 321(b) (actions for determination of relief from joint and several liability on a joint return); Rule 331(b) (lien and levy actions); Rule 341(b) (whistleblower actions); and Rule 351(b) (certification actions with respect to passports).

(2) *Joinder of Parties:* See the following Rules with respect to the joinder of parties in other actions: Rule 215 (declaratory judgment actions); Rule 226 (disclosure actions); and Rules 241(h), 255.2(c), and 301(f) (partnership actions).

(d) Use of Form 2 (Petition): The use of a properly completed Form 2 (Petition) shown in the Appendix satisfies the requirements of this Rule.

(e) Filing of Original: Only the signed original of each petition must be filed. For the signature requirement of petitions filed electronically, see Rule 23(a)(3) and the Court's electronic filing instructions on the Court's website.

(f) Claim for Reasonable Litigation or Administrative Costs: A claim for reasonable litigation or administrative costs must not be included in the petition. Such a claim may only be made in accordance with Rule 231. See Title XXVI for the rules that govern actions for administrative costs.

(As amended and generally effective October 3, 2008, 130 T.C. 403–08; as amended, generally effective November 30, 2018, 153 T.C. 254–57; effective March 20, 2023, 160 T.C. 600–03. For prior history, see 60 T.C. 1083–85 (1973); 71 T.C. 1186–87 (1979); 77 T.C. 1428–29 (1981); 79 T.C. 1137 (1982); 81 T.C. 1051 (1983); 87 T.C. 1558–59 (1986); 90 T.C. 1358 (1988); 93 T.C. 864–67 (1989); 109 T.C. 548–51 (1997); 120 T.C. 524–26 (2003).)

RULE 35. ENTRY ON DOCKET

On the Clerk's receipt of the petition, the case will be entered on the docket and assigned a number. The Clerk will notify the parties of the docket number. The parties must include the docket number on all papers thereafter filed in the case and in any correspondence with the Court.

(As effective October 3, 2008, 130 T.C. 408; as amended, effective March 20, 2023, 160 T.C. 603–04. For prior history, see 60 T.C. 1085–86 (1973).)

RULE 36. ANSWER

(a) Time To Answer or Move: The Commissioner has 60 days from the date of service of the petition within which to file an answer, or 45 days from that date within which to move with respect to the petition. With respect to an amended petition or amendments to the petition, the Commissioner has like periods from the date of service of those papers within which to answer or move in response thereto, unless the Court orders otherwise.

(b) Form and Content: The answer must be written so that it will advise the petitioner and the Court fully of the nature of the defense. It must include a specific admission or denial of each material allegation in the petition; however, if the Commissioner is without knowledge or information sufficient to form a belief as to the truth of an allegation, the Commissioner must so state, and that statement will have the effect of a denial. If the Commissioner intends to qualify or to deny only a part of an allegation, the Commissioner must specify so much of it as is true and must qualify or deny only the remainder. In addition, the answer must contain a clear and concise statement of every ground, together with the facts in support thereof, on which the Commissioner relies and has the burden of proof, as well as any special matters as required by Rule 39. Paragraphs of the answer must be designated to correspond to those of the petition to which they relate. If the petition does not include a copy of the notice of deficiency or other relevant jurisdictional document, the answer must include a copy of the notice of deficiency or other relevant jurisdictional document, state that the jurisdictional document is not available at the time, or state that no such document was issued. If the jurisdictional document is not available when the answer is filed, and is not otherwise part of the docket record, the Commissioner must provide a copy of the document, whenever it becomes available, by filing (without leave of the Court) an amendment to the answer.

(c) Effect of Answer: Every material allegation set out in the petition and not expressly admitted or denied in the answer is deemed to be admitted.

(d) Declaratory Judgment, Disclosure, and Administrative Costs Actions: For the requirements applicable to the answer in other actions, see Rules 213(a) (declaratory judgments), 223(a) (disclosure actions), and 272(a) (administrative costs), respectively.

(As effective October 3, 2008, 130 T.C. 408–09; as amended, effective March 20, 2023, 160 T.C. 604–05. For prior history, see 60 T.C. 1086–87 (1973); 71 T.C. 1187 (1979); 93 T.C. 867–68 (1989).)

RULE 37. REPLY

(a) Time To Reply or Move: The petitioner shall have 45 days from the date of service of the answer within which to file a reply, or 30 days from that date within which to move with respect to the answer. With respect to an amended answer or amendments to the answer the petitioner shall have like periods from the date of service of those papers within which to reply or move in response thereto, except as the Court may otherwise direct.

(b) Form and Content: In response to each material allegation in the answer and the facts in support thereof on which the Commissioner has the burden of proof, the reply shall contain a specific admission or denial; however, if the petitioner shall be without knowledge or information sufficient to form a belief as to the truth of an allegation, then the petitioner shall so state, and such statement shall have the effect of a denial. In addition, the reply shall contain a clear and concise statement of every ground, together with the facts in support thereof, on which the petitioner relies affirmatively or in avoidance of any matter in the answer on which the Commissioner has the burden of proof. In other respects the requirements of pleading applicable to the answer provided in Rule 36(b) shall apply to the reply. The paragraphs of the reply shall be designated to correspond to those of the answer to which they relate.

(c) Effect of Reply or Failure Thereof: Where a reply is filed, every affirmative allegation set out in the answer and not expressly admitted or denied in the reply shall be deemed to be admitted. Where a reply is not filed, the affirmative allegations in the answer will be deemed denied unless the Commissioner, within 45 days after expiration of the time for filing the reply, files a motion that specified allegations in the answer be deemed admitted. That motion may be granted unless the required reply is filed within the time directed by the Court.

(d) New Material: Any new material contained in the reply shall be deemed to be denied.

(e) Declaratory Judgment, Disclosure, and Administrative Costs Actions: For the requirements applicable to the reply in declaratory judgment actions and in disclosure actions, see Rules 213(b) and 223(b), respectively. See Rule 272(b) with respect to replies in actions for administrative costs.

(As effective October 3, 2008, 130 T.C. 409–10; as amended, effective January 1, 2010, 134 T.C. 312–13. For prior history, see 60 T.C. 1087–88 (1973); 71 T.C. 1188 (1979); 81 T.C. 1051 (1983); 93 T.C. 869–70 (1989).)

RULE 38. JOINDER OF ISSUE

A case shall be deemed at issue upon the filing of the answer, unless a reply is required under Rule 37, in which event it shall be deemed at issue upon the filing of a reply or the entry of an order disposing of a motion under Rule 37(c) or the expiration of the period specified in Rule 37(c) in case the Commissioner fails to move. With respect to declaratory judgment actions, see Rules 214 and 314, disclosure actions, see Rule 224, partnership actions, see Rules 244, 255.5, and 304, administrative costs actions, see Rule 273, abatement of interest actions, see Rule 284, actions for redetermination of employment status, see Rule 294, actions for determination of relief from joint and several liability on a joint return, see Rule 324, lien and levy actions, see Rule 334, whistleblower actions, see Rule 344, and certification actions with respect to passports, see Rule 354.

(As effective October 3, 2008, 130 T.C. 410; as amended, generally effective November 30, 2018, 153 T.C. 257–58. For prior history, see 60 T.C. 1088 (1973); 71 T.C. 1188 (1979); 90 T.C. 1358–59 (1988); 93 T.C. 870 (1989); 120 T.C. 528–29 (2003).)

RULE 39. PLEADING SPECIAL MATTERS

A party shall set forth in the party's pleading any matter constituting an avoidance or affirmative defense, including res judicata, collateral estoppel, estoppel, waiver, duress, fraud, and the statute of limitations. A mere denial in a responsive pleading will not be sufficient to raise any such issue.

(As effective October 3, 2008, 130 T.C. 411. For prior history, see 60 T.C. 1088 (1973); 93 T.C. 870–71 (1989).)

RULE 40. DEFENSES AND OBJECTIONS MADE BY PLEADING OR MOTION

Every defense, in law or fact, to a claim for relief in any pleading shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may, at the option of the pleader, be made by motion: (a) Lack of jurisdiction, and (b) failure to state a claim upon which relief can be granted. If a pleading sets forth a claim for relief to which the adverse party is not required to file

a responsive pleading, then such party may assert at the trial any defense in law or fact to that claim for relief. If, on a motion asserting failure to state a claim on which relief can be granted, matters outside the pleading are to be presented, then the motion shall be treated as one for summary judgment and disposed of as provided in Rule 121, and the parties shall be given an opportunity to present all material made pertinent to a motion under Rule 121.

(As effective October 3, 2008, 130 T.C. 411. For prior history, see 60 T.C. 1088 (1973); 71 T.C. 1188–89 (1979); 93 T.C. 871 (1989).)

RULE 41. AMENDED AND SUPPLEMENTAL PLEADINGS

(a) Amendments: A party may amend a pleading once as a matter of course at any time before a responsive pleading is served. If the pleading is one to which no responsive pleading is permitted and the case has not been placed on a trial calendar, a party may so amend it at any time within 30 days after it is served. Otherwise a party may amend a pleading only by leave of Court or by written consent of the adverse party, and leave will be given freely when justice so requires. A motion for leave to amend a pleading must state the reasons for the amendment and must be accompanied by the proposed amendment. The proposed amendment to the pleading must be separately set forth and must comply with the requirements of Rule 23 regarding form and style of papers filed with the Court. See Rules 36(a) and 37(a) for time for responding to amended pleadings.

(b) Amendments To Conform to the Evidence:

(1) *Issues Tried by Consent:* Issues not raised by the pleadings but tried by express or implied consent of the parties are treated in all respects as if raised in the pleadings. The Court, on motion of any party at any time, may allow any amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues, but failure to amend does not affect the result of the trial of these issues.

(2) *Other Evidence:* If a party objects to evidence on the ground that it is not within the issues raised by the pleadings, the Court may receive the evidence and at any time allow the pleadings to be amended to conform to the proof. The Court will do so freely when justice so requires and the objecting party fails to satisfy the Court that the admission of the evidence will prejudice that party's position on the merits.

(3) *Filing:* The amendment or amended pleadings permitted under this paragraph (b) may be filed with the Court at the trial or as otherwise ordered by the Court.

(c) Supplemental Pleadings: On motion, the Court may, on just terms, permit a party to file a supplemental pleading setting out any transaction, occurrences, or event that happened after the date of the pleading to be supplemented. The Court may permit supplementation even though the original pleading is defective in stating a claim or defense. The Court may order that the opposing party respond to the supplemental pleading within a specified time.

(d) Relation Back of Amendments: An amendment to a pleading relates back to the date of the original pleading, unless the Court orders otherwise either on motion or on its own.

(As effective October 3, 2008, 130 T.C. 411–12; as amended, effective March 20, 2023, 160 T.C. 605–07; effective August 8, 2024, 161 T.C. ___. For prior history, see 60 T.C. 1089–90 (1973); 93 T.C. 871–73 (1989).)

TITLE V. MOTIONS

RULE 50. GENERAL REQUIREMENTS

(a) Form and Content of Motion: An application to the Court for an order shall be by motion in writing, which shall state with particularity the grounds therefor and shall set forth the relief or order sought. The motion shall show that prior notice thereof has been given to each other party or counsel for each other party and shall state whether there is any objection to the motion. If a motion does not include such a statement, the Court will assume that there is an objection to the motion. Unless the Court directs otherwise, motions made during a hearing or trial need not be in writing. The rules applicable to captions, signing, and other matters of form and style of pleadings apply to all written motions. See Rules 23, 32, and 33(a). The effect of a signature on a motion shall be as set forth in Rule 33(b).

(b) Disposition of Motions: A motion may be disposed of in one or more of the following ways, in the discretion of the Court:

(1) The Court may take action after directing that a written response be filed. In that event, the opposing party shall file such response within such period as the Court may direct. Written response to a motion shall conform to the same requirements of form and style as apply to motions.

(2) The Court may take action after directing a hearing, which may be held in Washington, D.C. The Court may, on its own motion or upon the written request of any party to the motion, direct that the hearing be held at some other location which serves the convenience of the parties and the Court.

(3) The Court may take such action as the Court in its discretion deems appropriate, on such prior notice, if any, which the Court may consider reasonable. The action of the Court may be taken with or without written response, hearing, or attendance of a party to the motion at the hearing.

(c) Attendance at Hearings: If a motion is noticed for hearing, then a party to the motion may, prior to or at the time for such hearing, submit a written statement of such party's position together with any supporting documents. Such statement may be submitted in lieu of or in addition to attendance at the hearing.

(d) Defects in Pleading: Where the motion or order is directed to defects in a pleading, prompt filing of a proper pleading correcting the defects may obviate the necessity of a hearing thereon.

(e) Postponement of Trial: The filing of a motion shall not constitute cause for postponement of a trial. With respect to motions for continuance, see Rule 133.

(f) Effect of Orders: Orders shall not be treated as precedent, except as may be relevant for purposes of establishing the law of the case, res judicata, collateral estoppel, or other similar doctrine.

(As amended and effective March 1, 2008, 130 T.C. 413–14; as amended, effective January 1, 2010, 134 T.C. 313–14; effective May 5, 2011, 136 T.C. 611–12. For prior history, see 60 T.C. 1090–92 (1973); 81 T.C. 1051–52 (1983); 93 T.C. 873–74 (1989); 109 T.C. 556–58 (1997).)

RULE 51. MOTION FOR MORE DEFINITE STATEMENT

(a) General: If a pleading to which a responsive pleading is permitted or required is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, then the party may move for a more definite statement before interposing a responsive pleading. The motion shall point out the defects complained of and the details desired. See Rules 70 and 90 for procedures available to narrow the issues or to elicit further information as to the facts involved or the positions of the parties.

(b) Penalty for Failure of Response: The Court may strike the pleading to which the motion is directed or may make such other order as it deems just, if the required response is not made within such period as the Court may direct.

(As effective October 3, 2008, 130 T.C. 415. For prior history, see 60 T.C. 1092–93 (1973); 93 T.C. 874–75 (1989).)

RULE 52. MOTION TO STRIKE

Upon motion made by a party before responding to a pleading or, if no responsive pleading is permitted by these Rules, upon motion made by a party within 30 days after the service of the pleading, or upon the Court's own initiative at any time, the Court may order stricken from any pleading any insufficient claim or defense or any redundant, immaterial, impertinent, frivolous, or scandalous matter. In like manner and procedure, the Court may order stricken any such objectionable matter from briefs, documents, or any other papers or responses filed with the Court.

(As effective October 3, 2008, 130 T.C. 415. For prior history, see 60 T.C. 1093 (1973).)

RULE 53. MOTION TO DISMISS

A case may be dismissed for cause upon motion of a party or upon the Court's initiative.

(As effective October 3, 2008, 130 T.C. 415. For prior history, see 60 T.C. 1093 (1973).)

RULE 54. TIMELY FILING AND JOINDER OF MOTIONS

(a) Timely Filing: Unless otherwise permitted by the Court, motions must be made timely.

(b) Joinder of Motions: Unless otherwise permitted by the Court, motions shall be separately stated and not joined together, except that motions may be joined in the following instances: (1) Motions under Rules 51 and 52 directed to the same pleading or other paper; and (2) motions under Rule 56 for the review of a jeopardy assessment and for the review of a jeopardy levy, but only if the assessment and the levy are the subject of the same written statement required by Code section 7429(a)(1).

(As amended and effective March 1, 2008, 130 T.C. 415–16. For prior history, see 60 T.C. 1093 (1973); 81 T.C. 1052 (1983); 93 T.C. 875–76 (1989).)

RULE 55. MOTION TO RESTRAIN ASSESSMENT OR COLLECTION OR TO ORDER REFUND OF AMOUNT COLLECTED

A motion to restrain assessment or collection or to order refund of any amount collected may be filed with the Court only where a timely petition has been filed with the Court. See Code secs. 6015(e)(1)(B)(ii), 6213(a), 6225(b), 6246(b), 6330(e), 7436(d). For the rules applicable to captions, signing, and other matters of form and style of motions, see Rule 50(a).

(As amended and effective October 3, 2008, 130 T.C. 416. For prior history, see 93 T.C. 876–77 (1989); 120 T.C. 533–34 (2003).)

RULE 56. MOTION FOR REVIEW OF JEOPARDY ASSESSMENT OR JEOPARDY LEVY

(a) Commencement of Review:

(1) *How Review Is Commenced:* Review of a jeopardy assessment or a jeopardy levy under Code section 7429(b) shall be commenced by filing a motion with the Court. The petitioner shall place on the motion the same docket number as that of a then-pending action under Code section 6213(a) which provides the jurisdictional nexus for review required by Code section 7429(b)(2)(B). The motion shall be styled "Motion for Review of Jeopardy Assessment" or "Motion for Review of Jeopardy Levy", as may be appropriate. As to joinder of such motions, see Rule 54(b).

(2) *When Review Is Commenced:* The motion under subparagraph (1) shall be filed within the time provided by Code section 7429(b)(1).

(b) Service of Motion: A motion filed with the Court pursuant to this Rule shall be served by the petitioner on counsel for the Commissioner (as specified in Rule 21(b)(1)) in such manner as may reasonably be expected to reach the Commissioner's counsel not later than the day on which the motion is received by the Court.

(c) Content of Motion: A motion filed pursuant to this Rule shall contain the following:

(1) A statement whether the petitioner contends that:

(A) The making of the assessment in respect of which the motion is filed was not reasonable under the circumstances;

(B) the amount so assessed or demanded is not appropriate under the circumstances; or

(C) the levy in respect of which the motion is filed was not reasonable under the circumstances.

(2) As to each contention in paragraph (c)(1) of this Rule:

(A) Clear and concise assignments of each and every error which the petitioner alleges to have been committed by the Commissioner; and

(B) clear and concise lettered statements of the facts on which the petitioner bases the assignments of error.

(3) As to the contention in paragraph (c)(1)(B) of this Rule, a statement of the amount, if any, that would be appropriate under the circumstances.

(4) A statement whether the petitioner requests an evidentiary or other hearing on the motion, and if so, the reasons why. For the place of hearing, see paragraph (e) of this Rule.

(5) A list identifying by caption and number all other dockets in which the motion could have been filed if more than one then-pending action for the redetermination of a deficiency under Code section 6213(a) provides the jurisdictional nexus for review required by Code section 7429(b)(2)(B).

(6) A copy of:

(A) The written statement required to be furnished to the petitioner under Code section 7429(a)(1), together with any notice or other document regarding the jeopardy assessment or jeopardy levy that may have been served on the petitioner by the Commissioner and in respect of which the motion is filed;

(B) the request for administrative review made by the petitioner under Code section 7429(a)(2); and

(C) the determination made by the Commissioner under Code section 7429(a)(3).

(7) A certificate showing service of the motion in accordance with paragraph (b) of this Rule.

(d) Response by Commissioner:

(1) *Content:* The Commissioner shall file a written response to a motion filed pursuant to this Rule. The response shall contain the following:

(A) A specific admission or denial of each allegation in the motion, arranged in paragraphs that are designated to correspond to those of the motion to which they relate.

(B) A clear and concise statement of every ground, together with the facts in support thereof, on which the Commissioner relies.

(C) A statement whether the Commissioner requests a hearing on the motion, and if so, the reasons why.

(D) A copy of:

(i) The written notification to the Court required by Code section 6861(c); and

(ii) any item required for consideration of the basis of the petitioner's motion, if that item has not been attached to the petitioner's motion.

(E) A certificate showing service of the response in accordance with subparagraph (2) of this paragraph.

(2) *Time for and Service of Response:* The response required by paragraph (d)(1) of this Rule shall be received by the Court not later than 10 days after the date on which the petitioner's motion is received by the Court. Said response shall be served by the Commissioner in such manner as may reasonably be expected to reach the petitioner or the petitioner's counsel (as specified in Rule 21(b)(2)) not later than the day on which the response is received by the Court.

(e) Place of Hearing: If required, a hearing on the motion filed pursuant to this Rule will ordinarily be held at the place of trial previously requested in accordance with paragraph (a) of Rule 140 unless otherwise ordered by the Court.

(As amended and effective March 1, 2008, 130 T.C. 416–19. For prior history, see 93 T.C. 877–82 (1989).)

RULE 57. MOTION FOR REVIEW OF PROPOSED SALE OF SEIZED PROPERTY

(a) Commencement of Review:

(1) *How Review Is Commenced:* Review of the Commissioner's determination under Code section 6863(b)(3)(B) that seized property may be sold shall be commenced by filing a motion with the Court. The movant shall place on the motion the same docket number as that of the then-pending action under Code section 6213(a) in respect of which the sale of seized property is stayed by virtue of Code section 6863(b)(3)(A)(iii). If filed by the petitioner, the motion shall be styled "Motion to Stay Proposed Sale of Seized Property—Sec. 6863(b)(3)(C)". If filed by the Commissioner, the motion shall be styled "Motion to Authorize Proposed Sale of Seized Property—Sec. 6863(b)(3)(C)".

(2) *When Review Is Commenced:*

(A) *Proposed Sale Not Scheduled:* If a date for a proposed sale has not been scheduled, then the Commissioner may file the motion under subparagraph (1) at any time.

(B) *Proposed Sale Scheduled:*

(i) *General*: If a date for a proposed sale has been scheduled, then the movant shall file the motion under subparagraph (1) not less than 15 days before the date of the proposed sale and not more than 20 days after receipt of the notice of sale prescribed by Code section 6335(b).

(ii) *Motion Not Filed Within Prescribed Period*: If the motion under subparagraph (1) is filed less than 15 days before the date of the proposed sale or more than 20 days after receipt of the notice of sale prescribed by Code section 6335(b), then an additional statement shall be included in the motion as provided by paragraph (c)(3) of this Rule. A motion not filed within the period prescribed by subparagraph (2)(B)(i) shall be considered dilatory unless the movant shows that there was good reason for not filing the motion within that period. As to the effect of the motion's being dilatory, see paragraph (g)(4) of this Rule.

(b) Service of Motion:

(1) *By the Petitioner:* A motion filed with the Court pursuant to this Rule shall be served by the petitioner on counsel for the Commissioner (as specified in Rule 21(b)(1)) in such manner as may reasonably be expected to reach the Commissioner's counsel not later than the day on which the motion is received by the Court.

(2) *By the Commissioner:* A motion filed with the Court pursuant to this Rule shall be served by the Commissioner on the petitioner or on the petitioner's counsel (as specified in Rule 21(b)(2)) in such manner as may reasonably be expected to reach the petitioner or the petitioner's counsel not later than the day on which the motion is received by the Court.

(c) Content of Motion: A motion filed pursuant to this Rule shall contain the following:

(1) The time and place of the proposed sale.

(2) A description of the property proposed to be sold, together with a copy of the notice of seizure prescribed by Code section 6335(a) and the notice of sale prescribed by Code section 6335(b).

(3) If the motion is filed less than 15 days before the date of the proposed sale or more than 20 days after receipt of the notice of

sale prescribed by Code section 6335(b), as the case may be, a statement of the reasons why review was not commenced within the prescribed period.

(4) A statement that the petitioner does not consent to the proposed sale.

(5) A statement whether the property proposed to be sold:

(A) is or is not likely to perish;

(B) is or is not likely to become greatly reduced in price or value by keeping; and

(C) is or is not likely to be greatly expensive to conserve or maintain.

(6) The movant's basis for each statement in subparagraph (5) that the movant expressed in the affirmative, together with any appraisal, affidavit or declaration, valuation report, or other document relied on by the movant to support each statement.

(7) A statement whether the movant requests an evidentiary or other hearing on the motion, and if so, the reasons why. For the place of hearing, see paragraph (f) of this Rule.

(8) A certificate showing service of the motion in accordance with paragraph (b) of this Rule.

(d) Response to Motion:

(1) *Content:* The petitioner or the Commissioner, as the case may be, shall file a written response to a motion filed pursuant to this Rule. The response shall contain the following:

(A) A specific admission or denial of each allegation in the motion arranged in paragraphs that are designated to correspond to those of the motion to which they relate.

(B) A clear and concise statement of every ground, together with the facts in support thereof, on which the responding party relies.

(C) A statement whether the responding party requests a hearing on the motion, and if so, the reasons why.

(D) A copy of:

(i) Any appraisal, affidavit or declaration, valuation report, or other document relied on by the responding party; and

(ii) any item required for consideration of the basis of the movant's motion, if that item has not been attached to the movant's motion.

(E) A certificate showing service of the response in accordance with subparagraph (2) of this paragraph.

(2) *Time for and Service of Response:* The response required by paragraph (d)(1) of this Rule shall be received by the Court not later than 10 days after the date on which the movant's motion is received by the Court. This response shall be served in such manner as may reasonably be expected to reach the movant or the movant's counsel (as specified in Rule 21(b)(1) or Rule 21(b)(2), as the case may be) not later than the day on which the response is received by the Court.

(e) Effect of Signature: The provisions of Rule 33(b), relating to the effect of the signature of counsel or a party, shall apply to a motion filed pursuant to this Rule and to the response required by paragraph (d) of this Rule.

(f) Place of Hearing: If required, a hearing on a motion filed pursuant to this Rule will ordinarily be held at the place of trial previously requested in accordance with paragraph (a) of Rule 140 unless otherwise ordered by the Court. For the manner in which the Court may dispose of such a motion, see paragraph (g)(3) of this Rule.

(g) Disposition of Motion:

(1) *General:* A motion filed pursuant to this Rule may be disposed of in one or more of the following ways, in the discretion of the Court:

(A) The Court may:

(i) Authorize, or decline to stay, the proposed sale; or

(ii) stay the proposed sale temporarily until the Court has had an adequate opportunity to consider the motion.

(B) The Court may stay the proposed sale until a specified date or event, or for a specified period, or until further application is made for a sale, or any combination of the foregoing.

(C) The Court may stay the proposed sale until specified undertakings or safeguards are effectuated.

(D) The Court may provide such other temporary, extended, or permanent relief as may be appropriate under the circumstances.

(2) *Evidence:* In disposing of a motion filed pursuant to this Rule, the Court may consider such appraisals, affidavits or declarations, valuation reports, and other evidence as may be appropriate, giving due regard to the necessity of acting on the motion within a brief period of time.

(3) *Disposition on Motion Papers or Otherwise:* The Court may dispose of a motion filed pursuant to this Rule on the motion papers, or after an evidentiary hearing or oral argument, or may require legal memoranda, or any combination of the foregoing that the Court deems appropriate. For the place of hearing, see paragraph (f) of this Rule.

(4) *Dilatory Motions:* The fact that a motion filed pursuant to this Rule is dilatory within the meaning of paragraph (a)(2)(B)(ii) of this Rule shall be considered by the Court in disposing of the motion.

(As amended and effective March 1, 2008, 130 T.C. 419–23; as amended, effective July 6, 2012, 139 T.C. 530–34. For prior history, see 93 T.C. 883–91 (1989).)

RULE 58. MISCELLANEOUS

For reference in the Rules to other motions, see Rules 25(c) (extension of time), 40 (defenses made by motion), 41 (amendment of pleadings), 63 (substitution of parties), 71(c) (answers to interrogatories), 81(b) (depositions), 90(e) (requests for admission), 91(f) (stipulations), 121(a) (summary judgment), 123(c) (setting aside default or dismissal), 133 (continuances), 140(c) (place of trial), 141 (consolidation and separation), 151(c) (delinquent briefs), 157 (retention of official case file in estate tax case involving election under Code section 6166), 161 (reconsideration), 162 (vacating or revising decision), 231 (reasonable litigation and administrative costs), 260 (enforcement of overpayment determination), 261 (redetermination of interest on deficiency), and 262 (modification of decision in estate tax case involving election under Code section 6166).

(As effective October 3, 2008, 130 T.C. 423. For prior history, see 93 T.C. 891 (1989); 109 T.C. 565–66 (1997). Rule 58 was originally designated as Rule 55, see 93 T.C. 891 (1989). For prior Rule 55 history, see 60 T.C. 1093–94 (1973); 79 T.C. 1137–38 (1982).)

TITLE VI. PARTIES

RULE 60. PROPER PARTIES; CAPACITY

(a) Petitioner:

(1) *Deficiency or Liability Action:* A case shall be brought by and in the name of the person against whom the Commissioner determined the deficiency (in the case of a notice of deficiency) or liability (in the case of a notice of liability), or by and with the full descriptive name of the fiduciary entitled to institute a case on behalf of such person. See Rule 23(a)(1). A case timely brought shall not be dismissed on the ground that it is not properly brought on behalf of a party until a reasonable time has been allowed after objection for ratification by such party of the bringing of the case; and such ratification shall have the same effect as if the case had been properly brought by such party. Where the deficiency or liability is determined against more than one person in the notice by the Commissioner, only such of those persons who shall duly act to bring a case shall be deemed a party or parties.

(2) *Other Actions:* For the person who may bring a case as a petitioner in a declaratory judgment action, see Rules 210(b)(13), 211, and 216. For the person who may bring a case as a petitioner in a disclosure action, see Rules 220(b)(5), 221, and 225. For the person who may bring a case as a petitioner in a partnership action, see Rules 240(c)(1)(B), 240(c)(2)(B), 241, 245, 255.1(c)(2), 300(c)(1)(B), 300(c)(2)(B), and 301. For the person who may bring a case as a petitioner in an action for redetermination of employment status, see Rule 290(b)(2).

(b) Respondent: The Commissioner shall be named the respondent.

(c) Capacity: The capacity of an individual, other than one acting in a fiduciary or other representative capacity, to engage in litigation in the Court shall be determined by the law of the individual's domicile. The capacity of a corporation to engage in such litigation shall be determined by the law under which it was organized. The capacity of a fiduciary or other representative to litigate in the Court shall be determined in accordance with the law of the jurisdiction from which such person's authority is derived.

(d) Infants or Incompetent Persons: Whenever an infant or incompetent person has a representative, such as a general guardian, committee, conservator, or other like fiduciary, the representative may bring a case or defend in the Court on behalf of the infant or incompetent person. An infant or incompetent person who does not have a duly

appointed representative may act by a next friend or by a guardian ad litem. Where a party attempts to represent himself or herself and, in the opinion of the Court there is a serious question as to such party's competence to do so, the Court, if it deems justice so requires, may continue the case until appropriate steps have been taken to obtain an adjudication of the question by a court having jurisdiction to do so, or may take such other action as it deems proper.

(As effective October 3, 2008, 130 T.C. 423–25; as amended, effective July 15, 2019, 153 T.C. 258–59. For prior history, see 60 T.C. 1094–95 (1973); 71 T.C. 1189 (1979); 93 T.C. 892–93 (1989); 109 T.C. 566–67 (1997); 120 T.C. 541–42 (2003).)

RULE 61. [RESERVED]

(As effective October 3, 2008, 130 T.C. 425; as amended, effective July 15, 2019, 153 T.C. 259–60; effective March 20, 2023, 160 T.C. 607. For prior history, see 60 T.C. 1095 (1973); 71 T.C. 1190 (1979); 93 T.C. 893–94 (1989); 109 T.C. 568 (1997); 120 T.C. 542–43 (2003).)

RULE 62. MISJOINDER OF PARTIES

Misjoinder of parties is not ground for dismissal of a case. The Court may order a severance on such terms as are just. See Rule 34(b)(3).

(As effective October 3, 2008, 130 T.C. 425; as amended, effective March 20, 2023, 160 T.C. 607–08. For prior history, see 60 T.C. 1096 (1973).)

RULE 63. SUBSTITUTION OF PARTIES; CHANGE OR CORRECTION IN NAME

(a) **Death:** If a petitioner dies, the Court, on its own or on motion of a party or the decedent's successor or representative, may order substitution of the proper parties.

(b) **Incompetency:** If a party becomes incompetent, the Court, on its own or on motion of a party or the party's representative, may order the representative to proceed with the case.

(c) Successor Fiduciaries or Representatives: The Court, on its own or on motion of a party, may order substitution of the proper successors where a fiduciary or representative is changed.

(d) Other Cause: The Court, on its own or on motion of a party, may order the substitution of proper parties for other cause.

(e) Change or Correction in Name: The Court, on its own or on motion of a party, may order a change of or correction in the name or title of a party.

(As effective October 3, 2008, 130 T.C. 425–26; as amended, effective March 20, 2023, 160 T.C. 608. For prior history, see 60 T.C. 1096 (1973); 93 T.C. 894–95 (1989).)

RULE 64. INTERVENTION

(a) Intervention of Right:

(1) *In General:* On timely motion, the Court must permit anyone to intervene who is given an unconditional right to intervene by a Federal statute.

(2) *Existing Rules:* For the requirements relating to intervention in certain actions, see Rules 216, 225, 245, and 325(b).

(b) Permissive Intervention:

(1) *In General:* On timely motion, the Court may permit anyone to intervene who:

(A) is given a conditional right to intervene by a Federal statute; or

(B) has a stake in the outcome of the litigation before the Court that may not be adequately protected by the existing parties, if the Court determines in its discretion that permitting the intervention (i) may contribute to a more complete presentation of the legal issues to be decided and (ii) is in the interest of justice.

(2) *By a Government Officer or Agency:* On timely motion, the Court may permit a Federal or State governmental officer or agency to intervene if a party's claim or defense is based on:

(A) a statute or executive order administered by the officer or agency; or

(B) any regulation, order, requirement, or agreement issued or made under the statute or executive order.

(3) *Delay or Prejudice:* In exercising its discretion, the Court must consider whether the intervention will unduly delay or prejudice the adjudication of the issues raised by the existing parties.

(c) Notice Required: A motion to intervene must be served on the parties as provided in Rule 21 and must comply with the requirements of Rules 50 and 54. The motion must state the grounds for intervention and the reasons why intervention should be permitted.

(d) Intervenor's Role: The Court, in its discretion, will determine the extent to which an intervenor may participate in the proceedings.

(As adopted, effective March 20, 2023, 160 T.C. 609–12.)

TITLE VII. DISCOVERY

(As effective October 3, 2008, 130 T.C. 426. For prior history, see 60 T.C. 1097 (1973).)

RULE 70. GENERAL PROVISIONS

(a) General:

(1) *Methods and Limitations of Discovery:* A party may obtain discovery by written interrogatories (Rule 71), by production of documents, electronically stored information, or things (Rules 72 and 73), by depositions on consent of the parties (Rule 74(b)), or by depositions without consent of the parties in certain cases (Rule 74(c)). However, the Court expects the parties to attempt to attain the objectives of discovery through informal consultation or communication before utilizing the discovery procedures provided in these Rules. Discovery is not available under these Rules through depositions except to the limited extent provided in Rule 74. See Rules 91(a) and 100 regarding the relationship of discovery to stipulations.

(2) *Time for Discovery:* Discovery may not be commenced, without leave of Court, before the expiration of 30 days after joinder of issue (see Rule 38). Discovery must be completed and any motion to compel or any other motion with respect to that discovery must be filed, unless the Court orders otherwise, no later than 45 days before the date set for call of the case from a trial calendar. Discovery by a deposition under Rule 74(c) may not be commenced before a notice of trial has been issued or the case has been assigned to a Judge or Special Trial Judge and any motion to compel or any other motion with respect to that discovery must be filed within the time provided by the preceding sentence. Discovery of matters that are relevant only to the issue of a party's entitlement to reasonable litigation or administrative costs may not be commenced, without leave of Court, before a motion for reasonable litigation or administrative costs has been noticed for a hearing, and discovery must be completed and any motion to compel or any other motion with respect to that discovery must be filed, unless the Court orders otherwise, no later than 45 days before the date set for hearing.

(3) *Cases Consolidated for Trial:* With respect to a common matter in cases consolidated for trial, discovery may be had by any party to the consolidated case to the extent provided by these Rules.

(b) Scope of Discovery:

(1) Discovery may concern any matter not privileged that is relevant to the subject matter involved in the pending case. Discovery must be proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.

(2) It is not ground for objection that the information or response sought will be inadmissible at the trial, if that information or response appears reasonably calculated to lead to discovery of admissible evidence, regardless of the burden of proof involved.

(3) If the information or response sought is otherwise proper, it is not objectionable merely because the information or response involves an opinion or contention that relates to fact or to the application of law to fact. But the Court may order that the information or response sought need not be furnished or made until some designated time or a particular stage has been reached in the case or until a specified step has been taken by a party.

(c) Limitations on Discovery:

(1) *General:* The Court may limit the frequency or extent of use of the discovery methods set forth in paragraph (a) if it determines that:

(A) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive;

(B) the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or

(C) the proposed discovery is outside the scope of Rule 70(b)(1).

The Court may act on its own after reasonable notice or pursuant to a motion under Rule 103.

(2) *Electronically Stored Information:* A party need not provide discovery of electronically stored information from sources that the party identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the party from whom discovery is sought must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the Court may nonetheless order discovery from those sources if the requesting

party shows good cause, considering the limitations of Rule 70(c)(1). The Court may specify conditions for the discovery.

(3) *Documents and Tangible Things:*

(A) A party generally may not discover documents and tangible things that are prepared in anticipation of litigation or for trial by or for another party or its representative (including the other party's attorney, consultant, surety, indemnitor, insurer, or agent), unless, subject to Rule 70(c)(4),

(i) they are otherwise discoverable under Rule 70(b); and

(ii) the party shows that it has substantial need for the materials to prepare its case and cannot, without undue hardship, obtain their substantial equivalent by other means.

(B) If the Court orders discovery of those materials, it must protect against disclosure of mental impressions, conclusions, opinions, or legal theories of a party's counsel or other representative concerning the litigation.

(4) *Experts:*

(A) Rule 70(c)(3) protects drafts of any expert witness report required under Rule 143(g), regardless of the form in which the draft is recorded.

(B) Rule 70(c)(3) protects communications between a party's counsel and any witness required to provide a report under Rule 143(g), regardless of the form of the communications, except to the extent the communications:

(i) relate to compensation for the expert's study or testimony;

(ii) identify facts or data that the party's counsel provided and that the expert considered in forming the opinions to be expressed; or

(iii) identify assumptions that the party's counsel provided and that the expert relied on in forming the opinions to be expressed.

(C) A party generally may not, by interrogatories or depositions, discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or to prepare for trial and who is not expected to be called as a witness at

trial, except on a showing of exceptional circumstances under which it is impracticable for the party to obtain facts or opinions on the same subject by other means.

(d) Claiming Privilege or Protecting Trial-Preparation Materials:

(1) *Information Withheld:* When a party withholds information otherwise discoverable by claiming that the information is privileged or subject to protection as trial-preparation material, the party must:

(A) expressly make the claim; and

(B) describe the nature of the documents, communications, or tangible things not produced or disclosed—and do so in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the claim.

(2) *Information Produced:* If information produced in discovery is subject to a claim of privilege or of protection as trial-preparation material, the party making the claim may notify any party who received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the Court under seal for a determination of the claim. The producing party must preserve the information until the claim is resolved.

(e) Party's Statements: On request to the other party and without any showing except the assertion in writing that the requester lacks and has no convenient means of obtaining a copy of a statement made by the requester, a party is entitled to obtain a copy of any statement that has a bearing on the subject matter of the case and is in the possession or control of another party to the case.

(f) Use In Case: The answers to interrogatories, things produced in response to a request, or other information or responses obtained under Rules 71, 72, 73, and 74 may be used at trial or in any proceeding in the case before or after trial to the extent permitted by the rules of evidence. The answers or information or responses will not be considered as evidence until offered and received as evidence. No objections to interrogatories or the answers thereto, or to a request to produce or the response thereto, will be considered unless made within the time prescribed, except that the objection that an interrogatory or answer

would be inadmissible at trial is preserved even though not made before trial.

(g) Signing of Discovery Requests, Responses, and Objections:

(1) Every request for discovery or response or objection thereto made by a party represented by counsel must be signed by at least one counsel of record. A party who is not represented by counsel must sign the request, response, or objection. The signature must conform to the requirements of Rule 23(a)(3). The signature of counsel or a party constitutes a certification that the signer has read the request, response, or objection, and that to the best of the signer's knowledge, information, and belief formed after a reasonable inquiry, it is:

(A) consistent with these Rules and warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law,

(B) not presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation, and

(C) within the scope of Rule 70(b)(1).

The Court may strike a request, response, or objection that is not signed, unless the paper is signed promptly after the omission is called to the attention of the party making the request, response, or objection. The time within which a party is obligated to take action with respect to a request, response, or objection does not begin to run until the paper is signed.

(2) If a certification is made in violation of this Rule, the Court on motion or on its own, may impose on the person who made the certification, the party on whose behalf the request, response, or objection is made, or both, an appropriate sanction, which may include an order to pay the amount of the reasonable expenses incurred because of the violation, including reasonable counsel's fees.

(h) Other Applicable Rules: For Rules concerning the frequency and timing of discovery in relation to other procedures, supplementation of answers, protective orders, the effect of evasive or incomplete answers or responses, and sanctions and enforcement action, see Title X.

(As effective October 3, 2008, 130 T.C. 426–29; as amended, effective January 1, 2010, 134 T.C. 315–21; effective May 5, 2011, 136 T.C. 612–16; effective July 6, 2012, 139 T.C. 534–39; effective March 20, 2023, 160 T.C. 613–20. For prior history, see 60 T.C.

1097–99 (1973); 71 T.C. 1190–92 (1973); 79 T.C. 1138–39 (1982); 81 T.C. 1052–53 (1983); 85 T.C. 1127–29 (1985); 93 T.C. 895–98 (1989); 109 T.C. 569–73 (1997).)

RULE 71. INTERROGATORIES

(a) Availability: Unless otherwise stipulated or ordered by the Court, a party may serve upon any other party no more than 25 written interrogatories, including all discrete subparts but excluding interrogatories described in paragraph (d) of this Rule, to be answered by the party served or, if the party served is a public or private corporation or a partnership or association or governmental agency, by an officer or agent who shall furnish such information as is available to the party. A motion for leave to serve additional interrogatories may be granted by the Court to the extent consistent with Rule 70(c)(1).

(b) Answers: All answers shall be made in good faith and as completely as the answering party's information shall permit. However, the answering party is required to make reasonable inquiry and ascertain readily obtainable information. An answering party may not give lack of information or knowledge as an answer or as a reason for failure to answer, unless such party states that such party has made reasonable inquiry and that information known or readily obtainable by such party is insufficient to enable such party to answer the substance of the interrogatory.

(c) Procedure: Each interrogatory shall be answered separately and fully under oath, unless it is objected to, in which event the reasons for the objection shall be stated in lieu of the answer. The answers are to be signed by the person making them and the objections shall be signed by the party or the party's counsel. The party on whom the interrogatories have been served shall serve a copy of the answers, and objections if any, upon the propounding party within 30 days after service of the interrogatories. The Court may allow a shorter or longer time. The burden shall be on the party submitting the interrogatories to move for an order with respect to any objection or other failure to answer an interrogatory, and in that connection the moving party shall annex the interrogatories to the motion, with proof of service on the other party, together with the answers and objections, if any. Prior to a motion for such an order, neither the interrogatories nor the response shall be filed with the Court.

(d) Experts:

(1) By means of written interrogatories in conformity with this Rule, a party may require any other party: (A) To identify each person whom the other party expects to call as an expert witness at the

trial of the case, giving the witness's name, address, vocation or occupation, and a statement of the witness's qualifications, and (B) to state the subject matter and the substance of the facts and opinions to which the expert is expected to testify, and give a summary of the grounds for each such opinion, or, in lieu of such statement to furnish a copy of a report of such expert presenting the foregoing information.

(2) For provisions regarding the submission and exchange of expert witness reports, see Rule 143(g). That Rule shall not serve to extend the period of time under paragraph (c) of this Rule within which a party must answer any interrogatory directed at discovering: (A) The identity and qualifications of each person whom such party expects to call as an expert witness at the trial of the case and (B) the subject matter with respect to which the expert is expected to testify.

(e) Option To Produce Business Records: If the answer to an interrogatory may be derived or ascertained from the business records (including electronically stored information) of the party upon whom the interrogatory has been served, or from an examination, audit, or inspection of such records, or from a compilation, abstract, or summary based thereon, and the burden of deriving or ascertaining the answer is substantially the same for the party serving the interrogatory as for the party served, it is sufficient answer to such interrogatory to specify the records from which the answer may be derived or ascertained and to afford to the party serving the interrogatory reasonable opportunity to examine, audit, or inspect such records and to make copies, compilations, abstracts, or summaries.

(As effective October 3, 2008, 130 T.C. 429–31; as amended, effective January 1, 2010, 134 T.C. 321–25; effective July 6, 2012, 139 T.C. 540–41. For prior history, see 60 T.C. 1099–101 (1973); 71 T.C. 1192–93 (1979); 85 T.C. 1129 (1985); 93 T.C. 899–901 (1989); 109 T.C. 573–74 (1997).)

RULE 72. PRODUCTION OF DOCUMENTS, ELECTRONICALLY STORED INFORMATION, AND THINGS

(a) Scope: Any party may, without leave of Court, serve on any other party a request to:

(1) Produce and permit the party making the request, or someone acting on such party's behalf, to inspect and copy, test, or sample any designated documents or electronically stored information (including writings, drawings, graphs, charts, photographs,

sound recordings, images, and other data compilations stored in any medium from which information can be obtained, either directly or translated, if necessary, by the responding party into a reasonably usable form), or to inspect and copy, test, or sample any tangible thing, to the extent that any of the foregoing items are in the possession, custody, or control of the party on whom the request is served; or

(2) Permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon.

(b) Procedure:

(1) *Contents of the Request:* The request shall set forth the items to be inspected, either by individual item or category, describe each item and category with reasonable particularity, and may specify the form or forms in which electronically stored information is to be produced. It shall specify a reasonable time, place, and manner of making the inspection and performing the related acts.

(2) *Responses and Objections:* The party upon whom the request is served shall serve a written response within 30 days after service of the request. The Court may allow a shorter or longer time. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to in whole or in part, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, then that part shall be specified. The response may state an objection to a requested form for producing electronically stored information. If the responding party objects to a requested form—or if no form was specified in the request—the party shall state the form or forms it intends to use. To obtain a ruling on an objection by the responding party, on a failure to respond, or on a failure to produce or permit inspection, the requesting party shall file an appropriate motion with the Court and shall annex thereto the request, with proof of service on the other party, together with the response and objections if any. Prior to a motion for such a ruling, neither the request nor the response shall be filed with the Court.

(3) *Producing Documents or Electronically Stored Information:* Unless otherwise stipulated or ordered by the Court, these procedures apply to producing documents or electronically stored information: (A) A party shall produce documents as they are

kept in the usual course of business or shall organize and label them to correspond to the categories in the request; (B) If a request does not specify a form for producing electronically stored information, a party shall produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms; and (C) A party need not produce the same electronically stored information in more than one form.

(c) Foreign Petitioners: For production of records by foreign petitioners, see Code section 7456(b).

(As effective October 3, 2008, 130 T.C. 431–32; as amended, effective January 1, 2010, 134 T.C. 325–27. For prior history, see 60 T.C. 1101–02 (1973); 71 T.C. 1193 (1979); 81 T.C. 1053–54 (1983); 93 T.C. 901–02 (1989); 109 T.C. 575–76 (1997).)

RULE 73. EXAMINATION BY TRANSFEREES

(a) General: Upon application to the Court and subject to these Rules, a transferee of property of a taxpayer shall be entitled to examine before trial the books, papers, documents, correspondence, electronically stored information, and other evidence of the taxpayer or of a preceding transferee of the taxpayer's property, but only if the transferee making the application is a petitioner seeking redetermination of such transferee's liability in respect of the taxpayer's tax liability (including interest, additional amounts, and additions provided by law). Such books, papers, documents, correspondence, electronically stored information, and other evidence may be made available to the extent that the same shall be within the United States, will not result in undue hardship to the taxpayer or preceding transferee, and in the opinion of the Court are necessary in order to enable the transferee to ascertain the liability of the taxpayer or preceding transferee.

(b) Procedure: A petitioner desiring an examination permitted under paragraph (a) shall file an application with the Court, showing that such petitioner is entitled to such an examination, describing the documents, electronically stored information, and other materials sought to be examined, giving the names and addresses of the persons to produce the same, and stating a reasonable time and place where the examination is to be made. If the Court shall determine that the applicable requirements are satisfied, then it shall issue a subpoena, signed by a Judge, directed to the appropriate person and ordering the production at a designated time and place of the documents, electronically stored information, and other materials involved. If the person to whom the subpoena is directed shall object thereto or to the production involved,

then such person shall file the objections and the reasons therefor in writing with the Court, and serve a copy thereof upon the applicant, within 10 days after service of the subpoena or on or before such earlier time as may be specified in the subpoena for compliance. To obtain a ruling on such objections, the applicant for the subpoena shall file an appropriate motion with the Court. In all respects not inconsistent with the provisions of this Rule, the provisions of Rule 72(b) shall apply where appropriate.

(c) Scope of Examination: The scope of the examination authorized under this Rule shall be as broad as is authorized under Rule 72(a), including, for example, the copying of such documents, electronically stored information, and materials.

(As effective October 3, 2008, 130 T.C. 432–33; as amended, effective January 1, 2010, 134 T.C. 327–28. For prior history, see 60 T.C. 1102–03 (1973); 93 T.C. 902–03 (1989).)

RULE 74. DEPOSITIONS FOR DISCOVERY PURPOSES

(a) General: A party may obtain discovery by depositions with the consent of the parties under paragraph (b) and without the consent of the parties under paragraph (c). Paragraph (d) describes additional uses for depositions of expert witnesses, and paragraphs (e) and (f) set forth general provisions governing the taking of all depositions for discovery purposes.

(b) Depositions with the Consent of the Parties:

(1) *When Deposition May Be Taken:* With the consent of all the parties to a case, and within the time limits provided in Rule 70(a)(2), a deposition for discovery purposes may be taken of a party, a nonparty witness, or an expert witness. A party's consent must be set forth in a stipulation filed with the Court. The stipulation is subject to the procedure provided in Rule 81(d).

(2) *Notice to Nonparty Witness or Expert Witness:* A party desiring to take a deposition of a nonparty witness or an expert witness must serve a notice of deposition on that nonparty witness or expert witness. The notice must state that the deposition is to be taken under Rule 74(b) and must set forth the name of the party or parties seeking the deposition; the name and address of the person to be deposed; the time and place proposed for the deposition; the name of the officer or reporting company before whom the deposition is to be taken; a statement describing any

books, papers, documents, electronically stored information, or tangible things to be produced at the deposition; and a statement of the issues in controversy to which the expected testimony of the witness, or the document, electronically stored information, or thing relates, and the reasons for deposing the witness. With respect to the deposition of an organization described in Rule 81(c), the notice must also set forth the information required under that Rule, and the organization must make the designation authorized by that Rule.

(3) *Objection by Nonparty Witness or Expert Witness:* Within 15 days after service of the notice of deposition, a nonparty witness or expert witness must serve on the parties seeking the deposition any objections to the deposition. The burden is on a party seeking the deposition to move for an order with respect to any objection or other failure of the nonparty witness or expert witness, and that party must annex to the motion the notice of deposition with proof of service thereof, together with a copy of the response and objections, if any. Before a motion for an order is filed, neither the notice nor the responses are filed with the Court.

(c) Depositions Without the Consent of the Parties:

(1) *In General:*

(A) *When Depositions May Be Taken:* After a notice of trial has been issued or after a case has been assigned to a Judge or Special Trial Judge of the Court, and within the time for completion of discovery under Rule 70(a)(2), any party may take a deposition for discovery purposes of a party, a nonparty witness, or an expert witness in the circumstances described in this paragraph.

(B) *Availability:* The taking of a deposition of a party, a nonparty witness, or an expert witness under this paragraph is an extraordinary method of discovery and may be used only if a party, a nonparty witness, or an expert witness can give testimony or possesses documents, electronically stored information, or things which are discoverable within the meaning of Rule 70(b) and if the testimony, documents, electronically stored information, or things practicably cannot be obtained through informal consultation or communication (Rule 70(a)(1)), interrogatories (Rule 71), a request for production of documents, electronically stored information, or things (Rule 72), or by a deposition taken with the consent of the

parties (Rule 74(b)). If these requirements are satisfied, a deposition of a witness may be taken under this paragraph.

(2) *Nonparty Witnesses:* A party may take the deposition of a nonparty witness without leave of court and without the consent of all the parties as follows:

(A) *Notice:* A party desiring to take a deposition under this subparagraph must give notice in writing to every other party to the case and to the nonparty witness to be deposed. The notice must state that the deposition is to be taken under Rule 74(c)(2) and must include the same type of information required under Rule 74(b)(2).

(B) *Objections:* Within 15 days after service of the notice of deposition, a party or a nonparty witness must serve on the party seeking the deposition any objections to the deposition. The procedures set forth in Rule 74(b)(3) otherwise apply.

(3) *Party Witnesses:* A party may take the deposition of another party without the consent of all the parties as follows:

(A) *Motion:* A party desiring to depose another party must file a written motion stating that the deposition is to be taken under Rule 74(c)(3) and setting forth the name of the person to be deposed, the time and place of the deposition, and the name of the officer or reporting company before whom the deposition is to be taken. With respect to the deposition of an organization described in Rule 81(c), the motion must also set forth the information required under that Rule, and the organization must make the designation authorized by that Rule.

(B) *Objection:* On the filing of a motion to take the deposition of a party, the Court will issue an order directing each non-moving party to file a written objection or response thereto.

(C) *Action by the Court:* In the exercise of its discretion the Court may order the taking of a deposition of a party witness and may in its order allocate the cost therefor as it deems appropriate.

(4) *Expert Witnesses:* A party may take the deposition of an expert witness without the consent of all the parties as follows:

(A) *Scope of Deposition:* The deposition of an expert witness under this subparagraph is limited to:

(i) the knowledge, skill, experience, training, or education that qualifies the witness to testify as an expert in respect of the issue or issues in dispute;

(ii) the opinion of the witness in respect of which the witness's expert testimony is relevant to the issue or issues in dispute;

(iii) the facts or data that underlie that opinion; and

(iv) the witness's analysis, showing how the witness proceeded from the facts or data to draw the conclusion that represents the opinion of the witness.

(B) *Procedure:*

(i) *In General:* A party desiring to depose an expert witness under this subparagraph (4) must file a written motion and set forth therein the matters specified below:

(a) The name and address of the witness to be examined;

(b) a statement describing any books, papers, documents, electronically stored information, or tangible things to be produced at the deposition of the witness to be examined;

(c) a statement of issues in controversy to which the expected testimony of the expert witness, or the document, electronically stored information, or thing relates, and the reasons for deposing the witness;

(d) the time and place proposed for the deposition;

(e) the name of the officer or reporting company before whom the deposition is to be taken;

(f) any provision desired with respect to the payment of the costs, expenses, fees, and charges relating to the deposition (see paragraph (c)(4)(D)); and

(g) if the movant proposes to video record the deposition, a statement to that effect and the name and address of the video recorder operator and the operator's employer. (The

video recorder operator and the officer before whom the deposition is to be taken may be the same person.)

The movant must also show that prior notice of the motion has been given to the expert witness whose deposition is sought and to each other party, or counsel for each other party, and must state the position of each of these persons with respect to the motion, in accordance with Rule 50(a).

(ii) *Disposition of Motion:* Any objection or other response to the motion for order to depose an expert witness under this subparagraph must be filed with the Court within 15 days after service of the motion. If the Court approves the taking of a deposition, it will issue an order as described in paragraph (e)(4) of this Rule. If the deposition is to be video recorded, the Court's order will so state.

(C) *Action by the Court:* In the exercise of its discretion the Court may order the taking of a deposition of an expert witness and may in its order allocate the cost therefor as it deems appropriate.

(D) *Expenses:*

(i) *In General:* By stipulation among the parties and the expert witness to be deposed, or on order of the Court, provision may be made for any costs, expenses, fees, or charges relating to the deposition. If there is no stipulation or order, the costs, expenses, fees, and charges relating to the deposition will be borne by the parties as set forth in paragraph (c)(4)(D)(ii).

(ii) *Allocation of Costs, etc.:* The party taking the deposition will pay the following costs, expenses, fees, and charges:

(a) A reasonable fee for the expert witness, with regard to the usual and customary charge of the witness, for the time spent in preparing for and attending the deposition;

(b) reasonable charges of the expert witness for models, samples, or other like matters that may be required in the deposition of the witness;

(c) amounts as are allowable under Rule 148(a) for transportation and subsistence for the expert witness;

(d) any charges of the officer presiding at or recording the deposition (other than for copies of the deposition transcript);

(e) any expenses involved in providing a place for the deposition; and

(f) the cost for the original of the deposition transcript as well as for any copies thereof that the party taking the deposition might order.

The other parties and the expert witness must pay the cost for any copies of the deposition transcript that they might order.

(iii) Failure To Attend: If the party authorized to take the deposition of the expert witness fails to attend or to proceed therewith, the Court may order that party to pay the witness any fees, charges, and expenses that the witness would otherwise be entitled to under paragraph (c)(4)(D)(ii) and to pay any other party's expenses, including attorney's fees, that the Court deems reasonable under the circumstances.

(d) Use of Deposition of an Expert Witness for Other Than Discovery Purposes:

(1) *Use as Expert Witness Report:* On written motion by the proponent of the expert witness and in appropriate cases, the Court may order that the deposition transcript serve as the expert witness report required by Rule 143(g)(1). Unless the Court determines otherwise for good cause shown, the taking of a deposition of an expert witness will not serve to extend the date under Rule 143(g)(1) by which a party is required to furnish to each other party and to submit to the Court a copy of all expert witness reports prepared pursuant to that Rule.

(2) *Other Use:* Any other use of a deposition of an expert witness is governed by the provisions of Rule 81(i).

(e) General Provisions: Depositions taken under this Rule are subject to the following provisions.

(1) *Transcript:* A transcript must be made of every deposition on oral examination taken under this Rule, but the transcript and

exhibits introduced in connection with the deposition generally should not be filed with the Court. See Rule 81(h)(3).

(2) *Depositions on Written Questions:* Depositions under this Rule may be taken on written questions rather than on oral examination. If the deposition is to be taken on written questions, a copy of the written questions must be annexed to the notice of deposition or motion to take deposition. The use of written questions is not favored, and the deposition should not be taken in this manner in the absence of a special reason. See Rule 84(a). There will be an opportunity for cross-questions and redirect questions to the same extent and within the same time periods as provided in Rule 84(b) (starting with service of a notice of or motion to take deposition rather than service of an application). With respect to taking the deposition, the procedure of Rule 84(c) will apply.

(3) *Hearing:* A hearing on a motion for an order regarding a deposition under this Rule will be held only if the Court directs. The Court may grant a motion for an order regarding a deposition to the extent consistent with Rule 70(c)(1).

(4) *Orders:* If the Court approves the taking of a deposition under this Rule, it will issue an order including the name of the person to be examined, the time and place of the deposition, and the name of the officer or reporting company before whom it is to be taken.

(5) *Continuances:* Unless the Court determines otherwise for good cause shown, the taking of a deposition under this Rule will not be regarded as sufficient ground for granting a continuance from a date or place of trial theretofore set.

(f) Other Applicable Rules: Unless otherwise provided in this Rule, the depositions described in this Rule generally are governed by the provisions of the following Rules with respect to the matters to which they apply: Rule 81(c) (designation of person to testify), 81(e) (person before whom deposition taken), 81(f) (taking of deposition), 81(g) (expenses), 81(h) (execution, form, and return of deposition), 81(i) (use of deposition), and Rule 85 (objections, errors, and irregularities). For Rules concerned with the timing and frequency of depositions, supplementation of answers, protective orders, effect of evasive or incomplete answers or responses, and sanctions and enforcement action, see Title X. For provisions governing the issuance of subpoenas, see Rule 147.

(As effective October 3, 2008, 130 T.C. 433–34; as amended, effective January 1, 2010, 134 T.C. 328–37; effective May 5, 2011, 136 T.C. 616–23; effective July 6, 2012, 139 T.C. 542–49; effective July 15, 2019, 153 T.C. 260–67; effective March 20, 2023, 160 T.C. 620–29. For prior history, see 71 T.C. 1194–95 (1979); 79 T.C. 1139–40 (1982); 81 T.C. 1054–55 (1983); 93 T.C. 903–05 (1989); 109 T.C. 577–78 (1997). Rule 74 is derived in part from Rule 75 and in part from Rule 76, as originally adopted, see January 1, 2010, 134 T.C. 328–37. For prior Rule 75 history, see 79 T.C. 1140–42 (1982); 81 T.C. 1055–56 (1983); 93 T.C. 905–07 (1989); 109 T.C. 578–80 (1997); 130 T.C. 435–36 (2008). For prior Rule 76 history, see 93 T.C. 907–13 (1989); 109 T.C. 580–83 (1997); 130 T.C. 436–40 (2008).)

TITLE VIII. DEPOSITIONS TO PERPETUATE EVIDENCE

(As effective October 3, 2008, 130 T.C. 440; as amended, effective May 5, 2011, 136 T.C. 624. For prior history, see 60 T.C. 1103 (1973).)

RULE 80. GENERAL PROVISIONS

(a) General: On complying with the applicable requirements, depositions to perpetuate evidence may be taken in a pending case before trial (Rule 81), or in anticipation of commencing a case in this Court (Rule 82), or in connection with the trial (Rule 83). Depositions under this Title may be taken only for the purpose of making testimony or any document, electronically stored information, or thing available as evidence in the circumstances herein authorized by the applicable Rules. Depositions for discovery purposes may be taken only in accordance with Rule 74.

(b) Other Applicable Rules: For Rules concerned with the timing and frequency of depositions, supplementation of answers, protective orders, effect of evasive or incomplete answers or responses, and sanctions and enforcement action, see Title X. For provisions relating to tender of fees and other amounts to the witness to be deposed, see Rule 148(b).

(As effective October 3, 2008, 130 T.C. 440; as amended, effective January 1, 2010, 134 T.C. 338. For prior history, see 60 T.C. 1103–04 (1973); 71 T.C. 1196 (1979); 1983, 79 T.C. 1142 (1982); 93 T.C. 913–14 (1989).)

RULE 81. DEPOSITIONS IN PENDING CASE

(a) Depositions To Perpetuate Testimony: A party to a case pending in the Court who desires to perpetuate testimony or to preserve any document, electronically stored information, or thing must file an application pursuant to these Rules for an order of the Court authorizing the party to take a deposition for such purpose. Such depositions may be taken only where there is a substantial risk that the person or document, electronically stored information, or thing involved will not be available at the trial of the case, and must relate only to portions of the testimony or document, electronically stored information, or thing that are not privileged and are material to a matter in controversy.

(b) The Application:

(1) *Content of Application:* The application to take a deposition pursuant to paragraph (a) of this Rule must be signed by the party seeking the deposition or the party's counsel, and must show the following:

(A) The names and addresses of the persons to be examined;

(B) the reasons for deposing those persons rather than waiting to call them as witnesses at the trial;

(C) the substance of the testimony that the party expects to elicit from each of those persons;

(D) a statement showing how the proposed testimony or document, electronically stored information, or thing is material to a matter in controversy;

(E) a statement describing any books, papers, documents, electronically stored information, or tangible things to be produced at the deposition by the persons to be examined;

(F) the time and place proposed for the deposition;

(G) the name of the officer or reporting company before whom the deposition is to be taken;

(H) the date on which the petition was filed with the Court, and whether the pleadings have been closed and the case placed on a trial calendar;

(I) any provision desired with respect to payment of expenses, fees, and charges relating to the deposition (see paragraph (g) of this Rule, and Rule 103); and

(J) if the applicant proposes to video record the deposition, the application must so state, and must show the name and address of the video recorder operator and of the operator's employer. (The video recorder operator and the officer before whom the deposition is to be taken may be the same person. See subparagraph (2) of paragraph (j) of this Rule.)

The application must also have annexed to it a copy of the questions to be propounded, if the deposition is to be taken on written questions. See Form 15 (Application for Order To Take Deposition To Perpetuate Evidence) shown in the Appendix.

(2) *Filing and Disposition of Application:* The application may be filed with the Court at any time after the case is docketed in the Court, but must be filed at least 45 days prior to the date set for the trial of the case. In addition to serving each of the other

parties to the case, the applicant must serve a copy of the application on the persons who are to be examined pursuant to the application, and must file with the Clerk a certificate showing such service. The other parties or persons must file their objections or other response, with the same number of copies and with a certificate of service thereof on the other parties and the other persons, within 15 days after service of the application. A hearing on the application will be held only if directed by the Court. Unless the Court determines otherwise for good cause shown, an application to take a deposition will not be regarded as sufficient ground for granting a continuance from a date or place of trial theretofore set. If the Court approves the taking of a deposition, it will issue an order including the name of the person to be examined, the time and place of the deposition, and the name of the officer or reporting company before whom it is to be taken. If the deposition is to be video recorded, the Court's order will so state.

(c) Designation of Person To Testify: The party seeking to take a deposition may name, as the deponent in the application, a public or private corporation or a partnership or association or governmental agency, and must designate with reasonable particularity the matters on which examination is requested. The organization so named must designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which such person will testify. The persons so designated must testify as to matters known or reasonably available to the organization.

(d) Use of Stipulation: The parties or their counsel may execute and file a stipulation to take a deposition by agreement instead of filing an application. Such a stipulation must be filed with the Court, and must include the same information as is required in items (A), (F), (G), (I), and (J) of Rule 81(b)(1), but does not require the approval or an order of the Court unless the effect is to delay the trial of the case. A deposition taken pursuant to a stipulation must in all respects conform to the requirements of these Rules.

(e) Person Before Whom Deposition Taken:

(1) *Domestic Depositions:* Within the United States or a territory or insular possession subject to the dominion of the United States, depositions must be taken before an officer authorized to administer oaths by the laws of the United States (see Code section 7622) or of the place where the examination is held, or before a person appointed by the Court. A person so appointed has power to administer oaths and to take such testimony.

(2) *Foreign Depositions:* In a foreign country, depositions may be taken:

(A) before a person authorized to administer oaths or affirmations in the place in which the examination is held, either by the law thereof or by the law of the United States;

(B) before a person commissioned by the Court, and a person so commissioned will have the power, by virtue of the commission, to administer any necessary oath and take testimony; or

(C) pursuant to a letter rogatory or a letter of request issued in accordance with the provisions of the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters, Mar. 18, 1970, 23 U.S.T. (Part 3) 2555.

A commission, a letter rogatory, or a letter of request must be issued on application and notice and on terms that are just and appropriate. The party seeking to take a foreign deposition must contact the United States Department of State to ascertain any requirements imposed by it or by the foreign country in which the deposition is to be taken, including any required foreign language translations and any fees or costs, and must submit to the Court, along with the application, any foreign language translations, fees, costs, or other materials required. It is not requisite to the issuance of a commission, a letter rogatory, or a letter of request that the taking of the deposition in any other manner be impracticable or inconvenient; and both a commission and a letter rogatory, or both a commission and a letter of request, may be issued in proper cases. A notice or commission may designate the person before whom the deposition is to be taken either by name or descriptive title. A letter rogatory may be addressed "To the Appropriate Authority in [here name the country]." A letter of request is addressed to the central authority of the requested State. The model recommended for letters of request is set forth in the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters. Evidence obtained by deposition or in response to a letter rogatory or a letter of request need not be excluded merely for the reason that it is not a verbatim transcript or that the testimony was not taken under oath or for any similar departure from the requirements for depositions within the United States under these Rules.

(3) *Disqualification for Interest:* No deposition may be taken before a person who is a relative or employee or counsel of any party, or

is a relative or employee or associate of such counsel, or is financially interested in the action. However, with the consent of all the parties or their counsel, a deposition may be taken before such a person, but only if the relationship of that person and the waiver are set forth in the certificate of return to the Court.

(f) Taking of Deposition:

(1) *Arrangements:* All arrangements necessary for taking of the deposition must be made by the party filing the application or, in the case of a stipulation, by such other persons as may be agreed upon by the parties.

(2) *Procedure:* Attendance by the persons to be examined may be compelled by the issuance of a subpoena, and production likewise may be compelled of exhibits required in connection with the testimony being taken. The officer before whom the deposition is taken must first put the witness on oath (or affirmation) and must personally, or by someone acting under the officer's direction and in the officer's presence, record accurately and verbatim the questions asked, the answers given, the objections made, and all matters transpiring at the taking of the deposition which bear on the testimony involved. Examination and cross-examination of witnesses, and the marking of exhibits, will proceed as permitted at trial. All objections made at the time of examination must be noted by the officer on the deposition. Evidence objected to, unless privileged, must be taken subject to the objections made. If an answer is improperly refused and as a result a further deposition is taken by the interrogating party, the objecting party or deponent may be required to pay all costs, charges, and expenses of that deposition to the same extent as is provided in paragraph (g) of this Rule where a party seeking to take a deposition fails to appear at the taking of the deposition. At the request of either party, a prospective witness at the deposition, other than a person acting in an expert or advisory capacity for a party, will be excluded from the room in which, and during the time that, the testimony of another witness is being taken; and if the person remains in the room or within hearing of the examination after such request has been made, the person will not thereafter be permitted to testify, except with the consent of the party who requested the person's exclusion or by permission of the Court.

(g) Expenses:

(1) *General:* The party taking the deposition must pay all the expenses, fees, and charges of the witness whose deposition is

taken by that party, any charges of the officer presiding at or recording the deposition other than for copies of the deposition, and any expenses involved in providing a place for the deposition. The party taking the deposition must pay for the original of the deposition; and, upon payment of reasonable charges therefor, the officer must also furnish a copy of the deposition to any party or the deponent. By stipulation between the parties or on order of the Court, provision may be made for any costs, charges, or expenses relating to the deposition.

(2) *Failure To Attend or To Serve Subpoena:* If the party authorized to take a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the arrangements made, the Court may order the former party to pay to the other party the reasonable expenses incurred by the other party and the other party's attorney in attending, including reasonable attorney's fees. If the party authorized to take a deposition of a witness fails to serve a subpoena upon the witness and the witness does not attend because of that failure, and if another party attends in person or by attorney because that party expects the deposition of that witness to be taken, the Court may order the former party to pay to the other party the reasonable expenses incurred by the other party and the other party's attorney attending, including reasonable attorney's fees.

(h) Execution and Return of Deposition:

(1) *Submission to Witness; Changes; Signing:* When the testimony is fully transcribed, the deposition must be submitted to the witness for examination and must be read to or by the witness, unless the examination and reading are waived by the witness and by the parties. Any changes in form or substance that the witness desires to make, must be entered on the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition must then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness within 30 days of its submission to the witness, the officer must sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed unless the Court determines that the reasons given for the refusal to sign require rejection of the deposition in whole or in part. As to correction of errors, see Rules 85 and 143(d).

(2) *Form:* The deposition must show the docket number and caption of the case as they appear in the Court's records, the place and date of taking the deposition, the name of the witness, the party by whom called, and the names of counsel present and whom they represent. The pages of the deposition must be bound using a removable fastener. Exhibits must be carefully marked, and when practicable annexed to, and in any event returned with, the deposition, unless, on motion to the Court, a copy may be permitted as a substitute after an opportunity is given to all interested parties to examine and compare the original and the copy. The officer must execute and attach to the deposition a certificate in accordance with Form 16 (Certificate on Return) shown in the Appendix.

(3) *Return of Deposition:* The deposition and exhibits should not be filed with the Court. Unless the Court orders otherwise, the officer must deliver the original deposition and exhibits to the party taking the deposition or that party's counsel, who must take custody of and be responsible for the safeguarding of the original deposition and exhibits. Upon payment of reasonable charges therefor, the officer also must deliver a copy of the deposition and exhibits to any party or the deponent, or to counsel for any party or for the deponent. As to use of a deposition at the trial or in any other proceeding in the case, see paragraph (i) of this Rule. As to introduction of a deposition in evidence, see Rule 143(d).

(4) *Electronic Records:* On the agreement of the parties, the requirements of paragraphs (h)(2) and (3) may be satisfied by retaining a copy of a deposition and any exhibits in electronic form.

(i) Use of Deposition: At the trial or in any other proceeding in the case, any part or all of a deposition, so far as admissible under the rules of evidence applied as though the witness were then present and testifying, may be used against any party who was present or represented at the taking of the deposition or who had reasonable notice thereof, in accordance with any of the following provisions:

(1) The deposition may be used by any party for the purpose of contradicting or impeaching the testimony of the deponent as a witness.

(2) The deposition of a party may be used by an adverse party for any purpose.

(3) The deposition may be used for any purpose if the Court finds:

(A) that the witness is dead;

(B) that the witness is at such distance from the place of trial that it is not practicable for the witness to attend, unless it appears that the absence of the witness was procured by the party seeking to use the deposition;

(C) that the witness is unable to attend or testify because of age, illness, infirmity, or imprisonment;

(D) that the party offering the deposition has been unable to obtain attendance of the witness at the trial, as to make it desirable, in the interest of justice, to allow the deposition to be used; or

(E) that such exceptional circumstances exist, in regard to the absence of the witness at the trial, as to make it desirable, in the interest of justice, to allow the deposition to be used.

(4) If only part of a deposition is offered in evidence by a party, an adverse party may require the party offering the deposition to introduce any other part that ought in fairness to be considered with the part introduced, and any party may introduce any other parts. As to introduction of a deposition in evidence, see Rule 143(d).

(j) Video Recorded Depositions:

(1) *General:* By stipulation of the parties or on the Court's order, a deposition to perpetuate testimony to be taken upon oral examination may be video recorded. Except as otherwise provided by this paragraph, all other provisions of these Rules governing the practice and procedure in depositions apply.

(2) *Procedure:* The deposition must begin by the operator stating on camera: (A) the operator's name and address; (B) the name and address of the operator's employer; (C) the date, time, and place of the deposition; (D) the caption and docket number of the case; (E) the name of the witness; and (F) the party on whose behalf the deposition is being taken. The officer before whom the deposition is taken must then identify himself or herself and swear the witness on camera. At the conclusion of the deposition, the operator must state on camera that the deposition is concluded. The officer before whom the deposition is taken and the operator may be the same person. When the deposition spans multiple units of video storage medium (tape, disc, etc.), the end of each unit and the beginning of each succeeding unit must be announced on camera by the operator. The deposition must be timed by a digital clock on camera which must show continually each hour, minute, and second of the deposition.

(3) *Transcript:* If requested by one of the parties, the testimony must be transcribed at the cost of such party; but no signature of the witness is required, and the transcript should not be filed with the Court.

(4) *Custody:* The party taking the deposition or the party's counsel must take custody of and be responsible for the safeguarding of the video recording together with any exhibits, and the party must permit the viewing of or must provide a copy of the video recording and any exhibits on the request and at the cost of any other party.

(5) *Use:* A video recorded deposition may be used at a trial or hearing in the manner and to the extent provided in paragraph (i) of this Rule. The party who offers the video recording in evidence must provide all necessary equipment for viewing the video recording and personnel to operate the equipment. At a trial or hearing, that part of the audio portion of a video recorded deposition that is offered in evidence and admitted, or that is excluded on objection, must be transcribed in the same manner as the testimony of other witnesses. The video recording shall be marked as an exhibit and, subject to the provisions of Rule 143(e)(2), will remain in the custody of the Court.

(As amended and effective March 1, 2008, 130 T.C. 440–49; as amended, effective January 1, 2010, 134 T.C. 338–47; effective March 20, 2023, 160 T.C. 629–40. For prior history, see 60 T.C. 1104–10 (1973); 71 T.C. 1196–98 (1979); 81 T.C. 1057–62 (1983); 93 T.C. 914–23 (1989).)

RULE 82. DEPOSITIONS BEFORE COMMENCEMENT OF CASE

A person who desires to perpetuate testimony or to preserve any document, electronically stored information, or thing regarding any matter that may be cognizable in this Court may file an application with the Court to take a deposition for such purpose. The application shall be entitled in the name of the applicant, shall otherwise be in the same style and form as apply to a motion filed with the Court, and shall show the following: (1) The facts showing that the applicant expects to be a party to a case cognizable in this Court but is at present unable to bring it or cause it to be brought; (2) the subject matter of the expected action and the applicant's interest therein; and (3) all matters required to be shown in an application under paragraph (b)(1) of Rule 81 except item (H) thereof. Such an application will be entered upon a special docket, and service thereof and pleading with respect thereto will proceed subject to the requirements otherwise applicable to a motion. A hearing on the application may be required by the Court. If the Court is satisfied that the

perpetuation of the testimony or the preservation of the document, electronically stored information, or thing may prevent a failure or delay of justice, then it will make an order authorizing the deposition and including such other terms and conditions as it may deem appropriate consistently with these Rules. If the deposition is taken, and if thereafter the expected case is commenced in this Court, then the deposition may be used in that case subject to the Rules which would apply if the deposition had been taken after commencement of the case.

(As effective October 3, 2008, 130 T.C. 449; as amended, effective January 1, 2010, 134 T.C. 347. For prior history, see 60 T.C. 1110–11 (1973); 93 T.C. 923 (1989); 109 T.C. 592–93 (1997).)

RULE 83. DEPOSITIONS AFTER COMMENCEMENT OF TRIAL

Nothing in these Rules shall preclude the taking of a deposition after trial has commenced in a case, upon approval or direction of the Court. The Court may impose such conditions to the taking of the deposition as it may find appropriate and, with respect to any aspect not provided for by the Court, Rule 81 shall govern to the extent applicable.

(As effective October 3, 2008, 130 T.C. 450. For prior history, see 60 T.C. 1111 (1973).)

RULE 84. DEPOSITIONS UPON WRITTEN QUESTIONS

(a) **Use of Written Questions:** A party may make an application to the Court to take a deposition, otherwise authorized under Rule 81, 82, or 83, upon written questions rather than oral examination. The provisions of those Rules shall apply in all respects to such a deposition except to the extent clearly inapplicable or otherwise provided in this Rule. Unless there is special reason for taking the deposition on written questions rather than oral examination, the Court will deny the application, without prejudice to seeking approval of the deposition upon oral examination. The taking of depositions upon written questions is not favored, except when the deposition is to be taken in a foreign country, in which event the deposition must be taken on written questions unless otherwise directed by the Court for good cause shown.

(b) **Procedure:** An application under paragraph (a) hereof shall have the written questions annexed thereto. With respect to such application, the 15-day period for filing objections prescribed by paragraph (b)(2) of Rule 81 is extended to 20 days, and within that 20-day period the

objecting or responding party shall also file with the Court any cross-questions which such party may desire to be asked at the taking of the deposition. The applicant shall then file any objections to the cross-questions, as well as any redirect questions, within 15 days after service on the applicant of the cross-questions. Within 15 days after service of the redirect questions on the other party, the other party shall file with the Court any objections to the redirect questions, as well as any recross-questions which the other party may desire to be asked. No objection to a written question will be considered unless it is filed with the Court within such applicable time. An original and five copies of all questions and objections shall be filed with the Clerk, who will make service thereof on the opposite party. The Court for good cause shown may enlarge or shorten the time in any respect.

(c) Taking of Deposition: The officer taking the deposition shall propound all questions to the witness in their proper order. The parties and their counsel may attend the taking of the deposition but shall not participate in the deposition proceeding in any manner.

(d) Execution and Return: The execution and return of the deposition shall conform to the requirements of paragraph (h) of Rule 81.

(As effective October 3, 2008, 130 T.C. 450–51. For prior history, see 60 T.C. 1111–13 (1973); 81 T.C. 1062 (1983); 93 T.C. 924–25 (1989); 109 T.C. 593–94 (1997).)

RULE 85. OBJECTIONS, ERRORS, AND IRREGULARITIES

(a) As to Initiating Deposition: All errors and irregularities in the procedure for obtaining approval for the taking of a deposition are waived unless made in writing within the time for making objections or promptly where no time is prescribed.

(b) As to Disqualification of Officer: Objection to taking a deposition because of disqualification of the officer before whom it is to be taken is waived unless made before the taking of the deposition begins or as soon thereafter as the disqualification becomes known or could be discovered with reasonable diligence.

(c) As to Use: In general, an objection may be made at the trial or hearing to use of a deposition, in whole or in part as evidence, for any reason which would require the exclusion of the testimony as evidence if the witness were then present and testifying. However, objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are waived by failure to make them before or during the

taking of the deposition, if the ground of the objection is one which might have been obviated or removed if presented at that time.

(d) **As to Manner and Form:** Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation, or in the conduct of the parties, and errors of any kind which might have been obviated, removed, or cured if promptly presented, are waived unless reasonable objection thereto is made at the taking of the deposition.

(e) **As to Errors by Officer:** Errors or irregularities in the manner in which testimony is transcribed or the deposition is prepared, signed, certified, sealed, endorsed, transmitted, filed, or otherwise dealt with by the presiding officer, are waived unless a motion to correct or suppress the deposition or some part thereof is made with reasonable promptness after such defect is, or with due diligence might have been, ascertained. See also Rule 143(d).

(As effective October 3, 2008, 130 T.C. 451–52; as amended, effective January 1, 2010, 134 T.C. 348–49. For prior history, see 60 T.C. 1113–14 (1973).)

TITLE IX. ADMISSIONS, STIPULATIONS, AND ADMINISTRATIVE RECORD

As effective October 3, 2008, 130 T.C. 452; as amended, effective March 20, 2023, 160 T.C. 640.)

RULE 90. REQUESTS FOR ADMISSIONS

(a) **Scope and Time of Request:** A party may serve on any other party a written request to admit, for purposes of the pending action only, the truth of any matters within the scope of Rule 70(b)(1), but only if those matters are set forth in the request and relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. However, the Court expects the parties to attempt to attain the objectives of such a request through informal consultation or communication before utilizing the procedures provided in this Rule. Requests for admission may not be commenced, without leave of Court, until 31 days after joinder of issue (see Rule 38).

(b) **The Request:** A request must separately set forth each matter of which an admission is requested and must advise the party to whom the request is directed of the consequences of failing to respond as provided by paragraph (c). Copies of documents must be served with the request unless they have been or are otherwise furnished or made available for inspection and copying. The party making the request must simultaneously serve a copy thereof on the other party and file the request with proof of service with the Court.

(c) **Response to Request:** Each matter is deemed admitted unless, within 30 days after service of the request or within a shorter or longer time as the Court may allow, the party to whom the request is directed serves on the requesting party:

(1) a written answer specifically admitting or denying the matter involved in whole or in part, or asserting that it cannot be truthfully admitted or denied and setting forth in detail the reasons why this is so; or

(2) an objection, stating in detail the reasons therefor.

The response must be signed by the party or the party's counsel, and the response, with proof of service on the other party, must be filed with the Court. A denial must meet the substance of the requested admission, and, if good faith requires that a party qualify an answer or deny only a part of a matter, that party must specify so much of it as is true and

deny or qualify the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless the party states that the party has made reasonable inquiry and that the information known or readily obtainable by the party is insufficient to enable the party to admit or deny. A party who considers that a matter, of which an admission has been requested, presents a genuine issue for trial may not, on that ground alone, object to the request; that party may, subject to the provisions of paragraph (g) of this Rule, deny the matter or set forth reasons why that party cannot admit or deny it. An objection on the ground of relevance may be noted by any party but it is not to be regarded as just cause for refusal to admit or deny.

(d) Effect of Signature:

(1) The signature of counsel or a party constitutes a certification that the signer has read the request for admission or response or objection, and that to the best of the signer's knowledge, information, and belief formed after a reasonable inquiry, it is:

(A) consistent with these Rules and warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law;

(B) not presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; and

(C) is within the scope of Rule 70(b)(1).

The Court may strike an unsigned request, response, or objection unless the paper is signed promptly after the omission is called to the attention of the party making the request, response, or objection. The time within which a party is obligated to take action with respect to an unsigned request, response, or objection does not begin to run until the paper is signed.

(2) If a certification is made in violation of this Rule, the Court, on motion or on its own, may impose on the person who made the certification, the party on whose behalf the request, response, or objection is made, or both, an appropriate sanction, which may include an order to pay the amount of the reasonable expenses incurred because of the violation, including reasonable counsel's fees.

(e) Motion To Review: The party who has requested the admissions may move to determine the sufficiency of the answers or objections. Any motion to review under this paragraph must be filed no later than 45 days before the date set for call of the case from a trial calendar, unless the Court orders otherwise. Unless the Court determines that an

objection is justified, it will order that an answer be served. If the Court determines that an answer does not comply with the requirements of this Rule, it may order either that the matter is admitted or that an amended answer be served. In lieu of an order, the Court may determine that final disposition of the request will be made at some later time that may be more appropriate for disposing of the question involved.

(f) Effect of Admission: Any matter admitted under this Rule is conclusively established unless the Court on motion permits withdrawal or modification of the admission. Subject to any other Court orders, withdrawal or modification may be permitted if the presentation of the merits of the case will be promoted thereby, and the party who obtained the admission fails to satisfy the Court that the withdrawal or modification will prejudice that party in prosecuting the case or defending on the merits. Any admission made by a party under this Rule is for the purpose of the pending action only and is not an admission by that party for any other purpose, nor may it be used against that party in any other proceeding.

(g) Sanctions: If any party unjustifiably fails to admit the genuineness of any document or the truth of any matter as requested in accordance with this Rule, the party requesting the admission may apply to the Court for an order imposing any sanction on the other party or the other party's counsel as the Court may find appropriate in the circumstances, including but not limited to the sanctions provided in Title X. The failure to admit may be found unjustifiable unless the Court finds that:

(1) the request was held objectionable pursuant to this Rule,

(2) the admission sought was of no substantial importance,

(3) the party failing to admit had reasonable ground to doubt the truth of the matter or the genuineness of the document in respect of which the admission was sought, or

(4) there was other good reason for failure to admit.

(h) Other Applicable Rules: For Rules concerned with frequency and timing of requests for admission in relation to other procedures, supplementation of answers, effect of evasive or incomplete answers or responses, protective orders, and sanctions and enforcement action, see Title X.

(As amended and effective March 1, 2008, 130 T.C. 452–55; as amended, effective March 20, 2023, 160 T.C. 641–44. For prior history, see 60 T.C. 1114–17 (1973); 71 T.C. 1198–99 (1979); 85 T.C. 1129–32 (1985); 93 T.C. 926–29 (1989); 109 T.C. 596–99 (1997).)

RULE 91. STIPULATIONS FOR TRIAL

(a) Stipulations Required:

(1) *General:* The parties are required to stipulate, to the fullest extent to which complete or qualified agreement can or fairly should be reached, all matters not privileged that are relevant to the pending case, regardless of whether those matters involve fact or opinion or the application of law to fact. Included in matters required to be stipulated are all facts, all documents and papers or contents or aspects thereof, and all evidence that fairly should not be in dispute. If the truth or authenticity of facts or evidence claimed to be relevant by one party is not disputed, an objection on the ground of materiality or relevance may be noted by any other party but is not to be regarded as just cause for refusal to stipulate. The requirement of stipulation applies under this Rule without regard to where the burden of proof may lie with respect to the matters involved. Documents or papers or other exhibits annexed to or filed with the stipulation will be considered to be part of the stipulation.

(2) *Stipulations To Be Comprehensive:* The fact that any matter may have been obtained through discovery or requests for admission or through any other authorized procedure is not grounds for omitting the matter from the stipulation. Such procedures should be regarded as aids to stipulation, and matter obtained through them that is within the scope of subparagraph (1) must be set forth comprehensively in the stipulation, in logical order in the context of all other provisions of the stipulation. A failure to include in the stipulation a matter admitted under Rule 90(f) does not affect the Court's ability to consider the admitted matter.

(b) Form: Stipulations required under this Rule must be in writing, signed by the parties thereto or by their counsel, and must observe the requirements of Rule 23 as to form and style of papers, except that a stipulation filed in paper in open Court must be filed with the Court in duplicate and only one set of exhibits is required. Documents or other papers that are the subject of stipulation in any respect and that the parties intend to place before the Court must be annexed to or filed with the stipulation. The stipulation must be clear and concise. Separate items must be stated in separate paragraphs and must be appropriately lettered or numbered. Exhibits attached to a stipulation must be numbered serially; i.e., 1, 2, 3, etc. The exhibit number must be followed by "P" if offered by the petitioner, e.g., 1-P; "R" if offered by the respondent, e.g., 2-R; or "J" if joint, e.g., 3-J.

(c) Filing: Executed stipulations prepared pursuant to this Rule, and related exhibits, must be filed by the parties at or before commencement of the trial of the case, unless the Court orders otherwise. A stipulation that has been filed need not be offered formally to be considered in evidence.

(d) Objections: Any objection to all or any part of a stipulation should be noted in the stipulation, but the Court will consider any objection to a stipulated matter made at the commencement of the trial or for good cause shown made during the trial.

(e) Binding Effect: A stipulation will be treated, to the extent of its terms, as a conclusive admission by the parties to the stipulation, unless otherwise permitted by the Court or as agreed by those parties. The Court will not permit a party to a stipulation to qualify, change, or contradict a stipulation in whole or in part, except that it may do so if justice requires. A stipulation and the admissions therein are binding and have effect only in the pending case and not for any other purpose, and cannot be used against any of the parties thereto in any other case or proceeding.

(f) Noncompliance by a Party:

(1) *Motion To Compel Stipulation:* If, after the date the notice setting the case for trial is served, a party has refused or failed to confer with an opposing party with respect to entering into a stipulation in accordance with this Rule, or a party has refused or failed to stipulate to any matter within the terms of this Rule, the party proposing to stipulate may, at a time not later than 45 days before the date set for call of the case from a trial calendar, file a motion with the Court for an order directing the delinquent party to show cause why the matters covered in the motion should not be deemed admitted for the purposes of the case. The motion must:

(A) identify with particularity and by separately numbered paragraphs each matter that is claimed for stipulation;

(B) set forth in express language the specific stipulation that the moving party proposes with respect to each matter and annex thereto or make available to the Court and the other parties each document or other paper as to which the moving party desires a stipulation;

(C) set forth the sources, reasons, and basis for claiming, with respect to each such matter, that it should be stipulated; and

(D) show that opposing counsel or the other parties have had reasonable access to those sources or basis for stipulation and have been informed of the reasons for stipulation.

(2) *Procedure:* On the filing of a motion, an order to show cause as moved will be issued forthwith, unless the Court orders otherwise. The order to show cause will be served by the Clerk, with a copy thereof sent to the moving party. Within 20 days of the service of the order to show cause, the party to whom the order is directed must file a response with the Court, with proof of service of a copy thereof on opposing counsel or the other parties, showing why the matters set forth in the motion papers should not be deemed admitted for purposes of the pending case. The response must list each matter involved on which there is no dispute, referring specifically to the numbered paragraphs in the motion to which the admissions relate. If a matter is disputed only in part, the response must show the part admitted and the part disputed. If the responding party is willing to stipulate in whole or in part with respect to any matter in the motion by varying or qualifying a matter in the proposed stipulation, the response must set forth the variance or qualification and the admission that the responding party is willing to make. If the response claims that there is a dispute as to any matter in part or in whole, or if the response presents a variance or qualification with respect to any matter in the motion, the response must show the sources, reasons, and basis on which the responding party relies for that purpose. The Court may set the order to show cause for a hearing or conference at any time.

(3) *Failure of Response:* If no response is filed within the period specified with respect to any matter or portion thereof, or if the response is evasive or not fairly directed to the proposed stipulation or portion thereof, that matter or portion thereof will be deemed stipulated for purposes of the pending case, and an order will be issued accordingly.

(4) *Matters Considered:* Opposing claims of evidence will not be weighed under this Rule unless the evidence is patently incredible. Nor will a genuinely controverted or doubtful issue of fact be determined in advance of trial. The Court will determine whether a genuine dispute exists or whether in the interest of justice a matter ought not be deemed stipulated.

(As effective October 3, 2008, 130 T.C. 455–58; as amended, effective January 1, 2010, 134 T.C. 349–52; May 5, 2011, 136 T.C. 624–27; March 20, 2023, 160 T.C. 645–49.

For prior history, see 60 T.C. 1117–21 (1973); 71 T.C. 1199–200 (1979); 93 T.C. 929–33 (1989); 109 T.C. 599–603 (1997).)

RULE 92. [RESERVED]

(As effective October 3, 2008, 130 T.C. 458–59; as amended, effective March 20, 2023, 160 T.C. 649. For prior history, see 71 T.C. 1200 (1979).)

RULE 93. IDENTIFICATION AND CERTIFICATION OF ADMINISTRATIVE RECORD IN CERTAIN ACTIONS

(a) **General:** Except as otherwise provided in this Rule or as ordered by the Court, if judicial review of the Commissioner's determination ordinarily would be based solely or partly on the administrative record, the parties must file with the Court, no later than 45 days after the notice setting the case for trial is served, the entire administrative record (or so much of that record as either party may deem necessary for a complete disposition of the issue or issues in dispute) stipulated as to its genuineness. If, however, the parties are unable to file a stipulated administrative record, the Commissioner must file with the Court, no later than 45 days after the notice setting the case for trial is served, the entire administrative record, appropriately certified as to its genuineness by the Commissioner or by an official authorized to act for the Commissioner in such situation.

(b) **Motion To Complete or Supplement:** If a party contends that the administrative record is incomplete or should be supplemented, that party may move to complete or supplement the administrative record no later than 60 days after the notice setting the case for trial is served, unless the Court orders otherwise. The motion must state in detail why the party contends that the administrative record is incomplete or should be supplemented, and the party must attach any documents or other information that the party alleges is or should be part of the administrative record.

(c) **Administrative Record:** The term "administrative record" generally refers to all documents and materials received, developed, considered, or exchanged in connection with the administrative determination.

(d) **Declaratory Judgment Actions:** This Rule does not apply to declaratory judgment actions. For Rules governing the filing of the administrative record in declaratory judgment actions, see Title XXI of these Rules.

(e) Other Cases: The Court may direct the parties to follow the procedures set forth in this Rule in any case where identification and certification of the administrative record may contribute to a prompt resolution of the case.

(As adopted, effective March 20, 2023, 160 T.C. 649–51.)

TITLE X. GENERAL PROVISIONS GOVERNING DISCOVERY, DEPOSITIONS, AND REQUESTS FOR ADMISSION

RULE 100. APPLICABILITY

The Rules in this Title apply according to their terms to written interrogatories (Rule 71), production of documents, electronically stored information, or things (Rule 72), examination by transferees (Rule 73), depositions (Rules 74, 81, 82, 83, and 84), and requests for admission (Rule 90). Such procedures may be used in anticipation of the stipulation of facts required by Rule 91, but the existence of such procedures or their use does not excuse failure to comply with the requirements of that Rule. See Rule 91(a)(2).

(As effective October 3, 2008, 130 T.C. 459; as amended, effective January 1, 2010, 134 T.C. 352. For prior history, see 60 T.C. 1121 (1979); 71 T.C. 1200–01 (1979); 79 T.C. 1142–43 (1982); 93 T.C. 933 (1989).)

RULE 101. SEQUENCE, TIMING, AND FREQUENCY

Unless the Court orders otherwise for the convenience of the parties and witnesses and in the interests of justice, and subject to the provisions of the Rules herein which apply more specifically, the procedures set forth in Rule 100 may be used in any sequence, and the fact that a party is engaged in any such method or procedure shall not operate to delay the use of any such method or procedure by any other party. However, none of these methods or procedures shall be used in a manner or at a time which shall delay or impede the progress of the case toward trial status or the trial of the case on the date for which it is noticed, unless in the interests of justice the Court shall order otherwise. Unless the Court orders otherwise under Rule 103, the frequency of use of these methods or procedures is not limited.

(As effective October 3, 2008, 130 T.C. 459. For prior history, see 60 T.C. 1121–22 (1973).)

RULE 102. SUPPLEMENTATION OF RESPONSES

A party who has responded to a request for discovery (under Rule 71, 72, 73, or 74) or to a request for admission (under Rule 90) in a manner which was complete when made, is under no duty to supplement the response to include information thereafter acquired, except as follows:

(1) A party is under a duty seasonably to supplement the response with respect to any matter directly addressed to:

(A) The identity and location of persons having knowledge of discoverable matters, and

(B) the identity of each person expected to be called as an expert witness at trial, the subject matter on which such person is expected to testify, and the substance of such person's testimony. In respect of the requirement to furnish reports of expert witnesses, see Rule 143(g)(1).

(2) A party is under a duty seasonably to amend a prior response if the party obtains information upon the basis of which the party knows that:

(A) The response was incorrect when made, or

(B) the response, though correct when made, is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment.

(3) A duty to supplement responses may be imposed by order of the Court, agreement of the parties, or at any time prior to trial through new requests for supplementation of prior responses.

(As effective October 3, 2008, 130 T.C. 459–60; as amended, effective January 1, 2010, 134 T.C. 352–53. For prior history, see 60 T.C. 1122 (1973); 71 T.C. 1201 (1979); 79 T.C. 1143–44 (1982); 93 T.C. 934–35 (1989); 109 T.C. 604–05 (1997).)

RULE 103. PROTECTIVE ORDERS

(a) Authorized Orders: On motion by a party or any other affected person, or on the Court's own, and for good cause, the Court may make any order that justice requires to protect a party or other person from annoyance, embarrassment, oppression, or undue burden or expense, including but not limited to one or more of the following:

(1) That the particular method or procedure not be used.

(2) That the method or procedure be used only on specified terms and conditions, including a designation of the time or place.

(3) That a method or procedure be used other than the one selected by the party.

(4) That certain matters not be inquired into or that the method be limited to certain matters or to any other extent.

(5) That the method or procedure be conducted with no one present except persons designated by the Court.

(6) That a deposition or other written materials, after being sealed, be opened only by order of the Court.

(7) That a trade secret or other information not be disclosed or be disclosed only in a designated way.

(8) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the Court.

(9) That expense involved in a method or procedure be borne in a particular manner or by specified person or persons.

(10) That documents or records (including electronically stored information) be impounded by the Court to ensure their availability for the purpose of review by the parties before trial and for use at the trial.

If a discovery request has been made, the movant must attach as an exhibit to a motion for a protective order under this Rule a copy of any discovery request in respect of which the motion is filed.

(b) Denials: If a motion for a protective order is denied in whole or in part, the Court may, on such terms or conditions it deems just, order any party or person to comply or to respond in accordance with the procedure involved.

(As effective October 3, 2008, 130 T.C. 460–61; as amended, effective January 1, 2010, 134 T.C. 353–54; effective March 20, 2023, 160 T.C. 652–53. For prior history, see 60 T.C. 1122–23 (1973); 93 T.C. 935–36 (1989).)

RULE 104. ENFORCEMENT ACTION AND SANCTIONS

(a) Failure To Attend Deposition or To Answer Interrogatories or Respond to Request for Inspection or Production: If a party, or an officer, director, or managing agent of a party, or a person designated in accordance with Rule 74(b) or (c) or Rule 81(c) to testify on behalf of a party fails: (1) To appear before the officer who is to take such person's deposition pursuant to Rule 74, 81, 82, 83, or 84; (2) to serve answers or objections to interrogatories submitted under Rule 71, after proper service thereof; or (3) to serve a written response to a request for production or inspection submitted under Rule 72 or 73 after proper service of the request then the Court on motion may make such orders in regard to the failure as are just, and among others it may take any action authorized under paragraph (b) or (c) of this Rule. If any person, after being served with a subpoena or having waived such service,

willfully fails to appear before the officer who is to take such person's deposition or refuses to be sworn, or if any person willfully fails to obey an order requiring such person to answer designated interrogatories or questions, then such failure may be considered contempt of court. The failure to act described in this paragraph (a) may not be excused on the ground that the deposition sought, the interrogatory submitted, or the production or inspection sought, is objectionable, unless the party failing to act has theretofore raised the objection, or has applied for a protective order under Rule 103, with respect thereto at the proper time and in the proper manner, and the Court has either sustained or granted or not yet ruled on the objection or the application for the order.

(b) Failure To Answer: If a person fails to answer a question or interrogatory propounded or submitted in accordance with Rule 71, 74, 81, 82, 83, or 84, or fails to respond to a request to produce or inspect or fails to produce or permit the inspection in accordance with Rule 72 or 73, or fails to make a designation in accordance with Rule 74(b) or (c) or Rule 81(c), the aggrieved party may, within the time for completion of discovery under Rule 70(a)(2), move the Court for an order compelling an answer, response, or compliance with the request, as the case may be. When taking a deposition on oral examination, the examination may be completed on other matters or the examination adjourned, as the proponent of the question may prefer, before applying for such order.

(c) Sanctions: If a party or an officer, director, or managing agent of a party or a person designated in accordance with Rule 74(b) or (c) or Rule 81(c) fails to obey an order made by the Court with respect to the provisions of Rule 71, 72, 73, 74, 81, 82, 83, 84, or 90, then the Court may make such orders as to the failure as are just, and among others the following:

(1) An order that the matter regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the case in accordance with the claim of the party obtaining the order.

(2) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting such party from introducing designated matters in evidence.

(3) An order striking out pleadings or parts thereof, staying further proceedings until the order is obeyed, dismissing the case or any part thereof, or rendering a judgment by default against the disobedient party.

(4) In lieu of the foregoing orders or in addition thereto, the Court may treat as a contempt of the Court the failure to obey any such order, and the Court may also require the party failing to obey

the order or counsel advising such party, or both, to pay the reasonable expenses, including counsel's fees, caused by the failure, unless the Court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

(d) Evasive or Incomplete Answer or Response: For purposes of this Rule and Rules 71, 72, 73, 74, 81, 82, 83, 84, and 90, an evasive or incomplete answer or response is to be treated as a failure to answer or respond.

(e) Failure to Provide Electronically Stored Information: Absent exceptional circumstances, sanctions may not be imposed under this Rule on a party for failing to provide electronically stored information that was lost as a result of the routine, good-faith operation of an electronic information system.

(As effective October 3, 2008, 130 T.C. 461–63; as amended, effective January 1, 2010, 134 T.C. 354–58. For prior history, see 60 T.C. 1123–25 (1973); 71 T.C. 1201–03 (1979); 79 T.C. 1144–45 (1982); 81 T.C. 1062–63 (1983); 85 T.C. 1132–33 (1985); 93 T.C. 936–38 (1989).)

TITLE XI. PRETRIAL CONFERENCES

RULE 110. PRETRIAL CONFERENCES

(a) General: In appropriate cases, the Court will confer with the parties in pretrial conferences with a view to narrowing issues, stipulating facts, simplifying the presentation of evidence, or otherwise assisting in the preparation for trial or possible disposition of the case in whole or in part without trial.

(b) Cases Calendared: Either party in a case listed on any trial calendar may request of the Court, or the Court on its own may order, a pretrial conference. The Court may, in its discretion, set the case for a pretrial conference during the trial session. If sufficient reason appears therefor, a pretrial conference will be scheduled before the call of the calendar at a time and place as may be practicable and appropriate.

(c) Cases Not Calendared: If a case is not listed on a trial calendar, the Court on motion or on its own may list the case for a pretrial conference on a calendar in the place requested for trial, or may set the case for a pretrial conference either in Washington, D.C., or in any other convenient place.

(d) Conditions: A request or motion for a pretrial conference must include a statement of the reasons therefor. Pretrial conferences will in no circumstances be held as a substitute for the conferences required between the parties in order to comply with the provisions of Rule 91. The Court may hold a pretrial conference for the purpose of assisting the parties in entering into the stipulations called for by Rule 91 if the party requesting a pretrial conference has in good faith attempted without success to obtain stipulations from an opposing party. The Court will not hold a pretrial conference if the Court is satisfied that the request therefor is frivolous or is made for purposes of delay.

(e) Order: The Court may, in its discretion, issue appropriate pretrial orders.

(As amended and effective March 1, 2008, 130 T.C. 463–64; as amended, effective March 20, 2023, 160 T.C. 653–54. For prior history, see 60 T.C. 1125–26 (1973); 93 T.C. 938–39 (1989).)

TITLE XII. DECISION WITHOUT TRIAL

RULE 120. JUDGMENT ON THE PLEADINGS

(a) General: After the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings. The motion shall be filed and served in accordance with the requirements otherwise applicable. See Rules 50 and 54. Such motion shall be disposed of before trial unless the Court determines otherwise.

(b) Matters Outside Pleadings: If, on a motion for judgment on the pleadings, matters outside the pleadings are presented to and not excluded by the Court, the motion shall be treated as one for summary judgment and shall be disposed of as provided in Rule 121, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 121.

(As effective October 3, 2008, 130 T.C. 464. For prior history, see 60 T.C. 1126 (1973).)

RULE 121. SUMMARY JUDGMENT

(a) Motion for Summary Judgment or Partial Summary Judgment:

(1) A party may move for summary judgment on all or any part of the legal issues in controversy.

(2) The Court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.

(3) The Court should state on the record the reasons for granting or denying the motion.

(b) Time To File a Motion and Response in Opposition:

(1) Unless the Court orders otherwise, a party may file a motion for summary judgment at any time beginning 30 days after the pleadings are closed but within such time as not to delay the trial and, in any event, no later than 60 days before the first day of the Court's session at which the case is calendared for trial.

(2) Any response in opposition to the motion must be filed within such period as the Court directs.

(c) Procedures:

(1) Supporting Factual Positions: A party asserting that a fact cannot be or is genuinely disputed must support the assertion by:

(A) citing to particular parts of materials in the record, including depositions, documents, electronically stored information, affidavits or declarations, stipulations (including those made for purposes of the motion only), admissions, interrogatory answers, or other materials; or

(B) showing that the materials cited do not establish the absence or presence of a genuine dispute, or that an adverse party cannot produce admissible evidence to support the fact.

(2) *Objection That a Fact Is Not Supported by Admissible Evidence:* A party may object that the material cited to support or dispute a fact cannot be presented in a form that would be admissible in evidence.

(3) *Materials Not Cited:* The Court need consider only the cited materials, but it may consider other materials in the record.

(4) *Affidavits or Declarations:* An affidavit or declaration used to support or oppose a motion must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant or declarant is competent to testify on the matters stated.

(d) Nonmovant Must Respond or Risk Adverse Ruling: When a motion for summary judgment is made and supported as set forth in this Rule, the nonmovant may not rest on the allegations or denials in that party's pleading. The nonmovant must respond, setting forth specific facts and supporting those facts as required by Rule 121(c), to show that there is a genuine dispute of fact for trial. If the nonmovant does not so respond, a decision may be entered against that party.

(e) When Facts Are Unavailable to the Nonmovant: If a nonmovant shows by affidavit or declaration that, for specified reasons, it cannot present facts essential to justify its opposition, the Court may:

(1) defer considering the motion or deny it;

(2) allow time to obtain affidavits or declarations or to take discovery; or

(3) issue any other appropriate order.

(f) Failing To Properly Support or Address a Fact: If a party fails to properly support an assertion of fact or fails to properly address another party's assertion of fact as required by Rule 121(c), the Court may:

(1) give an opportunity to properly support or address the fact;

(2) consider the fact undisputed for purposes of the motion;

(3) grant summary judgment if the motion and supporting materials (including the facts considered undisputed) show that the movant is entitled to it; or

(4) issue any other appropriate order.

(g) Judgment Independent of the Motion: After giving notice and a reasonable time to respond, the Court may:

(1) grant summary judgment for a nonmovant;

(2) grant the motion on grounds not raised by a party; or

(3) consider summary judgment on its own after identifying for the parties material facts that may not be genuinely in dispute.

(h) Declining To Grant All the Requested Relief: If the Court does not grant all the relief requested by the motion, it may issue an order stating any material fact that is not genuinely in dispute and treating the fact as established in the case.

(i) Affidavit or Declaration Submitted in Bad Faith: If satisfied that an affidavit or declaration under this rule is submitted in bad faith or solely for delay, the Court, after notice and a reasonable time to respond, may order the submitting party to pay the other party the reasonable expenses, including attorney's fees, it incurred as a result. An offending party or attorney may also be held in contempt or subjected to other appropriate sanctions.

(j) Review Based Solely on Administrative Record: In cases in which judicial review is based solely on the administrative record, paragraphs (a)(2) and (c)(1) through (4) are not applicable. In such cases, a motion for summary judgment and any response in opposition to a motion for summary judgment must include a statement of facts with references to the administrative record. For procedures governing the identification, certification, and filing of the administrative record, see Rule 93.

(As effective October 3, 2008, 130 T.C. 465–66; as amended, effective May 5, 2011, 136 T.C. 627–29; effective July 6, 2012, 139 T.C. 549–52; effective March 20, 2023, 160 T.C. 654–58. For prior history, see 60 T.C. 1126–29 (1973); 71 T.C. 1203–04 (1979); 81 T.C. 1063 (1983); 93 T.C. 940–42 (1989).)

RULE 122. SUBMISSION WITHOUT TRIAL

(a) General: Any case not requiring a trial for the submission of evidence (as, for example, where sufficient facts have been admitted, stipulated, established by deposition, or included in the record in some other way)

may be submitted at any time after joinder of issue (see Rule 38) by motion of the parties filed with the Court. The parties need not wait for the case to be calendared for trial and need not appear in Court.

(b) Burden of Proof: The fact of submission of a case, under paragraph (a) of this Rule, does not alter the burden of proof, or the requirements otherwise applicable with respect to adducing proof, or the effect of failure of proof.

(As effective October 3, 2008, 130 T.C. 466–67. For prior history, see 60 T.C. 1129 (1973); 71 T.C. 1204 (1979); 81 T.C. 1063–64 (1983); 109 T.C. 611 (1997).)

RULE 123. DEFAULT AND DISMISSAL

(a) Default: If any party has failed to plead or otherwise proceed as provided by these Rules or as required by the Court, then such party may be held in default by the Court either on motion of another party or on the initiative of the Court. Thereafter, the Court may enter a decision against the defaulting party, upon such terms and conditions as the Court may deem proper, or may impose such sanctions (see, e.g., Rule 104) as the Court may deem appropriate. The Court may, in its discretion, conduct hearings to ascertain whether a default has been committed, to determine the decision to be entered or the sanctions to be imposed, or to ascertain the truth of any matter.

(b) Dismissal: For failure of a petitioner properly to prosecute or to comply with these Rules or any order of the Court or for other cause which the Court deems sufficient, the Court may dismiss a case at any time and enter a decision against the petitioner. The Court may, for similar reasons, decide against any party any issue as to which such party has the burden of proof, and such decision shall be treated as a dismissal for purposes of paragraphs (c) and (d) of this Rule.

(c) Setting Aside Default or Dismissal: For reasons deemed sufficient by the Court and upon motion expeditiously made, the Court may set aside a default or dismissal or the decision rendered thereon.

(d) Effect of Decision on Default or Dismissal: A decision rendered upon a default or in consequence of a dismissal, other than a dismissal for lack of jurisdiction, shall operate as an adjudication on the merits.

(As effective October 3, 2008, 130 T.C. 467. For prior history, see 60 T.C. 1129–30 (1973); 93 T.C. 942–43 (1989).)

RULE 124. ALTERNATIVE DISPUTE RESOLUTION

(a) Voluntary Binding Arbitration: The parties may move that any factual issue in controversy be resolved through voluntary binding arbitration. Such a motion may be made at any time after a case is at issue and before trial. Upon the filing of such a motion, the Chief Judge will assign the case to a Judge or Special Trial Judge for disposition of the motion and supervision of any subsequent arbitration.

(1) *Stipulation Required:* The parties shall attach to any motion filed under paragraph (a) a stipulation executed by each party or counsel for each party. Such stipulation shall include the matters specified in subparagraph (2).

(2) *Content of Stipulation:* The stipulation required by subparagraph (1) shall include the following:

(A) A statement of the issues to be resolved by the arbitrator;

(B) an agreement by the parties to be bound by the findings of the arbitrator in respect of the issues to be resolved;

(C) the identity of the arbitrator or the procedure to be used to select the arbitrator;

(D) the manner in which payment of the arbitrator's compensation and expenses, as well as any related fees and costs, is to be allocated among the parties;

(E) a prohibition against ex parte communication with the arbitrator; and

(F) such other matters as the parties deem to be appropriate.

(3) *Order by Court:* The arbitrator will be appointed by order of the Court, which order may contain such directions to the arbitrator and to the parties as the Judge or Special Trial Judge considers to be appropriate.

(4) *Report by Parties:* The parties shall promptly report to the Court the findings made by the arbitrator and shall attach to their report any written report or summary that the arbitrator may have prepared.

(b) Voluntary Nonbinding Mediation: The parties may move by joint or unopposed motion that any issue in controversy be resolved through voluntary nonbinding mediation. Such a motion may be made at any time after a case is at issue and before the decision in the case is final.

(1) *Order by Court:* The mediation shall proceed in accordance with an order of the Court setting forth such directions to the parties as the Court considers to be appropriate.

(2) *Tax Court Judge or Special Trial Judge as Mediator:* A Judge or Special Trial Judge of the Court may act as mediator in any case pending before the Court if:

(A) the motion makes a specific request that a Judge or Special Trial Judge be designated as such, and

(B) a Judge or Special Trial Judge is so designated by order of the Chief Judge.

(c) Other Methods of Dispute Resolution: Nothing contained in this Rule shall be construed to exclude use by the parties of other forms of voluntary disposition of cases.

(As effective October 3, 2008, 130 T.C. 467–68; as amended, effective May 5, 2011, 136 T.C. 630–31. For prior history, see 93 T.C. 943–45 (1989); 109 T.C. 612–14 (1997).)

TITLE XIII. CALENDARS AND CONTINUANCES

RULE 130. MOTIONS AND OTHER MATTERS

(a) Calendars: If a hearing is to be held on a motion or other matter, apart from a trial on the merits, then such hearing may be held on a motion calendar in Washington, D.C., unless the Court, on its own motion or on the motion of a party, shall direct otherwise. As to hearings at other places, see Rule 50(b)(2). The parties will be given notice of the place and time of hearing.

(b) Failure To Attend: The Court may hear a matter ex parte where a party fails to appear at such a hearing. With respect to attendance at such hearings, see Rule 50(c).

(As effective October 3, 2008, 130 T.C. 469, as amended, effective May 5, 2011, 136 T.C. 632. For prior history, see 60 T.C. 1130 (1973); 93 T.C. 945–46 (1989).)

RULE 131. TRIAL CALENDARS

(a) General: Each case, when at issue, will be placed upon a calendar for trial in accordance with Rule 140. The Clerk shall notify the parties of the place and time for which the calendar is set.

(b) Standing Pretrial Order: In order to facilitate the orderly and efficient disposition of all cases on a trial calendar, at the direction of the trial judge, the Clerk shall include with the notice of trial a Standing Pretrial Order or other instructions for trial preparation. Unexcused failure to comply with any such order may subject a party or a party's counsel to sanctions. See, e.g., Rules 104, 123, and 202.

(c) Calendar Call: Each case appearing on a trial calendar will be called at the time and place scheduled. At the call, counsel or the parties shall indicate their estimate of the time required for trial. The cases for trial will thereupon be tried in due course, but not necessarily in the order listed.

(As amended and effective March 1, 2008, 130 T.C. 469. For prior history, see 109 T.C. 614–15 (1997). Rule 131 was originally designated as Rule 132, see 109 T.C. 614–15 (1997). For prior Rule 132 history, see 60 T.C. 1131 (1973); 81 T.C. 1064 (1983); 93 T.C. 946–47 (1989).)

RULE 132. SPECIAL OR OTHER CALENDARS

Special or other calendars may be scheduled by the Court, upon motion or at its own initiative, for any purpose which the Court may deem appropriate. The parties involved shall be notified of the place and time of such calendars.

(As effective October 3, 2008, 130 T.C. 470. For prior history, see 109 T.C. 615 (1997). Rule 132 was originally designated as Rule 133, see 109 T.C. 615 (1997). For prior Rule 133 history, see 60 T.C. 1131 (1973).)

RULE 133. CONTINUANCES

The Court may continue a case or matter scheduled on a calendar on motion or on its own. A motion for continuance must inform the Court of the position of the other parties with respect to the motion, either by endorsement by the other parties or by a representation of the moving party. A motion for continuance based on the pendency in a court of a related case or cases must include the name and docket number, the names of counsel for the parties, and the status of any related case or cases, and must identify all issues common to the related case or cases. Continuances will be granted only in exceptional circumstances. Conflicting engagements of counsel or employment of new counsel ordinarily will not be regarded as ground for continuance. A motion for continuance filed 30 days or less before the date to which it is directed may be set for hearing on that date, but ordinarily will be deemed dilatory and will be denied unless the ground therefor arose during that period or there was good reason for not making the motion sooner. As to extensions of time, see Rule 25(b).

(As effective October 3, 2008, 130 T.C. 470; as amended, effective March 20, 2023, 160 T.C. 659. For prior history, see 109 T.C. 615 (1997). Rule 133 was originally designated as Rule 134, see 109 T.C. 615 (1997). For prior Rule 134 history, see 60 T.C. 1131–32 (1973); 71 T.C. 1204–05 (1979); 85 T.C. 1133–34 (1985).)

TITLE XIV. TRIALS

RULE 140. PLACE OF TRIAL

(a) Request for Place of Trial: When filing a petition, the petitioner must also file a separate paper requesting the place of trial. See Form 5 (Request for Place of Trial) shown in the Appendix. If the petitioner fails to file a request, then no later than the date for filing the answer, the Commissioner must file a request showing the Commissioner's preferred place of trial. The Court will make reasonable efforts to conduct the trial at the location most convenient to that requested if suitable facilities are available and will notify the parties of the place at which the trial will be held.

(b) Motion To Change Place of Trial: A party seeking a change in the place of trial must file a motion stating fully the reasons therefor. A motion made after the notice setting the case for trial is served may be deemed dilatory and may be denied unless the ground therefor arose during that period or there was good reason for not making the motion sooner.

(As amended and effective March 1, 2008, 130 T.C. 470–71; as amended, effective March 20, 2023, 160 T.C. 659–60. For prior history, see 60 T.C. 1132–33 (1973); 81 T.C. 1064–65 (1983); 85 T.C. 1134 (1985); 93 T.C. 948–49 (1989); 109 T.C. 616 (1997); 120 T.C. 587–88 (2003).)

RULE 141. CONSOLIDATION; SEPARATE TRIALS

(a) Consolidation: When cases involving a common question of law or fact are pending before the Court, it may order a joint hearing or trial of any or all the matters in issue, it may order all the cases consolidated, and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs, delay, or duplication. Similar action may be taken where cases involve different tax liabilities of the same parties, notwithstanding the absence of a common issue. Unless otherwise permitted by the Court for good cause shown, a motion to consolidate cases may be filed only after all the cases sought to be consolidated have become at issue. The caption of a motion to consolidate shall include all of the names and docket numbers of the cases sought to be consolidated arranged in chronological order (i.e., the oldest case first). Unless otherwise ordered, the caption of all documents subsequently filed in consolidated cases shall include all of the docket numbers arranged in

chronological order, but may include only the name of the oldest case with an appropriate indication of other parties.

(b) Separate Trials: The Court, in furtherance of convenience or to avoid prejudice, or when separate trials will be conducive to expedition or economy, may order a separate trial of any one or more claims, defenses, or issues, or of the tax liability of any party or parties. The Court may enter appropriate orders or decisions with respect to any such claims, defenses, issues, or parties that are tried separately. As to severance of parties or claims, see Rule 34(b)(3).

(As amended and generally effective October 3, 2008, 130 T.C. 471–72; as amended, effective March 20, 2023, 160 T.C. 660–61. For prior history, see 60 T.C. 1133 (1973); 71 T.C. 1205–06 (1979); 93 T.C. 949–50 (1989).)

RULE 142. BURDEN OF PROOF

(a) General:

(1) The burden of proof shall be upon the petitioner, except as otherwise provided by statute or determined by the Court; and except that, in respect of any new matter, increases in deficiency, and affirmative defenses, pleaded in the answer, it shall be upon the respondent. As to affirmative defenses, see Rule 39.

(2) See Code section 7491 where credible evidence is introduced by the taxpayer, or any item of income is reconstructed by the Commissioner solely through the use of statistical information on unrelated taxpayers, or any penalty, addition to tax, or additional amount is determined by the Commissioner.

(b) Fraud: In any case involving the issue of fraud with intent to evade tax, the burden of proof in respect of that issue is on the respondent, and that burden of proof is to be carried by clear and convincing evidence. See Code sec. 7454(a).

(c) Foundation Managers; Trustees; Organization Managers: In any case involving the issue of the knowing conduct of a foundation manager as set forth in the provisions of Code section 4941, 4944, or 4945, or the knowing conduct of a trustee as set forth in the provisions of Code section 4951 or 4952, or the knowing conduct of an organization manager as set forth in the provisions of Code section 4912 or 4955, the burden of proof in respect of such issue is on the respondent, and such burden of proof is to be carried by clear and convincing evidence. See Code sec. 7454(b).

(d) Transferee Liability: The burden of proof is on the respondent to show that a petitioner is liable as a transferee of property of a taxpayer, but not to show that the taxpayer was liable for the tax. See Code sec. 6902(a).

(e) Accumulated Earnings Tax: Where the notice of deficiency is based in whole or in part on an allegation of accumulation of corporate earnings and profits beyond the reasonable needs of the business, the burden of proof with respect to such allegation is determined in accordance with Code section 534. If the petitioner has submitted to the respondent a statement which is claimed to satisfy the requirements of Code section 534(c), the Court will ordinarily, on timely motion filed after the case has been calendared for trial, rule prior to the trial on whether such statement is sufficient to shift the burden of proof to the respondent to the limited extent set forth in Code section 534(a)(2).

(As effective October 3, 2008, 130 T.C. 472–73. For prior history, see 60 T.C. 1133–34 (1973); 93 T.C. 950–51 (1989); 109 T.C. 617–18 (1997); 120 T.C. 589–90 (2003).)

RULE 143. EVIDENCE

(a) General: Trials before the Court will be conducted in accordance with the Federal Rules of Evidence. See Code sec. 7453. Evidence that is relevant only to the issue of a party's entitlement to reasonable litigation or administrative costs shall not be introduced during the trial of the case (other than a case commenced under Title XXVI of these Rules, relating to actions for administrative costs). As to claims for reasonable litigation or administrative costs and their disposition, see Rules 231 and 232. As to evidence in an action for administrative costs, see Rule 274 (and that Rule's incorporation of the provisions of Rule 174(b)).

(b) Testimony: The testimony of a witness generally must be taken in open court except as otherwise provided by the Court or these Rules. For good cause in compelling circumstances and with appropriate safeguards, the Court may permit testimony in open court by contemporaneous transmission from a different location.

(c) Ex Parte Statements: Ex parte affidavits or declarations, statements in briefs, and unadmitted allegations in pleadings do not constitute evidence. As to allegations in pleadings not denied, see Rules 36(c) and 37(c) and (d).

(d) Depositions: Testimony taken by deposition shall not be treated as evidence in a case until offered and received in evidence. Error in the transcript of a deposition may be corrected by agreement of the parties,

or by the Court on proof it deems satisfactory to show an error exists and the correction to be made, subject to the requirements of Rules 81(h)(1) and 85(e). As to the use of a deposition, see Rule 81(i).

(e) Documentary Evidence:

(1) *Copies:* A copy is admissible to the same extent as an original unless a genuine question is raised as to the authenticity of the original or in the circumstances it would be unfair to admit the copy in lieu of the original. Where the original is admitted in evidence, a clearly legible copy may be substituted later for the original or such part thereof as may be material or relevant, upon leave granted in the discretion of the Court.

(2) *Return of Exhibits:* Exhibits may be disposed of as the Court deems advisable. A party desiring the return at such party's expense of any exhibit belonging to such party, shall, within 90 days after the decision of the case by the Court has become final, make written application to the Clerk, suggesting a practical manner of delivery. If such application is not timely made, the exhibits in the case will be destroyed.

(f) Interpreters: The parties ordinarily will be expected to make their own arrangements for obtaining and compensating interpreters. However, the Court may appoint an interpreter of its own selection and may fix the interpreter's reasonable compensation, which compensation shall be paid by one or more of the parties or otherwise as the Court may direct.

(g) Expert Witness Reports:

(1) Unless otherwise permitted by the Court upon timely request, any party who calls an expert witness shall cause that witness to prepare a written report for submission to the Court and to the opposing party if the witness is one retained or specially employed to provide expert testimony in the case or one whose duties as the party's employee regularly involve giving expert testimony. The report, prepared and signed by the witness, shall contain:

(A) a complete statement of all opinions the witness expresses and the basis and reasons for them;

(B) the facts or data considered by the witness in forming them;

(C) any exhibits used to summarize or support them;

(D) the witness's qualifications, including a list of all publications authored in the previous 10 years;

(E) a list of all other cases in which, during the previous 4 years, the witness testified as an expert at trial or by deposition; and

(F) a statement of the compensation to be paid for the study and testimony in the case.

(2) The report will be marked as an exhibit, identified by the witness, and received in evidence as the direct testimony of the expert witness, unless the Court determines that the witness is not qualified as an expert. Additional direct testimony with respect to the report may be allowed to clarify or emphasize matters in the report, to cover matters arising after the preparation of the report, or otherwise at the discretion of the Court. After the case is calendared for trial or assigned to a Judge or Special Trial Judge, each party who calls any expert witness shall serve on each other party, and shall submit to the Court, not later than 30 days before the call of the trial calendar on which the case shall appear, a copy of all expert witness reports prepared pursuant to this subparagraph. An expert witness's testimony will be excluded altogether for failure to comply with the provisions of this paragraph, unless the failure is shown to be due to good cause and unless the failure does not unduly prejudice the opposing party, such as by significantly impairing the opposing party's ability to cross-examine the expert witness or by denying the opposing party the reasonable opportunity to obtain evidence in rebuttal to the expert witness's testimony.

(3) The Court ordinarily will not grant a request to permit an expert witness to testify without a written report where the expert witness's testimony is based on third-party contacts, comparable sales, statistical data, or other detailed, technical information. The Court may grant such a request, for example, where the expert witness testifies only with respect to industry practice or only in rebuttal to another expert witness.

(4) For circumstances under which the transcript of the deposition of an expert witness may serve as the written report required by subparagraph (1), see Rule 74(d).

(As effective October 3, 2008, 130 T.C. 473–75; as amended, effective January 1, 2010, 134 T.C. 358–62; effective July 6, 2012, 139 T.C. 552–55; effective December 19, 2015, 153 T.C. 267–70. For prior history, see 60 T.C. 1134–36 (1973); 79 T.C. 1146 (1982); 81 T.C. 1065–66 (1983); 85 T.C. 1134–36 (1985); 93 T.C. 952–55 (1989); 109 T.C. 618–21 (1997); 120 T.C. 590–92 (2003).)

RULE 144. EXCEPTIONS UNNECESSARY

Formal exceptions to rulings or orders of the Court are unnecessary. It is sufficient that a party at the time the ruling or order of the Court is made or sought, makes known to the Court the action which such party desires the Court to take or such party's objection to the action of the Court and the grounds therefor; and, if a party has no opportunity to object to a ruling or order at the time it is made, the absence of an objection does not thereafter prejudice such party.

(As effective October 3, 2008, 130 T.C. 475. For prior history, see 60 T.C. 1136 (1973); 93 T.C. 955 (1989).)

RULE 145. EXCLUSION OF PROPOSED WITNESSES

(a) Exclusion: At the request of a party, the Court shall order witnesses excluded so that they cannot hear the testimony of other witnesses and it may make the order on its own motion. This Rule does not authorize exclusion of: (1) A party who is a natural person, or (2) an officer or employee of a party which is not a natural person designated as its representative by its attorney, or (3) a person whose presence is shown by a party to be essential to the presentation of such party's cause.

(b) Contempt: Among other measures which the Court may take in the circumstances, it may punish as for a contempt: (1) Any witness who remains within hearing of the proceedings after such exclusion has been directed, that fact being noted in the record; and (2) any person (witness, counsel, or party) who willfully violates instructions issued by the Court with respect to such exclusion.

(As effective October 3, 2008, 130 T.C. 475–76. For prior history, see 60 T.C. 1136–37 (1973); 71 T.C. 1206 (1979); 93 T.C. 955–56 (1989).)

RULE 146. DETERMINATION OF FOREIGN LAW

A party who intends to raise an issue concerning the law of a foreign country shall give notice in the pleadings or other reasonable written notice. The Court, in determining foreign law, may consider any relevant material or source, including testimony, whether or not submitted by a party or otherwise admissible. The Court's determination shall be treated as a ruling on a question of law.

(As effective October 3, 2008, 130 T.C. 476. For prior history, see 60 T.C. 1137 (1973); 93 T.C. 956 (1989).)

RULE 147. SUBPOENAS

(a) In General:

(1) *Form and Contents:*

(A) *Requirements—In General: Every subpoena must:*

(i) state the name of the Court;

(ii) state the title of the action and the docket number;

(iii) command each person to whom it is directed to do one or more of the following at a specified time and place; attend and testify or produce designated documents, electronically stored information, or tangible things in that person's possession, custody, or control; and

(iv) set out the text of Rule 147(d) and (e).

(B) *Command To Produce; Specifying the Form for Electronically Stored Information:* Any command to produce documents, electronically stored information, or tangible things must be included in a subpoena commanding attendance at a deposition, hearing, or trial. A subpoena may specify the form or forms in which electronically stored information is to be produced.

(C) *Command To Produce; Included Obligations:* A command in a subpoena to produce documents, electronically stored information, or tangible things requires the responding person to permit inspection, copying, testing, or sampling of the materials.

(2) *Issued by Whom:* The Clerk or a duly authorized representative must issue a subpoena, signed but otherwise in blank, to a party who requests it. That party must complete it before service. A subpoena can be downloaded from the Court's website. See Form 14 (Subpoena) shown in the Appendix.

(3) *Notice to Other Parties Before Service:* If the subpoena commands the production of documents, electronically stored information, or tangible things, then before it is served on the person to whom it is directed, a notice and a copy of the subpoena must be served on each party.

(b) Service:

(1) *By Whom and How; Tendering Fees:* Any person who is at least 18 years old and not a party may serve a subpoena. Serving a subpoena requires delivering a copy to the named person and tendering to that person the fees for one day's attendance and the mileage allowed by law. See Rule 148 for fees and mileage payable. Fees and mileage need not be tendered when the subpoena issues on behalf of the Commissioner.

(2) *Service in the United States:* A subpoena may be served at any place within the United States.

(3) *Proof of Service:* Proving service, when necessary, requires filing with the Court the completed return of service appearing on the subpoena or a certified statement by the server showing the date and manner of service and the names of the persons served.

(c) Place of Compliance: A subpoena may command a person to attend a trial, hearing, or deposition as provided in Code section 7456.

(d) Protecting a Person Subject to a Subpoena; Enforcement:

(1) *Avoiding Undue Burden or Expense; Sanctions:* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The Court will enforce this duty and impose an appropriate sanction, which may include an award of lost earnings and reasonable attorney's fees, against a party or attorney who fails to comply.

(2) *Command To Produce Materials:*

(A) *Release from Attendance:* If a person has complied with a command in a subpoena to produce documents, electronically stored information, or tangible things, the serving party may excuse the person from attending and giving testimony at the time and place specified in the subpoena.

(B) *Objections:* A person commanded to produce documents or tangible things may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials, or to producing electronically stored information in the form or forms requested. The objection must be served within 15 days after the subpoena is served or within the time specified for compliance, if earlier. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the Court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena:*

(A) *When Required:* On timely motion, the Court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iii) subjects a person to undue burden.

(B) *When Permitted:* To protect a person subject to or affected by a subpoena, the Court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative:* In the circumstances described in Rule 147(d)(3)(B), the Court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena:

(1) *Producing Documents or Electronically Stored Information:* These procedures apply to producing documents or electronically stored information:

(A) *Documents:* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified:* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form:* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information:* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the Court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 70(c)(1). The Court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection:*

(A) *Information Withheld:* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced:* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party who received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or

destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the Court for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(f) **Contempt:** The Court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

(As effective October 3, 2008, 130 T.C. 476–78; as amended, effective January 1, 2010, 134 T.C. 362–64; March 20, 2023, 160 T.C. 661–67. For prior history, see 60 T.C. 1137–39 (1973); 71 T.C. 1206–07 (1979); 79 T.C. 1146–47 (1982); 93 T.C. 956–58 (1989).)

RULE 148. FEES AND MILEAGE

(a) **Amount:** Any witness summoned to a hearing or trial, or whose deposition is taken, shall receive the same fees and mileage as witnesses in the United States District Courts. With respect to fees and mileage paid to witnesses in the United States District Court, see 28 U.S.C. section 1821.

(b) **Tender:** No witness, other than one for the Commissioner, shall be required to testify until the witness shall have been tendered the fees and mileage to which the witness is entitled according to law. With respect to witnesses for the Commissioner, see Code section 7457(b)(1).

(c) **Payment:** The party at whose instance a witness appears shall be responsible for the payment of the fees and mileage to which that witness is entitled.

(As effective October 3, 2008, 130 T.C. 478. For prior history, see 60 T.C. 1139 (1973); 71 T.C. 1207–08 (1979); 93 T.C. 958 (1989); 109 T.C. 624 (1997).)

RULE 149. FAILURE TO APPEAR OR TO ADDUCE EVIDENCE

(a) **Attendance at Trials:** The unexcused absence of a party or a party's counsel when a case is called for trial will not be ground for delay. The

case may be dismissed for failure properly to prosecute, or the trial may proceed and the case be regarded as submitted on the part of the absent party or parties.

(b) **Failure of Proof:** Failure to produce evidence, in support of an issue of fact as to which a party has the burden of proof and which has not been conceded by such party's adversary, may be ground for dismissal or for determination of the affected issue against that party. Facts may be established by stipulation in accordance with Rule 91, but the mere filing of such stipulation does not relieve the party, upon whom rests the burden of proof, of the necessity of properly producing evidence in support of facts not adequately established by such stipulation. As to submission of a case without trial, see Rule 122.

(As effective October 3, 2008, 130 T.C. 478–79. For prior history, see 60 T.C. 1139–40 (1973); 93 T.C. 959 (1989).)

RULE 150. RECORD OF PROCEEDINGS

(a) **General:** Hearings and trials before the Court shall be recorded or otherwise reported, and a transcript thereof shall be made if, in the opinion of the Court or the Judge or Special Trial Judge presiding at a hearing or trial, a permanent record is deemed appropriate. Transcripts shall be supplied to the parties and other persons at such charges as may be fixed or approved by the Court.

(b) **Transcript as Evidence:** Whenever the testimony of a witness at a trial or hearing which was recorded or otherwise reported is admissible in evidence at a later trial or hearing, it may be proved by the transcript thereof duly certified by the person who reported the testimony.

(As effective October 3, 2008, 130 T.C. 479; as amended, effective May 5, 2011, 136 T.C. 632–33. For prior history, see 60 T.C. 1140 (1973); 109 T.C. 625 (1997).)

RULE 151. BRIEFS

(a) **General:** Briefs must be filed after trial or submission of a case, except as otherwise directed by the presiding Judge or Special Trial Judge. The presiding Judge or Special Trial Judge may permit or direct the parties to make oral argument or file memoranda of points and authorities, in addition to or in lieu of briefs. The Court may strike any brief that does not conform to the requirements of this Rule.

(b) Time for Filing Briefs: Briefs may be filed simultaneously or seriatim, as the presiding Judge or Special Trial Judge directs. The following deadlines for filing briefs apply unless the presiding Judge or Special Trial Judge orders otherwise:

(1) *Simultaneous Briefs:* Opening briefs must be filed within 75 days after the conclusion of the trial and answering briefs within 45 days after the due date of the opening brief.

(2) *Seriatim Briefs:* Opening briefs must be filed within 75 days after the conclusion of the trial, answering briefs within 45 days after the due date of the opening brief, and reply briefs within 30 days after the due date of the answering briefs.

A party who is required to file an opening brief but fails to do so is not permitted to file an answering or reply brief unless the Court grants leave. A motion for extension of time for filing any brief must be made before the due date and must recite that the moving party has advised each other party and state whether there is an objection to the motion. As to the effect of extensions of time, see Rule 25(b).

(c) Service:

(1) Each seriatim brief must be served on each opposing party when filed.

(2) Simultaneous briefs will be served by the Clerk after each corresponding brief of all other parties has been filed, unless the Court orders otherwise.

(3) Delinquent briefs must be accompanied by a motion for leave to file setting forth the reasons for the delay. In the case of simultaneous briefs, the Court may strike a brief that is filed by a party after the opposing party's brief has been served on that party.

(d) Number of Copies: A party filing a brief in paper form must file a signed original plus an additional copy for each person to be served. Only one transmission of an electronically filed brief is required.

(e) Form and Content: All briefs must conform to the requirements of Rule 23 and must contain the following in the order indicated:

(1) On the first page, a table of contents with page references, followed by a list of all citations arranged alphabetically as to cited cases and stating the pages in the brief at which cited.

(2) A statement of the nature of the controversy, the tax involved, and the issues to be decided.

(3) Proposed findings of fact (in the opening brief or briefs), based on the evidence, in the form of numbered statements, each of which must be complete and must consist of a concise statement of essential fact and not a recital of testimony nor a discussion or argument relating to the evidence or the law. Each numbered statement must include references to the pages of the transcript or the exhibits or other sources relied on to support the statement. In an answering or reply brief, the party must set forth any objections, together with the reasons therefor, to any proposed findings of any other party, showing the numbers of the statements to which the objections are directed; in addition, the party may set forth alternative proposed findings of fact.

(4) A concise statement of the points on which the party relies.

(5) The argument, which sets forth and discusses the points of law involved and any disputed questions of fact.

(6) The signature of counsel or the party submitting the brief. As to signature, see Rule 23(a)(3).

(As effective October 3, 2008, 130 T.C. 479–81; as amended, effective January 1, 2010, 134 T.C. 365–66; May 5, 2011, 136 T.C. 633–35; March 20, 2023, 160 T.C. 667–70. For prior history, see 60 T.C. 1140–42 (1973); 71 T.C. 1208–09 (1979); 81 T.C. 1066 (1983); 85 T.C. 1136 (1985); 93 T.C. 959–61 (1989); 109 T.C. 625–28 (1997).)

RULE 151.1. BRIEF OF AN AMICUS CURIAE

(a) When Permitted: The Court may direct an amicus curiae to file a brief or an amicus curiae may file with the Court a motion for leave to file a brief.

(b) Motion for Leave To File: The motion for leave to file must comply with the requirements of Rule 23, be accompanied by the proposed brief, and state:

(1) the movant's interest; and

(2) why an amicus brief is desirable and why the matters asserted are relevant to the disposition of the case.

(c) Contents and Form: An amicus brief must comply with Rules 23 and 151(e), indicate the party or parties supported, if any, and must include the following:

(1) if the amicus is a nongovernmental corporate entity, a disclosure statement like that required by Rule 20(c);

(2) a concise statement of the identity of the amicus curiae, its interest in the case, and the source of its authority to file;

(3) a statement that indicates whether:

(A) a party's counsel authored the brief in whole or in part;

(B) a party or a party's counsel contributed money that was intended to fund the preparation or submission of the brief; and

(C) a person (other than the amicus curiae, its members, or its counsel) contributed money that was intended to fund the preparation or submission of the brief and, if so, identifies each such person.

(d) Length: Generally, an amicus brief may be no more than 25 pages (excluding the cover page, the disclosure statement, the table of contents, the table of citations, the signature block, and the certificate of service), unless the motion for leave to file establishes good cause for including a proposed brief longer than 25 pages.

(e) Time for Filing: Unless the Court directs the filing of an amicus brief, an amicus curiae supporting a party must file a motion for leave to file, accompanied by its brief, no later than 14 days after the first brief of the party being supported is filed. An amicus curiae that does not support either party must file a motion for leave to file, accompanied by its brief, no later than 14 days after the first opening brief is filed. The Court may grant leave for later filing, specifying the time within which an opposing party may answer.

(f) Reply Brief: Except by the Court's permission, an amicus curiae may not file a reply brief.

(g) Objection by Party: Any party may file an opposition to a motion for leave to file an amicus brief, concisely stating the reasons for such opposition, within 14 days after service of the motion or as ordered by the Court.

(As adopted, effective March 20, 2023, 160 T.C. 670–72.)

RULE 152. ORAL FINDINGS OF FACT OR OPINION

(a) General: Except in actions for declaratory judgment or for disclosure (see Titles XXI and XXII), the Judge, or the Special Trial Judge in any case in which the Special Trial Judge is authorized to make the decision of the Court pursuant to Code section 7436(c) or 7443A(b)(2), (3), (4), (5),

or (6), and (c), may, in the exercise of discretion, orally state the findings of fact or opinion if the Judge or Special Trial Judge is satisfied as to the factual conclusions to be reached in the case and that the law to be applied thereto is clear.

(b) **Transcript:** Oral findings of fact or opinion will be recorded in the transcript of the hearing or trial. The pages of the transcript that contain findings of fact or opinion (or a written summary thereof) will be served by the Clerk on all parties.

(c) **Nonprecedential Effect:** Opinions stated orally in accordance with paragraph (a) of this Rule may not be relied upon as precedent, except as may be relevant for purposes of establishing the law of the case, res judicata, collateral estoppel, or other similar doctrine.

(As amended and generally effective October 3, 2008, 130 T.C. 481–82; as amended, effective March 20, 2023, 160 T.C. 673. For prior history, see 79 T.C. 1147–48 (1982); 93 T.C. 961–62 (1989); 120 T.C. 598–99 (2003).)

TITLE XV. DECISION

RULE 155. COMPUTATION BY PARTIES FOR ENTRY OF DECISION

(a) Agreed Computations: Where the Court has filed or stated its opinion or issued a dispositive order determining the issues in a case, it may withhold entry of its decision for the purpose of permitting the parties to submit computations pursuant to the Court's determination of the issues, showing the correct amount to be included in the decision. Unless otherwise directed by the Court, if the parties are in agreement as to the amount to be included in the decision pursuant to the findings and conclusions of the Court, then they, or either of them, shall file with the Court within 90 days of service of the opinion or order an original and one copy of a computation showing the amount and that there is no disagreement that the figures shown are in accordance with the findings and conclusions of the Court. In the case of an overpayment, the computation shall also include the amount and date of each payment made by the petitioner. The Court will then enter its decision.

(b) Procedure in Absence of Agreement: If the parties are not in agreement as to the amount to be included in the decision in accordance with the findings and conclusions of the Court, then each party shall file with the Court a computation of the amount believed by such party to be in accordance with the Court's findings and conclusions. In the case of an overpayment, the computation shall also include the amount and date of each payment made by the petitioner. A party shall file such party's computation within 90 days of service of the opinion or order, unless otherwise directed by the Court. The Clerk will serve upon the opposite party a notice of such filing and if, on or before a date specified in the Clerk's notice, the opposite party fails to file an objection or an alternative computation, then the Court may enter decision in accordance with the computation already submitted. If in accordance with this Rule computations are submitted by the parties which differ as to the amount to be entered as the decision of the Court, then the parties may, at the Court's discretion, be afforded an opportunity to be heard in argument thereon and the Court will determine the correct amount and will enter its decision accordingly.

(c) Limit on Argument: Any argument under this Rule will be confined strictly to consideration of the correct computation of the amount to be included in the decision resulting from the findings and conclusions made by the Court, and no argument will be heard upon or consideration given to the issues or matters disposed of by the Court's findings and conclusions or to any new issues. This Rule is not to be regarded as affording an opportunity for retrial or reconsideration.

(As amended and generally effective October 3, 2008, 130 T.C. 482–84; as amended, effective January 1, 2010, 134 T.C. 367–68; effective May 5, 2011, 136 T.C. 635–36; effective July 6, 2012, 139 T.C. 555–56. For prior history, see 60 T.C. 1142–43 (1973); 71 T.C. 1209–10 (1979); 79 T.C. 1148–49 (1982); 93 T.C. 962–64 (1989); 109 T.C. 628–30 (1997).)

RULE 156. ESTATE TAX DEDUCTION DEVELOPING AT OR AFTER TRIAL

If the parties in an estate tax case are unable to agree under Rule 155, or under a remand, upon a deduction involving expenses incurred at or after the trial, then any party may move to reopen the case for further trial on that issue.

(As effective October 3, 2008, 130 T.C. 484. For prior history, see 60 T.C. 1143 (1973); 93 T.C. 964 (1989).)

RULE 157. MOTION TO RETAIN FILE IN ESTATE TAX CASE INVOLVING SECTION 6166 ELECTION

In any estate tax case in which the time for payment of an amount of tax imposed by Code section 2001 has been extended under Code section 6166, the petitioner shall, after the decision is entered but before it becomes final, move the Court to retain the Court's official case file pending the commencement of any supplemental proceeding under Rule 262.

(As effective October 3, 2008, 130 T.C. 484. For prior history, see 93 T.C. 964–65 (1989).)

TITLE XVI. POSTTRIAL PROCEEDINGS

RULE 160. HARMLESS ERROR

No error in either the admission or the exclusion of evidence, and no error or defect in any ruling or order or in anything done or omitted by the Court or by any of the parties, is ground for granting a new trial or for vacating, modifying, or otherwise disturbing a decision or order, unless refusal to take such action appears to the Court inconsistent with substantial justice. The Court at every stage of a case will disregard any error or defect which does not affect the substantial rights of the parties.

(As effective October 3, 2008, 130 T.C. 484. For prior history, see 60 T.C. 1144 (1973).)

RULE 161. MOTION FOR RECONSIDERATION OF FINDINGS OR OPINION

Any motion for reconsideration of an opinion or findings of fact, with or without a new or further trial, must be filed within 30 days after a written opinion or the pages of the transcript that contain findings of fact or opinion stated orally pursuant to Rule 152 (or a written summary thereof) have been served, unless the Court orders otherwise.

(As effective October 3, 2008, 130 T.C. 485; as amended, effective March 20, 2023, 160 T.C. 673–74. For prior history, see 60 T.C. 1144 (1973); 79 T.C. 1149 (1982).)

RULE 162. MOTION TO VACATE OR REVISE DECISION

Any motion to vacate or revise a decision, with or without a new or further trial, shall be filed within 30 days after the decision has been entered, unless the Court shall otherwise permit.

(As effective October 3, 2008, 130 T.C. 485. For prior history, see 60 T.C. 1144 (1973).)

RULE 163. NO JOINDER OF MOTIONS UNDER RULES 161 AND 162

Motions under Rules 161 and 162 shall be made separately from each other and not joined to or made part of any other motion.

(As effective October 3, 2008, 130 T.C. 485. For prior history, see 60 T.C. 1144 (1973).)

TITLE XVII. SMALL TAX CASES

(As effective October 3, 2008, 130 T.C. 485. For prior history, see 120 T.C. 602–03 (2003). Rule 170 through Rule 174 had substantially different structures prior to 120 T.C.)

RULE 170. GENERAL

The Rules of this Title XVII, referred to as the "Small Tax Case Rules," set forth the special provisions applicable to small tax cases. The term "small tax case" means a case in which (1) the amount in dispute is $50,000 or less (within the meaning of the Code), (2) the petitioner has made a request under Rule 171, and (3) the Court has concurred in the petitioner's request. See Code secs. 7436(c), 7463. Except as otherwise provided in these Small Tax Case Rules, the Rules of Practice and Procedure apply to small tax cases.

(As effective October 3, 2008, 130 T.C. 485; as amended, effective March 20, 2023, 160 T.C. 674. For prior history, see 60 T.C. 1144–45 (1973); 120 T.C. 604–05 (2003). Rule 170 is derived in part from Rule 171 as originally adopted, see 120 T.C. 604–05 (2003). For prior Rule 171 history, see 60 T.C. 1145 (1973); 71 T.C. 1210 (1979); 79 T.C. 1149–50 (1982); 82 T.C. 1071–72 (1984); 93 T.C. 966–67 (1989); 109 T.C. 631–32 (1997).)

RULE 171. REQUEST FOR SMALL TAX CASE PROCEDURE

(a) Request in Petition: A petitioner may request in the petition to have the proceedings in the case conducted as a small tax case. See Rule 173.

(b) Motion Opposing Request: If the Commissioner opposes the petitioner's request, the Commissioner must file with the answer a motion that the proceedings not be conducted as a small tax case.

(c) Request After Petition Is Filed: A petitioner may, at any time after the petition is filed and before the trial commences, request that the proceedings be conducted as a small tax case. If the request is made after the answer is filed, the Commissioner may move without leave of the Court that the proceedings not be conducted as a small tax case.

(d) Small Tax Case Designation; Procedure for Removing Small Tax Case Designation: If a petitioner makes a request in accordance with the provisions of this Rule, the case will be docketed as a small tax case. The Court, on its own or on motion made at any time before the trial commences, may issue an order directing that the small tax case

designation be removed and that the proceedings not be conducted as a small tax case.

(As effective October 3, 2008, 130 T.C. 486; as amended, effective May 5, 2011, 136 T.C. 636–39; effective March 20, 2023, 160 T.C. 674–75. For prior history, see 120 T.C. 605 (2003). Rule 171 was originally designated as Rule 172, see 120 T.C. 605 (2003). For prior Rule 172 history, see 60 T.C. 1145–46 (1973); 71 T.C. 1210–11 (1979); 81 T.C. 1066–67 (1983); 93 T.C. 967 (1989); 109 T.C. 632 (1997).)

RULE 172. REPRESENTATION

A petitioner in a small tax case may appear without representation or may be represented by any person admitted to practice before the Court. As to representation, see Rule 24.

(As effective October 3, 2008, 130 T.C. 486. For prior history, see 120 T.C. 606 (2003). Rule 172 was originally designated as Rule 174, see 120 T.C. 606 (2003). For prior Rule 174 history, see 93 T.C. 968 (1989), 60 T.C. 1146 (1973).)

RULE 173. PLEADINGS

(a) Petition:

(1) *Form and Content:* The petition in a small tax case shall be substantially in accordance with Form 2 shown in the Appendix.

(2) *Filing Fee:* The fee for filing a petition shall be $60, payable at the time of filing. The payment of any fee under this paragraph may be waived if the petitioner establishes to the satisfaction of the Court by an affidavit or a declaration containing specific financial information the inability to make such payment.

(b) Answer: The Commissioner shall file an answer or shall move with respect to the petition within the periods specified in, and in accordance with the provisions of, Rule 36.

(c) Reply: A reply to the answer shall not be filed unless the Court otherwise directs. Any reply shall conform to the requirements of Rule 37(b). In the absence of a requirement of a reply, the provisions of the second sentence of Rule 37(c) shall not apply and the affirmative allegations of the answer shall be deemed denied.

(As amended and effective March 14, 2007, 130 T.C. 486–89; as amended, effective July 6, 2012, 139 T.C. 557. For prior history, see 120 T.C. 606–07 (2003); 128 T.C. 230–31 (2007). Rule 173 was originally designated as Rule 175, see 120 T.C. 606–07 (2003). For prior Rule 175 history, see 60 T.C. 1146–47 (1973); 71 T.C. 1211–12 (1979); 77 T.C. 1429 (1981); 85 T.C. 1137 (1985); 93 T.C. 968–69 (1989).)

RULE 174. TRIAL

(a) **Place of Trial:** At the time of filing the petition, the petitioner may, in accordance with Form 5 in the Appendix or by other separate writing, request the place where the petitioner would prefer the trial to be held. If the petitioner has not filed such a request, then the Commissioner, at the time the answer is filed, shall file a request showing the place of trial preferred by the Commissioner. The Court will make reasonable efforts to conduct the trial at the location most convenient to that requested where suitable facilities are available.

(b) **Conduct of Trial and Evidence:** Trials of small tax cases will be conducted as informally as possible consistent with orderly procedure, and any evidence deemed by the Court to have probative value shall be admissible.

(c) **Briefs:** Neither briefs nor oral arguments will be required in small tax cases unless the Court otherwise directs.

(As amended and effective March 1, 2008, 130 T.C. 489. For prior history, see 120 T.C. 607–08 (2003). Rule 174 was originally designated as prior Rule 177, see 120 T.C. 607–08 (2003). For prior Rule 177 history, see 60 T.C. 1148 (1973); 71 T.C. 1212–13 (1979); 81 T.C. 1067 (1983); 93 T.C. 969–70 (1989); 109 T.C. 634–35 (1997).)

TITLE XVIII. SPECIAL TRIAL JUDGES

RULE 180. ASSIGNMENT

The Chief Judge may from time to time designate a Special Trial Judge (see Rule 3(g)) to deal with any matter pending before the Court in accordance with these Rules and such directions as may be prescribed by the Chief Judge.

(As effective October 3, 2008, 130 T.C. 490; as amended, effective March 20, 2023, 160 T.C. 675. For prior history, see 60 T.C. 1148 (1973); 71 T.C. 1213 (1979).)

RULE 181. POWERS AND DUTIES

Subject to the specifications and limitations in orders designating Special Trial Judges and in accordance with the applicable provisions of these Rules, Special Trial Judges have and shall exercise the power to regulate all proceedings in any matter before them, including the conduct of trials, pretrial conferences, and hearings on motions, and to do all acts and take all measures necessary or proper for the efficient performance of their duties. They may require the production before them of evidence upon all matters embraced within their assignment, including the production of all books, papers, vouchers, documents, electronically stored information, and writings applicable thereto, and they have the authority to put witnesses on oath and to examine them. Special Trial Judges may rule upon the admissibility of evidence, in accordance with the provisions of Code sections 7453 and 7463, and may exercise such further and incidental authority, including ordering the issuance of subpoenas, as may be necessary for the conduct of trials or other proceedings.

(As effective October 3, 2008, 130 T.C. 490; as amended, effective January 1, 2010, 134 T.C. 368. For prior history, see 60 T.C. 1148–49 (1973); 71 T.C. 1213–14 (1979); 93 T.C. 970–71 (1989); 109 T.C. 635–36 (1997).)

RULE 182. CASES IN WHICH THE SPECIAL TRIAL JUDGE IS AUTHORIZED TO MAKE THE DECISION

Except as otherwise directed by the Chief Judge, the following procedure will be observed in small tax cases (as defined in Rule 170); in cases where neither the amount of the deficiency placed in dispute (within the meaning of Code section 7463), nor the amount of any claimed overpayment, exceeds $50,000; in declaratory judgment actions; in lien and levy actions; and in whistleblower actions:

(a) Small Tax Cases: Except in cases where findings of fact or opinion are stated orally pursuant to Rule 152, a Special Trial Judge who conducts

the trial of a small tax case will, as soon after trial as is practicable, prepare a summary of the facts and reasons for the proposed disposition of the case, which will be submitted promptly to the Chief Judge, or, if the Chief Judge directs, to a Judge or Division of the Court.

(b) **Cases Involving $50,000 or Less:** Except in cases where findings of fact or opinion are stated orally pursuant to Rule 152, a Special Trial Judge who conducts the trial of a case (other than a small tax case) where neither the amount of the deficiency placed in dispute (within the meaning of Code section 7463), nor the amount of any claimed overpayment, exceeds $50,000 will, as soon after trial as is practicable, prepare proposed findings of fact and opinion, which will be submitted promptly to the Chief Judge.

(c) **Declaratory Judgment, Lien and Levy, and Whistleblower Actions:** A Special Trial Judge who conducts the trial of a declaratory judgment action or, except in cases where findings of fact or opinion are stated orally pursuant to Rule 152, a lien or levy or a whistleblower action, or to whom such a case is submitted for decision, will, as soon after trial or submission as is practicable, prepare proposed findings of fact and opinion, which will be submitted promptly to the Chief Judge.

(d) **Decision:** The Chief Judge may authorize the Special Trial Judge to make the decision of the Court in any small tax case (as defined in Rule 170); in any case where neither the amount of the deficiency placed in dispute (within the meaning of Code section 7463), nor the amount of any claimed overpayment, exceeds $50,000; in any declaratory judgment action; in any lien or levy action; and in any whistleblower action, subject to such conditions and review as the Chief Judge may provide.

(e) **Procedure in Event of Assignment to a Judge:** In the event the Chief Judge assigns a case (other than a small tax case) to a Judge to prepare a report in accordance with Code section 7460 and to make the decision of the Court, the proposed findings of fact and opinion previously submitted to the Chief Judge will be filed as the Special Trial Judge's recommended findings of fact and conclusions of law. Thereafter, the procedures of Rule 183(b), (c), and (d) apply.

(As amended and generally effective December 20, 2006, 130 T.C. 491–93; as amended, effective March 20, 2023, 160 T.C. 675–77. For prior history, see 81 T.C. 1068–69 (1983); 82 T.C. 1073 (1984); 85 T.C. 1138 (1985); 93 T.C. 971–72 (1989); 120 T.C. 609–11 (2003); 125 T.C. 342 (2005). Rule 182 was originally designated as Rule 183, see 81 T.C. 1068–69 (1983). For prior Rule 183 history, see 60 T.C. 1150 (1973); 71 T.C. 1215 (1979); 79 T.C. 1150–51 (1982).)

RULE 183. OTHER CASES

Except in cases subject to the provisions of Rule 182 or as otherwise provided, the following procedure shall be observed in cases tried before a Special Trial Judge:

(a) Trial and Briefs: A Special Trial Judge shall conduct the trial of any assigned case. After such trial, the parties shall submit their briefs in accordance with the provisions of Rule 151. Unless otherwise directed, no further briefs shall be filed.

(b) Special Trial Judge's Recommendations: After all the briefs have been filed by all the parties or the time for doing so has expired, the Special Trial Judge shall file recommended findings of fact and conclusions of law and a copy of the recommended findings of fact and conclusions of law shall be served in accordance with Rule 21.

(c) Objections: Within 45 days after the service of the recommended findings of fact and conclusions of law, a party may serve and file specific, written objections to the recommended findings of fact and conclusions of law. A party may respond to another party's objections within 30 days after being served with a copy thereof. The above time periods may be extended by the Special Trial Judge. After the time for objections and responses has passed, the Chief Judge shall assign the case to a Judge for preparation of a report in accordance with Code section 7460. Unless a party shall have proposed a particular finding of fact, or unless the party shall have objected to another party's proposed finding of fact, the Judge may refuse to consider the party's objection to the Special Trial Judge's recommended findings of fact and conclusions of law for failure to make such a finding or for inclusion of such finding proposed by the other party, as the case may be.

(d) Action on the Recommendations: The Judge to whom the case is assigned may adopt the Special Trial Judge's recommended findings of fact and conclusions of law, or may modify or reject them in whole or in part, or may direct the filing of additional briefs, or may receive further evidence, or may direct oral argument, or may recommit the recommended findings of fact and conclusions of law with instructions. The Judge's action on the Special Trial Judge's recommended findings of fact and conclusions of law shall be reflected in the record by an appropriate order or report. Due regard shall be given to the circumstance that the Special Trial Judge had the opportunity to evaluate the credibility of witnesses, and the findings of fact recommended by the Special Trial Judge shall be presumed to be correct.

(As amended and effective September 20, 2005, 125 T.C. 342–47 and 130 T.C. 493–97. For prior history, see 81 T.C. 1069–70 (1983); 82 T.C. 1074 (1984); 93 T.C. 972

(1989); 120 T.C. 611–12 (2003); 125 T.C. 342–47 (2005). Rule 183 was originally designated as Rule 182, see 81 T.C. 1069–70 (1983). For prior Rule 183 history, see 60 T.C. 1150 (1973); 71 T.C. 1215 (1979).)

TITLE XIX. APPEALS

RULE 190. HOW APPEAL TAKEN

(a) General: Review of a decision of the Court by a United States Court of Appeals is obtained by filing a notice of appeal and the required filing fee with the Clerk of the Tax Court within 90 days after the decision is entered. If a timely notice of appeal is filed by one party, then any other party may take an appeal by filing a notice of appeal within 120 days after the Court's decision is entered. Code sec. 7483. For other requirements governing such an appeal, see rules 13 and 14 of the Federal Rules of Appellate Procedure. A suggested form of the notice of appeal is contained in Form 17 in the Appendix. See Code sec. 7482(a).

(b) Dispositive Orders:

(1) *Entry and Appeal:* A dispositive order, including: (A) An order granting or denying a motion to restrain assessment or collection, made pursuant to Code section 6213(a), and (B) an order granting or denying a motion for review of a proposed sale of seized property, made pursuant to Code section 6863(b)(3)(C), shall be entered upon the record of the Court and served forthwith by the Clerk. Such an order shall be treated as a decision of the Court for purposes of appeal.

(2) *Stay of Proceedings:* Unless so ordered, proceedings in the Tax Court shall not be stayed by virtue of any order entered under Code section 6213(a) that is or may be the subject of an appeal pursuant to Code section 7482(a)(3) or any order entered under Code section 6863(b)(3)(C) that is or may be the subject of an appeal.

(c) Venue: For the circuit of the Court of Appeals to which the appeal is to be taken, see Code section 7482(b).

(d) Interlocutory Orders: For provisions governing appeals from interlocutory orders, see Rule 193.

(As effective October 3, 2008, 130 T.C. 497–98. For prior history, see 60 T.C. 1051 (1973); 93 T.C. 973–75 (1989).)

RULE 191. PREPARATION OF THE RECORD ON APPEAL

The Clerk will prepare the record on appeal and forward it to the Clerk of the Court of Appeals pursuant to the notice of appeal filed with the Court, in accordance with rules 10 and 11 of the Federal Rules of Appellate Procedure. In addition, at the

time the Clerk forwards the record on appeal to the Clerk of the Court of Appeals, the Clerk shall forward to each of the parties a copy of the index to the record on appeal.

(As effective October 3, 2008, 130 T.C. 498. For prior history, see 60 T.C. 1051 (1973); 93 T.C. 975 (1989).)

RULE 192. BOND TO STAY ASSESSMENT AND COLLECTION

The filing of a notice of appeal does not stay assessment or collection of a deficiency redetermined by the Court unless, on or before the filing of the notice of appeal, a bond is filed with the Court in accordance with Code section 7485.

(As effective October 3, 2008, 130 T.C. 498. For prior history, see 60 T.C. 1051 (1973); 109 T.C. 638–39 (1997).)

RULE 193. APPEALS FROM INTERLOCUTORY ORDERS

(a) **General:** For the purpose of seeking the review of any order of the Tax Court which is not otherwise immediately appealable, a party may request the Court to include, or the Court on its own motion may include, a statement in such order that a controlling question of law is involved with respect to which there is a substantial ground for difference of opinion and that an immediate appeal from that order may materially advance the ultimate termination of the litigation. Any such request by a party shall be made by motion which shall set forth with particularity the grounds therefor and note whether there is any objection thereto. Any order by a Judge or Special Trial Judge of the Tax Court which includes the above statement shall be entered upon the records of the Court and served forthwith by the Clerk. See Code sec. 7482(a)(2). For appeals from interlocutory orders generally, see rules 5 and 14 of the Federal Rules of Appellate Procedure.

(b) **Venue:** For the circuit of the Court of Appeals to which an appeal from an interlocutory order may be taken, see Code section 7482(a)(2)(B) and (b).

(c) **Stay of Proceedings:** Unless so ordered, proceedings in the Tax Court shall not be stayed by virtue of any interlocutory order that is or may be the subject of an appeal. See Code sec. 7482(a)(2)(A).

(As effective October 3, 2008, 130 T.C. 499. For prior history, see 87 T.C. 1559–60 (1986); 109 T.C. 639 (1997).)

TITLE XX. PRACTICE BEFORE THE COURT

RULE 200. ADMISSION TO PRACTICE AND PERIODIC REGISTRATION FEE

(a) Qualifications:

(1) *General:* An applicant for admission to practice before the Court must establish to the satisfaction of the Court that the applicant is of good moral and professional character and possesses the requisite qualifications to provide competent representation before the Court. In addition, the applicant must satisfy the other requirements of this Rule. If the applicant fails to satisfy the requirements of this Rule, then the Court may deny such applicant admission to practice before the Court.

(2) *Attorney Applicants:* An applicant who is an attorney at law must, as a condition of being admitted to practice, file with the Admissions Clerk at the address listed in paragraph (b) of this Rule a completed application accompanied by a fee to be established by the Court (for a complete list of fees, see the Court's Fee Schedule on the Court's website at www.ustaxcourt.gov) and a current certificate from the Clerk of the appropriate court, showing that the applicant has been admitted to practice before and is a member in good standing of the Bar of the Supreme Court of the United States, or of the highest or appropriate court of any State or of the District of Columbia, or any commonwealth, territory, or possession of the United States. A current court certificate is one executed within 90 calendar days preceding the date of the filing of the application.

(3) *Nonattorney Applicants:* An applicant who is not an attorney at law must, as a condition of being admitted to practice, file with the Admissions Clerk at the address listed in paragraph (b) of this Rule, a completed application accompanied by a fee to be established by the Court. See the Court's Fee Schedule on the Court's website at www.ustaxcourt.gov. In addition, such an applicant must, as a condition of being admitted to practice, satisfy the Court, by means of a written examination given by the Court, that the applicant possesses the requisite qualifications to provide competent representation before the Court. Written examinations for applicants who are not attorneys at law will be held no less often than every 2 years. By public announcement at least 6 months prior to the date of each examination, the Court will announce the date and the time of such examination. The Court will notify each applicant, whose application for admission is in order, of the time and the place at which the applicant is to

be present for such examination, and the applicant must present that notice to the examiner as authority for taking such examination.

(b) Applications for Admission: An application for admission to practice before the Court must be on the form provided by the Court. Application forms and other necessary information will be furnished upon request addressed to the Admissions Clerk, United States Tax Court, 400 Second St., N.W., Washington, D.C. 20217. As to forms of payment for application fees, see Rule 11.

(c) Sponsorship: An applicant for admission by examination must be sponsored by at least two persons theretofore admitted to practice before this Court, and each sponsor must send a letter of recommendation directly to the Admissions Clerk at the address listed in paragraph (b) of this Rule, where it will be treated as a confidential communication. The sponsor shall send this letter promptly after the applicant has been notified that he or she has passed the written examination required by paragraph (a)(3) of this Rule. The sponsor shall state fully and frankly the extent of the sponsor's acquaintance with the applicant, the sponsor's opinion of the moral character and repute of the applicant, and the sponsor's opinion of the qualifications of the applicant to practice before this Court. The Court may in its discretion accept such an applicant with less than two such sponsors.

(d) Admission: Upon the Court's approval of an application for admission in which an applicant has subscribed to the oath or affirmation and upon an applicant's satisfaction of the other applicable requirements of this Rule, such applicant will be admitted to practice before the Court and be entitled to a certificate of admission.

(e) Change of Address: Each person admitted to practice before the Court shall promptly notify the Admissions Clerk at the address listed in paragraph (b) of this Rule of any change in office address for mailing purposes. See Form 10 in the Appendix regarding a form for and methods of providing the notification required by this paragraph (e). See also Rule 21(b)(4) regarding the filing of a separate notice of change of address for each docket number in which such person has entered an appearance.

(f) Corporations and Firms Not Eligible: Corporations and firms will not be admitted to practice or recognized before the Court.

(g) Periodic Registration Fee: The Court is authorized to impose on each person admitted to practice before the Court a periodic registration fee. The frequency and the amount of such fee shall be determined by the Court, except that such amount shall not exceed $30 per calendar year. The Clerk shall maintain an Ineligible List containing the names

of all persons admitted to practice before the Court who have failed to comply with the provisions of this paragraph. No such person shall be permitted to commence a case in the Court or enter an appearance in a pending case while on the Ineligible List. The name of any person appearing on the Ineligible List shall not be removed from the List until the currently due registration fee has been paid and arrearages have been made current. Each person admitted to practice before the Court, whether or not engaged in private practice, must pay the periodic registration fee. As to forms of payment, see Rule 11.

(As amended and effective October 3, 2008, 130 T.C. 499–502; as amended, effective January 1, 2010, 134 T.C. 368–72; effective January 15, 2020, 154 T.C. 308–11. For prior history, see 60 T.C. 1152–53 (1973); 71 T.C. 1215–16 (1979); 81 T.C. 1070–71 (1983); 82 T.C. 1074 (1984); 87 T.C. 1560–61 (1986); 93 T.C. 976–79 (1989); 109 T.C. 640–43 (1997); 120 T.C. 614–16 (2003); 125 T.C. 347–50 (2005).)

RULE 201. CONDUCT OF PRACTICE BEFORE THE COURT

(a) General: Practitioners before the Court shall carry on their practice in accordance with the letter and spirit of the Model Rules of Professional Conduct of the American Bar Association.

(b) Statement of Employment: The Court may require any practitioner before it to furnish a statement, under oath, of the terms and circumstances of his or her employment in any case.

(As effective October 3, 2008, 130 T.C. 502. For prior history, see 60 T.C. 1153 (1973); 82 T.C. 1074–75 (1984); 93 T.C. 979 (1989).)

RULE 202. DISCIPLINARY MATTERS

(a) General: A member of the Bar of this Court may be disciplined by this Court as a result of:

(1) Conviction in any court of the United States, or of the District of Columbia, or of any State, territory, commonwealth, or possession of the United States of any felony or of any lesser crime involving false swearing, misrepresentation, fraud, criminal violation of any provision of the Internal Revenue Code, bribery, extortion, misappropriation, theft, or moral turpitude;

(2) Imposition of discipline by any other court of whose bar an attorney is a member, or an attorney's disbarment or suspension by consent or resignation from the bar of such court while an investigation into allegations of misconduct is pending;

(3) Conduct with respect to the Court which violates the letter and spirit of the Model Rules of Professional Conduct of the American Bar Association, the Rules of the Court, or orders or other instructions of the Court; or

(4) Any other conduct unbecoming a member of the Bar of the Court.

(b) Reporting Convictions and Discipline: A member of the Bar of this Court who has been convicted of any felony or of any lesser crime described in paragraph (a)(1), who has been disciplined as described in paragraph (a)(2), or who has been disbarred or suspended from practice before an agency of the United States Government exercising professional disciplinary jurisdiction, shall inform the Chair of the Court's Committee on Admissions, Ethics, and Discipline of such action in writing no later than 30 days after entry of the judgment of conviction or order of discipline.

(c) Disciplinary Actions: Discipline may consist of disbarment, suspension from practice before the Court, reprimand, admonition, or any other sanction that the Court may deem appropriate. The Court may, in the exercise of its discretion, immediately suspend a practitioner from practice before the Court until further order of the Court. Except as provided in paragraph (d), no person shall be suspended for more than 60 days or disbarred until such person has been afforded an opportunity to be heard. A Judge of the Court may immediately suspend any person for not more than 60 days for contempt or misconduct during the course of any trial or hearing.

(d) Interim Suspension Pending Final Disposition of Disciplinary Proceedings: If a member of the Bar of this Court is convicted in any court of the United States, or of the District of Columbia, or of any State, territory, commonwealth, or possession of the United States of any felony or of any lesser crime described in paragraph (a)(1), then, notwithstanding the pendency of an appeal of the conviction, if any, the Court may, in the exercise of its discretion, immediately suspend such practitioner from practice before the Court pending final disposition of the disciplinary proceedings described in paragraph (e).

(e) Disciplinary Proceedings: Upon the occurrence or allegation of any event described in paragraph (a)(1) through (a)(4), except for any suspension imposed for 60 days or less pursuant to paragraph (c), the Court shall issue to the practitioner an order to show cause why the practitioner should not be disciplined or shall otherwise take

appropriate action. The order to show cause shall direct that a written response be filed within such period as the Court may direct and shall set a prompt hearing on the matter before one or more Judges of the Court. If the disciplinary proceeding is predicated upon the complaint of a Judge of the Court, the hearing shall be conducted before a panel of three other Judges of the Court.

(f) Reinstatement:

(1) A practitioner suspended for 60 days or less pursuant to paragraph (c) shall be automatically reinstated at the end of the period of suspension.

(2) A practitioner suspended for more than 60 days or disbarred pursuant to this Rule may not resume practice before the Court until reinstated by order of the Court.

(A) A disbarred practitioner or a practitioner suspended for more than 60 days who wishes to be reinstated to practice before the Court must file a petition for reinstatement. Upon receipt of the petition for reinstatement, the Court may set the matter for prompt hearing before one or more Judges of the Court. If the disbarment or suspension for more than 60 days was predicated upon the complaint of a Judge of the Court, any such hearing shall be conducted before a panel of three other Judges of the Court.

(B) In order to be reinstated before the Court, the practitioner must demonstrate by clear and convincing evidence in the petition for reinstatement and at any hearing that such practitioner's reinstatement will not be detrimental to the integrity and standing of the Court's Bar or to the administration of justice, or subversive of the public interest.

(C) No petition for reinstatement under this Rule shall be filed within 1 year following an adverse decision upon a petition for reinstatement filed by or on behalf of the same person.

(g) Right to Counsel: In all proceedings conducted under the provisions of this Rule, the practitioner shall have the right to be represented by counsel.

(h) Appointment of Court Counsel: The Court, in its discretion, may appoint counsel to the Court to assist it with respect to any disciplinary matters.

(i) Jurisdiction: Nothing contained in this Rule shall be construed to deny to the Court such powers as are necessary for the Court to maintain control over proceedings conducted before it, such as proceedings for

contempt under Code Section 7456 or for costs under Code Section 6673(a)(2).

(As amended and effective September 20, 2005, 125 T.C. 350–52 and 130 T.C. 502–05; as amended, effective January 1, 2010, 134 T.C. 372–75. For prior history, see 60 T.C. 1153–54 (1973); 81 T.C. 1071–74 (1983); 82 T.C. 1075 (1984); 93 T.C. 979–82 (1989); 125 T.C. 350–52 (2005).)

TITLE XXI. DECLARATORY JUDGMENTS

(As effective October 3, 2008, 130 T.C. 505. For prior history, see 64 T.C. 1180 (1975); 68 T.C. 1031 (1977); 85 T.C. 1139 (1985); 93 T.C. 982–83 (1989); 120 T.C. 619–20 (2003).)

RULE 210. GENERAL

(a) Applicability: The Rules of this Title XXI set forth the special provisions that apply to declaratory judgment actions relating to the qualification of certain retirement plans, the value of certain gifts, the status of certain governmental obligations, the eligibility of an estate with respect to installment payments under Code section 6166, and the initial or continuing qualification of certain exempt organizations or the initial or continuing classification of certain private foundations. For the Rules that apply to declaratory judgment actions relating to treatment of items other than partnership items with respect to an oversheltered return, see the Rules contained in Title XXX. Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to actions for declaratory judgment.

(b) Definitions: As used in the Rules in this Title:

(1) "Retirement plan" has the meaning provided by Code section 7476(c).

(2) A "gift" is any transfer of property that was shown on the return of tax imposed by Chapter 12 of the Code or disclosed on that return or in any statement attached to that return.

(3) "Governmental obligation" means an obligation the status of which under Code section 103(a) is in issue.

(4) An "estate" is any estate whose initial or continuing eligibility with respect to the deferral and installment payment election under Code section 6166 is in issue.

(5) An "exempt organization" is an organization described in Code section 501(c) or (d) and exempt from tax under Code section 501(a) or is an organization described in Code section 170(c)(2).

(6) A "private foundation" is an organization described in Code section 509(a).

(7) A "private operating foundation" is an organization described in Code section 4942(j)(3).

(8) An "organization" is any organization whose qualification as an exempt organization, or whose classification as a private foundation or a private operating foundation, is in issue.

(9) A "determination" means:

(A) a determination with respect to the initial or continuing qualification of a retirement plan;

(B) a determination of the value of any gift;

(C) a determination as to whether prospective governmental obligations are described in Code section 103(a);

(D) a determination as to whether, with respect to an estate, an election may be made under Code section 6166 or whether the extension of time for payment of estate tax provided in Code section 6166 has ceased to apply; or

(E) a determination with respect to the initial or continuing qualification of an organization as an exempt organization, or with respect to the initial or continuing classification of an organization as a private foundation or a private operating foundation.

(10) A "revocation" is a determination that a retirement plan is no longer qualified, or that an organization, previously qualified or classified as an exempt organization or as a private foundation or private operating foundation, is no longer qualified or classified as such an organization.

(11) An "action for declaratory judgment" is either a retirement plan action, a gift valuation action, a governmental obligation action, an estate tax installment payment action, or an exempt organization action, as follows:

(A) A "retirement plan action" means an action for declaratory judgment provided for in Code section 7476 relating to the initial or continuing qualification of a retirement plan.

(B) A "gift valuation action" means an action for declaratory judgment provided for in Code section 7477 relating to the valuation of a gift.

(C) A "governmental obligation action" means an action for declaratory judgment provided for in Code section 7478 relating to the status of certain prospective governmental obligations.

(D) An "estate tax installment payment action" means an action for declaratory judgment provided for in Code

section 7479 relating to the eligibility of an estate with respect to installment payments under Code section 6166.

(E) An "exempt organization action" means a declaratory judgment action provided for in Code section 7428 relating to the initial or continuing qualification of an organization as an exempt organization, or relating to the initial or continuing classification of an organization as a private foundation or a private operating foundation.

(12) "Administrative record" generally refers to all documents and materials received, developed, considered, or exchanged in connection with the administrative determination.

(13) "Party" includes a petitioner and the respondent Commissioner of Internal Revenue. In a retirement plan action, an intervenor is also a party. In a gift valuation action, only the donor may be a petitioner. In a governmental obligation action, only the prospective issuer may be a petitioner. In an estate tax installment payment action, a person joined pursuant to Code section 7479(b)(1)(B) is also a party. In an exempt organization action, only the organization may be a petitioner.

(14) "Declaratory judgment" is the decision of the Court in a retirement plan action, a gift valuation action, a governmental obligation action, an estate tax installment payment action, or an exempt organization action.

(c) Jurisdiction: The Court shall have jurisdiction of an action for declaratory judgment under this Title when the conditions of Code sections 7428, 7476, 7477, 7478, or 7479, as applicable, have been satisfied.

(d) Form and Style of Papers: All papers filed in an action for declaratory judgment, with the exception of documents included in the administrative record, must be prepared in the form and style set forth in Rule 23.

(As effective October 3, 2008, 130 T.C. 505–09; as amended, effective March 20, 2023, 160 T.C. 677–82; effective August 8, 2024, 161 T.C. ___. For prior history, see 64 T.C. 1180–81 (1975); 68 T.C. 1031–35 (1977); 71 T.C. 1216–18 (1979); 93 T.C. 983–87 (1989); 120 T.C. 620–25 (2003).)

RULE 211. COMMENCEMENT OF ACTION FOR DECLARATORY JUDGMENT

(a) Commencement of Action: An action for declaratory judgment shall be commenced by filing a petition with the Court. See Rule 22, relating to the place and manner of filing the petition, and Rule 32, relating to form of pleadings.

(b) Content of Petition: Every petition shall be entitled "Petition for Declaratory Judgment (Retirement Plan)", "Petition for Declaratory Judgment (Gift Valuation)", "Petition for Declaratory Judgment (Governmental Obligation)", "Petition for Declaratory Judgment (Estate Tax Installment Payment)", or "Petition for Declaratory Judgment (Exempt Organization)", as the case may be. Each such petition shall contain the allegations described in paragraph (c), (d), (e), (f), or (g) of this Rule. A claim for reasonable litigation or administrative costs shall not be included in the petition in a declaratory judgment action. For the requirements as to claims for reasonable litigation or administrative costs, see Rule 231.

(c) Petition in Retirement Plan Action: The petition in a retirement plan action shall contain:

(1) *All Petitions:* All petitions in retirement plan actions shall contain the following:

(A) The petitioner's name and address, and the name and principal place of business, or principal office or agency of the employer at the time the petition is filed; and

(B) the office of the Internal Revenue Service with which the request for determination, if any, was filed and the date of such filing.

(2) *Employer Petitions:* In addition to including the information described in paragraph (c)(1) of this Rule, a petition filed by an employer shall also contain:

(A) A separate numbered paragraph stating that the employer has complied with the requirements of the regulations issued under Code section 7476(b)(2) with respect to notice to other interested parties;

(B) a separate numbered paragraph stating that the employer has exhausted the employer's administrative remedies within the Internal Revenue Service;

(C) a separate numbered paragraph stating that the retirement plan has been put into effect in accordance with Code section 7476(b)(4);

(D) where the Commissioner has issued a notice of determination that the retirement plan does not qualify:

(i) the date of the notice of the Commissioner's determination,

(ii) a copy of such notice of determination,

(iii) in a separate numbered paragraph, a clear and concise assignment of each error, set forth in a separate lettered subparagraph, which the employer alleges to have been committed by the Commissioner in the determination, and

(iv) a statement of facts upon which the petitioner relies to support each such claim;

(E) where the Commissioner has not issued a notice of determination with respect to the qualification of the retirement plan, separate numbered paragraphs stating that:

(i) the requested determination is of the type described in Code section 7476(a)(1) or (2),

(ii) no determination has been made by the Commissioner in response thereto, and

(iii) the retirement plan does qualify;

(F) an appropriate prayer for relief; and

(G) the signature, mailing address, and telephone number of each petitioner or each petitioner's counsel, as well as counsel's Tax Court bar number.

(3) *Petitions Filed by Plan Administrators:* In addition to including the information specified in paragraph (c)(1) of this Rule, a petition filed by a plan administrator shall contain:

(A) The name, address, and principal place of business, or principal office or agency, of the employer who is required to contribute under the plan; and

(B) in separate numbered paragraphs, the statements or information required in the case of employer petitions in paragraph (c)(2) of this Rule.

(4) *Employee Petitions:* In addition to including the information specified in paragraph (c)(1) of this Rule, a petition filed by an employee shall also contain:

(A) A separate numbered paragraph setting forth a statement that the employee has qualified as an interested party in accordance with the regulations issued under Code section 7476(b)(1);

(B) in separate numbered paragraphs, the statements described in subparagraph (2)(B) and (C) of paragraph (c) of this Rule;

(C) where the Commissioner has issued a notice of determination that the retirement plan does not qualify, a copy of such notice of determination, and in separate numbered paragraphs, the statements described in subparagraph (2)(D)(i), (iii), and (iv) of paragraph (c) of this Rule;

(D) where the Commissioner has issued a notice of determination that a retirement plan does qualify, a copy of such notice of determination, and in separate numbered paragraphs, the date of such notice of determination, and a clear and concise statement of each ground, set forth in a separate lettered subparagraph, upon which the employee relies to assert that such plan does not qualify and the facts to support each ground;

(E) where the Commissioner has not issued a notice of determination with respect to the qualification of the retirement plan, a statement, in a separate numbered paragraph, as to whether the retirement plan qualifies:

(i) if the employee alleges that the retirement plan does qualify, such paragraph shall also include the statements described in paragraph (c)(2)(E) of this Rule, or

(ii) if the employee alleges that the retirement plan does not qualify, in addition to the statements described in paragraph (c)(2)(E) of this Rule, such paragraph shall also include a clear and concise statement of each ground, in a separate lettered subparagraph, upon which the employee relies to support the allegation that such plan does not qualify and the facts relied upon to support each ground; and

(F) in separate numbered paragraphs, the statements described in paragraph (c)(2)(F) and (G) of this Rule.

(5) *Petitions Filed by the Pension Benefit Guaranty Corporation:* In addition to including the information specified in paragraph (c)(1)

of this Rule, a petition filed by the Pension Benefit Guaranty Corporation shall also contain in separate numbered paragraphs the statements described in paragraph (c)(4)(B), (C), (D), (E), and (F) of this Rule.

(d) Petition in Gift Valuation Action: The petition in a gift valuation action shall contain:

(1) The petitioner's name, State of legal residence, and mailing address;

(2) a statement that the petitioner is the donor of a gift described in Code section 7477(a);

(3) a statement that the petitioner has exhausted all administrative remedies within the Internal Revenue Service;

(4) with respect to the Commissioner's notice of determination:

(A) the date of the notice of determination;

(B) a copy of the notice of determination;

(C) in a separate numbered paragraph, a clear and concise statement of each error, in separate lettered subparagraphs, which the petitioner alleges to have been committed by the Commissioner in the determination; and

(D) a statement of facts upon which the petitioner relies to support each such claim;

(5) an appropriate prayer for relief; and

(6) the signature, mailing address, and telephone number of the petitioner or petitioner's counsel, as well as counsel's Tax Court bar number.

(e) Petition in Governmental Obligation Action: The petition in a governmental obligation action shall contain:

(1) The petitioner's name and address;

(2) the office of the Internal Revenue Service with which the request for determination was filed and the date of such filing;

(3) a statement that the petitioner is a prospective issuer of governmental obligations described in Code section 103(a) which has adopted an appropriate resolution in accordance with State or local law authorizing the issuance of such obligations;

(4) a statement that the petitioner has exhausted its administrative remedies;

(5) where the Commissioner has issued a determination:

(A) the date of the notice of determination;

(B) a copy of such notice of determination;

(C) in a separate numbered paragraph, a clear and concise statement of each error, in separate lettered subparagraphs, which the petitioner alleges to have been committed by the Commissioner in the determination; and

(D) a statement of facts upon which the petitioner relies to support each such claim;

(6) where the Commissioner has not issued a notice of determination, separate numbered paragraphs stating that:

(A) no such determination has been made by the Commissioner; and

(B) the prospective governmental obligations are described in Code section 103(a);

(7) an appropriate prayer for relief; and

(8) the signature, mailing address, and telephone number of the petitioner or its counsel, as well as counsel's Tax Court bar number.

(f) Petition in Estate Tax Installment Payment Action: The petition in an estate tax installment payment action shall contain:

(1) *All Petitions:*

(A) The petitioner's name and address;

(B) the decedent's name and State of legal residence at the date of death, and the jurisdiction in which the estate was admitted to probate;

(C) the office of the Internal Revenue Service with which the request for determination, if any, was filed and the date of such filing; and

(D) a statement that the petitioner has exhausted all available administrative remedies within the Internal Revenue Service;

(E) where the Commissioner has issued a determination either that the estate may not make the election under Code section 6166 or that the extension of time for payment of tax provided in Code section 6166 has ceased to apply with respect to the estate:

(i) the date of the notice of the Commissioner's determination,

(ii) a copy of such notice of determination,

(iii) in a separate numbered paragraph, a clear and concise assignment of each error, set forth in a separate lettered subparagraph, which the petitioner alleges to have been committed by the Commissioner in the determination, and

(iv) a statement of facts upon which the petitioner relies to support each such claim;

(F) where the Commissioner has not issued a notice of determination as to the initial or continuing eligibility of the estate with respect to installment payments under Code section 6166, separate numbered paragraphs stating that:

(i) the requested determination is of the type described in Code section 7479(a)(1) or (2),

(ii) no determination has been made by the Commissioner in response thereto, and

(iii) the estate is eligible;

(G) an appropriate prayer for relief; and

(H) the signature, mailing address, and telephone number of petitioner or petitioner's counsel, as well as counsel's Tax Court bar number.

(2) *Petitions Filed by Executors:* In addition to including the information specified in paragraph (f)(1) of this Rule, a petition filed by an estate's executor shall contain a separate numbered paragraph stating that the petition has been filed on behalf of an executor.

(3) *Petitions Filed by Persons Who Have Assumed an Obligation To Make Payments Under Code Section 6166:* In addition to including the information specified in paragraph (f)(1) of this Rule, a petition filed by a person, or persons, who has, or have, assumed an obligation to make payments under Code section 6166 with respect to an estate shall also contain:

(A) A separate numbered paragraph stating that the person, or persons, has, or have, assumed an obligation to make payments under Code section 6166 with respect to the estate; and

(B) in a separate numbered paragraph, the name and address of each other person who has assumed such obligation and is not a party to the action.

(g) Petition in Exempt Organization Action: The petition in an exempt organization action shall contain:

(1) The petitioner's name and principal place of business or principal office or agency;

(2) the date upon which the request for determination, if any, was mailed to the Internal Revenue Service, and the office to which it was mailed;

(3) a statement that the petitioner is an exempt organization or a private foundation or a private operating foundation, as the case may be, the qualification or classification of which is at issue;

(4) a statement that the petitioner has exhausted its administrative remedies within the Internal Revenue Service;

(5) where the Commissioner has issued a determination:

(A) the date of the notice of determination;

(B) a copy of such notice of determination;

(C) in a separate numbered paragraph, a clear and concise statement of each reason, in separate lettered subparagraphs, why the determination is erroneous; and

(D) a statement of facts upon which petitioner relies to support each of such reasons;

(6) where the Commissioner has not issued a notice of determination, separate numbered paragraphs stating that:

(A) no such determination has been made by the Commissioner; and

(B) the organization is qualified under Code section 501(c)(3) or 170(c)(2), or should be classified with respect to Code section 509(a) or 4942(j)(3) in the manner set forth by the petitioner in its request for determination;

(7) an appropriate prayer for relief; and

(8) the signature, mailing address, and telephone number of the petitioner or its counsel, as well as counsel's Tax Court bar number.

(h) Service: For the provisions relating to service of the petition and other papers, see Rule 21.

(As effective March 1, 2008, 130 T.C. 509–16. For prior history, see 64 T.C. 1182–84 (1975); 68 T.C. 1036–41 (1977); 71 T.C. 1218–23 (1979); 79 T.C. 1151 (1982); 81 T.C. 1074–75 (1983); 93 T.C. 987–92 (1989); 109 T.C. 649–55 (1997); 120 T.C. 625–33 (2003).)

RULE 212. REQUEST FOR PLACE FOR SUBMISSION TO THE COURT

At the time of filing a petition for a declaratory judgment, a request for place for submission to the Court shall be filed in accordance with Rule 140. In addition to including in the request the information specified in Rule 140, the petitioner shall also include the date on which the petitioner expects the action will be ready for submission to the Court and the petitioner's estimate of the time required therefor. In cases involving a revocation or involving the status of a governmental obligation, the Commissioner shall, at the time the answer is filed, also set forth in a separate statement the date on which the Commissioner expects the action will be ready for submission to the Court and an estimate of the time required therefor. After the action becomes at issue (see Rule 214), it will ordinarily, without any further request by the Court for information as to readiness for submission, be placed on a calendar for submission to the Court. See Rule 217(b).

(As amended and effective March 1, 2008, 130 T.C. 516–17. For prior history, see 64 T.C. 1184–85 (1975); 68 T.C. 1041 (1977); 71 T.C. 1224 (1979); 81 T.C. 1075–76 (1983); 93 T.C. 992 (1989).)

RULE 213. OTHER PLEADINGS

(a) Answer:

(1) *Time To Answer or Move:* The Commissioner has 60 days from the date of service of the petition within which to file an answer, or 45 days from that date within which to move with respect to the petition. With respect to an amended petition or amendments to the petition, the Commissioner will have like time periods from the date of service of those papers within which to answer or move in response thereto, except as the Court may otherwise direct.

(2) *Form and Content:* The answer must be drawn so that it will advise the petitioner and the Court fully of the nature of the defense. It must contain a specific admission or denial of each material allegation of the petition. If the Commissioner lacks knowledge or information sufficient to form a belief as to the truth

of an allegation as to jurisdictional facts or as to inferences or conclusions that may be drawn from materials in the administrative record or as to facts involved in a revocation, the Commissioner may so state, and that statement will have the effect of a denial. Facts other than jurisdictional facts, and other than facts involved in a revocation or in a governmental obligation action, may be admitted only for purposes of the pending action for declaratory judgment. If the Commissioner intends to clarify or to deny only a part of an allegation, the Commissioner must specify so much of it as is true and must qualify or deny only the remainder. In addition, the answer must contain a clear and concise statement of every ground, together with the facts in support thereof, on which the Commissioner relies and has the burden of proof. Paragraphs of the answer must be designated to correspond to those of the petition to which they relate.

(3) *Index to Administrative Record:* In addition, the answer must include as an attachment a complete index of the contents of the administrative record to be filed with the Court and the answer must contain an affirmative allegation that the index is attached thereto. See Rule 217(b).

(4) *Effect of Answer:* Every material allegation set out in the petition and not expressly admitted or denied in the answer is deemed to be admitted.

(b) Reply: Each petitioner must file a reply in every action for declaratory judgment.

(1) *Time To Reply or Move:* The petitioner has 60 days from the date of service of the answer within which to file a reply, or 30 days from that date within which to move with respect to the answer. With respect to an amended answer or amendments to the answer, the petitioner will have like periods from the date of service of those papers within which to reply or move in response thereto, unless the Court orders otherwise.

(2) *Form and Content:* In response to each material allegation in the answer and the facts in support thereof on which the Commissioner has the burden of proof, the reply must contain a specific admission or denial; however, if the petitioner lacks knowledge or information sufficient to form a belief as to the truth of an allegation, the petitioner must so state, and that statement will have the effect of a denial. If the petitioner denies the affirmative allegation in the answer that a complete index of the contents of the administrative record is attached to the answer,

the petitioner must specify the reasons for that denial. In addition, the reply must contain a clear and concise statement of every ground, together with the facts in support thereof, on which the petitioner relies affirmatively or in avoidance of any matter in the answer on which the Commissioner has the burden of proof. In other respects, the requirements of pleading applicable to the answer provided in paragraph (a)(2) of this Rule apply to the reply. The paragraphs of the reply must be designated to correspond to those of the answer to which they relate.

(3) *Effect of Reply or Failure Thereof:* If a reply is filed, every affirmative allegation set out in the answer and not expressly admitted or denied in the reply will be deemed to be admitted. If a reply is not filed, the affirmative allegations in the answer will be deemed admitted.

(4) *New Material:* Any new material contained in the reply will be deemed to be denied.

(As amended and effective October 3, 2008, 130 T.C. 517–19; as amended, effective March 20, 2023, 160 T.C. 682–85. For prior history, see 64 T.C. 1185–86 (1975); 68 T.C. 1041–45 (1977); 71 T.C. 1224–26 (1979); 93 T.C. 993–95 (1989).)

RULE 214. JOINDER OF ISSUE IN ACTION FOR DECLARATORY JUDGMENT

An action for declaratory judgment shall be deemed at issue upon the filing of the reply or at the expiration of the time for doing so.

(As amended and effective October 3, 2008, 130 T.C. 519. For prior history, see 64 T.C. 1187 (1975); 68 T.C. 1045 (1977).)

RULE 215. JOINDER OF PARTIES

(a) Joinder in Retirement Plan Action: The joinder of parties in retirement plan actions shall be subject to the following requirements:

(1) *Permissive Joinder:* Any person who, under Code section 7476(b)(1), is entitled to commence an action for declaratory judgment with respect to the qualification of a retirement plan may join in filing a petition with any other such person in such an action with respect to the same plan. If the Commissioner has

issued a notice of determination with respect to the qualification of the plan, then any person joining in the petition must do so within the period specified in Code section 7476(b)(5). If more than one petition is filed with respect to the qualification of the same retirement plan, then see Rule 141 (relating to the possibility of consolidating the actions with respect to the plan).

(2) *Joinder of Additional Parties:* Any party to an action for declaratory judgment with respect to the qualification of a retirement plan may move to have joined in the action any employer who established or maintains the plan, plan administrator, or any person in whose absence complete relief cannot be accorded among those already parties. Unless otherwise permitted by the Court, any such motion must be filed not later than 30 days after joinder of issue. See Rule 214. In addition to serving the parties to the action, the movant shall cause personal service to be made on each person sought to be joined by a United States marshal or by a deputy marshal, or by any other person who is not a party and is not less than 18 years of age, who shall make a return of service. See Form 9, Appendix. Such return of service shall be filed with the motion, but failure to do so or otherwise to make proof of service does not affect the validity of the service. Unless otherwise permitted by the Court, any objection to such motion shall be filed within 30 days after the service of the motion. The motion will be granted whenever the Court finds that in the interests of justice such person should be joined. If the motion is granted, such person will thereupon become a party to the action, and the Court will enter such orders as it deems appropriate as to further pleading and other matters. See Rule 50(b) with respect to actions on motions.

(3) *Nonjoinder of Necessary Parties:* If the Court determines that any person described in subparagraph (2) of this paragraph is a necessary party to an action for declaratory judgment and that such person has not been joined, then the Court may, on its own motion or on the motion of any party or any such person, dismiss the action on the ground that the absent person is necessary and that justice cannot be accomplished in the absent person's absence, or direct that any such person be made a party to the action. An order dismissing a case for nonjoinder of a necessary party may be conditional or absolute.

(b) Joinder in Estate Tax Installment Payment Action: The joinder of parties in estate tax installment payment actions shall be subject to the following requirements:

(1) *Permissive Joinder:* Any person who, under Code section 7479(b)(1), is entitled to commence an action for declaratory judgment relating to the eligibility of an estate with respect to installment payments under Code section 6166 may join in filing a petition with any other such person in such an action with respect to such estate. If the Commissioner has issued a notice of determination with respect to the eligibility of the estate, then any person joining in the petition must do so within the period specified in Code section 7479(b)(3). If more than one petition is filed with respect to the eligibility of the same estate, then see Rule 141 (relating to the possibility of consolidating the actions with respect to the estate).

(2) *Joinder of Additional Parties:* Any party to an action for declaratory judgment relating to the eligibility of an estate with respect to installment payments under Code section 6166 may move to have joined in the action any executor or any person who has assumed an obligation to make payments under Code section 6166 with respect to such estate. Unless otherwise permitted by the Court, any such motion must be filed not later than 30 days after joinder of issue. See Rule 214. In addition to serving the parties to the action, the movant shall cause personal service to be made on each person sought to be joined by a United States marshal or by a deputy marshal, or by any other person who is not a party and is not less than 18 years of age, who shall make a return of service. See Form 9, Appendix. Such return of service shall be filed with the motion, but failure to do so or otherwise to make proof of service does not affect the validity of the service. Unless otherwise permitted by the Court, any objection to such motion shall be filed within 30 days after the service of the motion. The motion will be granted whenever the Court finds that in the interests of justice such person should be joined. If the motion is granted, such person will thereupon become a party to the action, and the Court will enter such orders as it deems appropriate as to further pleading and other matters. See Rule 50(b) with respect to actions on motions.

(3) *Nonjoinder of Necessary Parties:* If the Court determines that any person described in subparagraph (2) of this paragraph is a necessary party to an action for declaratory judgment, or, in the case of an action brought by a person described in Code section 7479(b)(1)(B), is another such person described in Code section 7479(b)(1)(B), and that such person has not been joined, then the Court may, on its own motion or on the motion of any party or any such person, dismiss the action on the ground that the absent person is necessary and that justice cannot be accomplished in

the absence of such person, or direct that any such person be made a party to the action. An order dismissing a case for nonjoinder of a necessary party may be conditional or absolute.

(c) Joinder of Parties in Gift Valuation, Governmental Obligation, and Exempt Organization Actions: Joinder of parties is not permitted in a gift valuation action, in a governmental obligation action, or in an exempt organization action. See Code secs. 7477(b)(1), 7478(b)(1), 7428(b)(1). With respect to consolidation of actions, see Rule 141.

(As amended and effective March 1, 2008, 130 T.C. 519–22; as amended, effective January 1, 2010, 134 T.C. 375–78. For prior history, see 64 T.C. 1187–88 (1975); 68 T.C. 1045–47 (1977); 71 T.C. 1226 (1979); 93 T.C. 995–96 (1989); 120 T.C. 635–38 (2003).)

RULE 216. INTERVENTION IN RETIREMENT PLAN ACTIONS

(a) Who May Intervene: The Pension Benefit Guaranty Corporation and, if entitled to intervene pursuant to the provisions of section 3001(c) of the Employee Retirement Income Security Act of 1974, the Secretary of Labor, or either of them, shall be permitted to intervene in a retirement plan action in accordance with the provisions of Code section 7476.

(b) Procedure: If either of the persons mentioned in paragraph (a) of this Rule desires to intervene, then such person shall file a pleading, either a petition in intervention or an answer in intervention, not later than 30 days after joinder of issue (see Rule 214) unless the Court directs otherwise. All new matters of claim or defense in a pleading in intervention shall be deemed denied.

(As effective October 3, 2008, 130 T.C. 522. For prior history, see 64 T.C. 1188 (1975); 68 T.C. 1047 (1977); 93 T.C. 996–97 (1989).)

RULE 217. DISPOSITION OF ACTIONS FOR DECLARATORY JUDGMENT

(a) General: Disposition of an action for declaratory judgment that involves the initial qualification of a retirement plan or the initial qualification or classification of an exempt organization, a private foundation, or a private operating foundation will ordinarily be made on the basis of the administrative record, as defined in Rule 210(b)(12).

Only with the permission of the Court, on good cause shown, will any party be permitted to introduce before the Court any evidence other than that presented before the Internal Revenue Service and contained in the administrative record as so defined. Disposition of an action for declaratory judgment involving a revocation, a gift valuation, or the eligibility of an estate with respect to installment payments under Code section 6166 may be made on the basis of the administrative record alone only if the parties agree that the administrative record contains all the relevant facts and those facts are not in dispute. Disposition of a governmental obligation action will be made on the basis of the administrative record, augmented by additional evidence to the extent that the Court may direct.

(b) Procedure:

(1) *Disposition on the Administrative Record:* Within 30 days after service of the answer, the parties must file with the Court the entire administrative record (or so much thereof as either party may deem necessary for a complete disposition of the action for declaratory judgment), stipulated as to its genuineness. If, however, the parties are unable to file such a stipulated administrative record, not sooner than 30 days nor later than 45 days after service of the answer, the Commissioner must file with the Court the entire administrative record, as defined in Rule 210(b)(12), appropriately certified as to its genuineness by the Commissioner or by an official authorized to act for the Commissioner in such situation. See Rule 212 as to the time and place for submission of the action to the Court. The Court will thereafter issue an opinion and declaratory judgment in the action. In an action involving the initial qualification of a retirement plan or the initial qualification or classification of an exempt organization, a private foundation, or a private operating foundation, the Court's decision will be based on the assumption that the facts as represented in the administrative record as so stipulated or so certified are true and on any additional facts as found by the Court if the Court deems that a trial is necessary. In an action involving a gift valuation, the eligibility of an estate with respect to installment payments under Code section 6166, a revocation, or the status of a governmental obligation, the Court may, on the basis of the evidence presented, make findings of fact that differ from the administrative record.

(2) *Other Dispositions Without Trial:* In addition, an action for declaratory judgment may be decided on a motion for a judgment on the pleadings under Rule 120 or on a motion for summary judgment under Rule 121 or the action may be submitted at any

time by motion of the parties filed with the Court in accordance with Rule 122.

(3) *Disposition If Trial Is Required:* Whenever a trial is required in an action for declaratory judgment, the trial will be conducted in accordance with the Rules contained in Title XIV, except as otherwise provided in this Title.

(As effective October 3, 2008, 130 T.C. 522–24; as amended, effective March 20, 2023, 160 T.C. 685–87. For prior history, see 64 T.C. 1189–90 (1975); 68 T.C. 1047–51 (1977); 71 T.C. 1226–28 (1979); 93 T.C. 997–1000 (1989); 109 T.C. 659–62 (1997); 120 T.C. 639–41 (2003).)

RULE 218. PROCEDURE IN ACTIONS HEARD BY A SPECIAL TRIAL JUDGE OF THE COURT

(a) Where the Special Trial Judge Is To Make the Decision: When an action for declaratory judgment is assigned to a Special Trial Judge who is authorized in the order of assignment to make the decision, the opinion and proposed decision of the Special Trial Judge shall be submitted to and approved by the Chief Judge or by another Judge designated by the Chief Judge for that purpose, prior to service of the opinion and decision upon the parties.

(b) Where the Special Trial Judge Is Not To Make the Decision: Where an action for declaratory judgment is assigned to a Special Trial Judge who is not authorized in the order of assignment to make the decision, the procedure provided in Rule 183 shall be followed.

(As effective October 3, 2008, 130 T.C. 524. For prior history, see 64 T.C. 1190–91 (1975); 71 T.C. 1228 (1979); 68 T.C. 1051 (1977); 81 T.C. 1076 (1983); 93 T.C. 1000 (1989).)

TITLE XXII. DISCLOSURE ACTIONS

(As effective October 3, 2008, 130 T.C. 524. For prior history, see 68 T.C. 1051 (1977).)

RULE 220. GENERAL

(a) Applicability: The Rules of this Title XXII set forth the special provisions which apply to the three types of disclosure actions relating to written determinations by the Internal Revenue Service and their background file documents, as authorized by Code section 6110. They consist of: (1) Actions to restrain disclosure, (2) actions to obtain additional disclosure, and (3) actions to obtain disclosure of identity in the case of third party contacts. Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to such disclosure actions.

(b) Definitions: As used in the Rules in this Title:

(1) A "written determination" means a ruling, determination letter, or technical advice memorandum. See Code sec. 6110(b)(1).

(2) A "prior written determination" is a written determination issued pursuant to a request made before November 1, 1976.

(3) A "background file document" has the meaning provided in Code section 6110(b)(2).

(4) A "notice of intention to disclose" is the notice described in Code section 6110(f)(1).

(5) "Party" includes a petitioner, the respondent Commissioner of Internal Revenue, and any intervenor under Rule 225.

(6) A "disclosure action" is either an "additional disclosure action", an "action to restrain disclosure", or a "third party contact action", as follows:

(A) An "additional disclosure action" is an action to obtain disclosure within Code section 6110(f)(4).

(B) An "action to restrain disclosure" is an action within Code section 6110(f)(3) or (h)(4) to prevent any part or all of a written determination, prior written determination, or background file document from being opened to public inspection.

(C) A "third party contact action" is an action to obtain disclosure of the identity of a person to whom a written

determination pertains in accordance with Code section 6110(d)(3).

(7) "Third party contact" means the person described in Code section 6110(d)(1) who has communicated with the Internal Revenue Service.

(c) Jurisdiction: The Court shall have jurisdiction of a disclosure action under this Title when the conditions of Code section 6110 have been satisfied.

(d) Form and Style of Papers: All papers filed in a disclosure action shall be prepared in the form and style set forth in Rule 23, except that whenever any party joins or intervenes in the action, then thereafter, in addition to the number of copies required to be filed under such Rule, an additional copy shall be filed for each party who joins or intervenes in the action. In the case of anonymous parties, see Rule 227.

(As effective October 3, 2008, 130 T.C. 524–26; as amended, effective August 8, 2024, 161 T.C. ___. For prior history, see 68 T.C. 1051–54 (1977); 71 T.C. 1228–29 (1979); 93 T.C. 1000–02 (1989); 109 T.C. 663–65 (1997).)

RULE 221. COMMENCEMENT OF DISCLOSURE ACTION

(a) Commencement of Action: A disclosure action shall be commenced by filing a petition with the Court. See Rule 22, relating to the place and manner of filing the petition, and Rule 32, relating to the form of pleadings.

(b) Content of Petition: Every petition shall be entitled "Petition for Additional Disclosure" or "Petition To Restrain Disclosure" or "Petition To Disclose Identity". Subject to the provisions of Rule 227, dealing with anonymity, each petition shall contain the petitioner's name and State of legal residence, an appropriate prayer for relief, and the signature, mailing address, and telephone number of the petitioner or the petitioner's counsel, as well as counsel's Tax Court bar number. In addition, each petition shall contain the allegations described in paragraph (c), (d), or (e) of this Rule.

(c) Petition in Additional Disclosure Action: The petition in an additional disclosure action shall contain:

(1) A brief description (including any identifying number or symbol) of the written determination, prior written determination, or background file document, as to which the petitioner seeks

additional disclosure. A copy of any such determination or document, as it is then available to the public, shall be appended.

(2) The date of the petitioner's request to the Internal Revenue Service for additional disclosure, with a copy of such request appended.

(3) A statement of the Commissioner's disposition of the request, with a copy of the disposition appended.

(4) A statement that the petitioner has exhausted all administrative remedies available within the Internal Revenue Service.

(5) In separate lettered subparagraphs, a clear and concise statement identifying each portion of the written determination, prior written determination, or background file document as to which the petitioner seeks additional disclosure together with any facts and reasons to support disclosure. See Rule 229 with respect to the burden of proof in an additional disclosure action.

(d) Petition in Action To Restrain Disclosure: The petition in an action to restrain disclosure shall contain:

(1) A statement that the petitioner is: (A) A person to whom the written determination pertains; (B) a successor in interest, executor, or other person authorized by law to act for or on behalf of such person; (C) a person who has a direct interest in maintaining the confidentiality of the written determination or background file document or portion thereof; or (D) in the case of a prior written determination, the person who received such prior written determination.

(2) A statement that the Commissioner has issued a notice of intention to disclose with respect to a written determination or a background file document, stating the date of mailing of the notice of intention to disclose and appending a copy of it to the petition, or, in the case of a prior written determination, a statement that the Commissioner has issued public notice in the Federal Register that the determination is to be opened to public inspection, and stating the date and citation of such publication in the Federal Register.

(3) A brief description (including any identifying number or symbol) of the written determination, prior written determination, or background file document, as to which the petitioner seeks to restrain disclosure.

(4) The date of the petitioner's request to the Internal Revenue Service to refrain from disclosure, with a copy of such request appended.

(5) A statement of the Commissioner's disposition of the request, with a copy of such disposition appended.

(6) A statement that the petitioner has exhausted all administrative remedies available within the Internal Revenue Service.

(7) In separate lettered subparagraphs, a clear and concise statement identifying each portion of the written determination, prior written determination, or background file document as to which the petitioner seeks to restrain disclosure, together with any facts and reasons to support the petitioner's position. See Rule 229 with respect to the burden of proof in an action to restrain disclosure.

(e) Petition in Third Party Contact Action: The petition in a third party contact action shall contain:

(1) A brief description (including any identifying number or symbol) of the written determination to which the action pertains. There shall be appended a copy of such determination, and the background file document (if any) reflecting the third party contact, as then available to the public.

(2) The date of the first day that the written determination was open to public inspection.

(3) A statement of the disclosure sought by the petitioner.

(4) A clear and concise statement of the impropriety alleged to have occurred or the undue influence alleged to have been exercised with respect to the written determination or on behalf of the person whose identity is sought, and the public interest supporting any other disclosure. See Rule 229 with respect to the burden of proof in a third party contact action.

(f) Service: For the provisions relating to service of the petition and other papers, see Rule 21.

(g) Anonymity: With respect to anonymous pleading, see Rule 227.

(As effective October 3, 2008, 130 T.C. 526–29. For prior history, see 68 T.C. 1054–56 (1977); 81 T.C. 1076–77 (1983); 93 T.C. 1002–05 (1989).)

RULE 222. REQUEST FOR PLACE OF HEARING

At the time of filing a petition in a disclosure action, a request for a place of hearing shall be filed in accordance with Rule 140. In addition, the petitioner shall include the date on which the petitioner believes the action will be ready for

submission to the Court and the petitioner's estimate of the time required therefor. The Commissioner shall, at the time the answer is filed, also set forth in a separate statement the date on which the Commissioner expects the action will be ready for submission to the Court and an estimate of the time required therefor. An intervenor shall likewise furnish such information to the Court in a separate statement filed with the intervenor's first pleading in the case. After the action is at issue (see Rule 224), it will ordinarily, without any further request by the Court for information as to readiness for submission, be placed on a calendar for submission to the Court. See also Rule 229.

(As amended and effective March 1, 2008, 130 T.C. 529–30. For prior history, see 68 T.C. 1056–57 (1977); 81 T.C. 1077 (1983); 93 T.C. 1005–06 (1989).)

RULE 223. OTHER PLEADINGS

(a) Answer:

(1) *Time To Answer or Move:* The Commissioner shall have 30 days from the date of service of the petition within which to file an answer or move with respect to the petition, or, in an action for additional disclosure, to file an election not to defend pursuant to Code section 6110(f)(4)(B), in which event the Commissioner shall be relieved of the obligation of filing an answer or any subsequent pleading. With respect to intervention when the Commissioner elects not to defend, see Rule 225.

(2) *Form and Content:* The answer shall be drawn so that it will advise the petitioner and the Court fully of the nature of the defense. It shall contain a specific admission or denial of each material allegation in the petition. If the Commissioner shall be without knowledge or information sufficient to form a belief as to the truth of an allegation, then the Commissioner shall so state, and such statement shall have the effect of a denial. If the Commissioner intends to qualify or to deny only a part of an allegation, then the Commissioner shall specify so much of it as is true and shall qualify or deny only the remainder. In addition, the answer shall contain a clear and concise statement of every ground, together with the facts in support thereof on which the Commissioner relies and has the burden of proof. Paragraphs of the answer shall be designated to correspond to those of the petition to which they relate.

(3) *Effect of Answer:* Every material allegation set out in the petition and not expressly admitted or denied in the answer shall be deemed to be admitted.

(b) Reply: Each petitioner may file a reply or move with respect to the answer within 20 days from the date of service of the answer. Where a reply is filed, every affirmative allegation set out in the answer and not expressly admitted or denied in the reply, shall be deemed to be admitted. Where a reply is not filed, the affirmative allegations in the answer will be deemed denied. Any new material contained in the reply shall be deemed denied.

(As effective October 3, 2008, 130 T.C. 530. For prior history, see 68 T.C. 1057–58 (1977); 93 T.C. 1006–07 (1989).)

RULE 224. JOINDER OF ISSUE

A disclosure action shall be deemed at issue upon the filing of the reply or at the expiration of the time for doing so.

(As effective October 3, 2008, 130 T.C. 531. For prior history, see 68 T.C. 1058 (1977).)

RULE 225. INTERVENTION

(a) Who May Intervene: The persons to whom notice is required to be given by the Commissioner pursuant to Code section 6110(d)(3) or (f)(3)(B) or (4)(B) shall have the right to intervene in the action as to which the notice was given. The Commissioner shall append a copy of the petition to any such notice.

(b) Procedure: If a person desires to intervene, then such person shall file an initial pleading, which shall be a petition in intervention or an answer in intervention, not later than 30 days after mailing by the Commissioner of the notice referred to in paragraph (a) of this Rule. In an action for additional disclosure where the Commissioner elects not to defend pursuant to Code section 6110(f)(4)(B), the Commissioner shall mail to each person, to whom the Commissioner has mailed the notice referred to in paragraph (a) of this Rule, a notice of the Commissioner's election not to defend, and any such person desiring to intervene shall have 30 days after such mailing within which to file a petition in intervention or an answer in intervention. The initial pleading of an intervenor, whether a petition or answer, shall show the basis for the

right to intervene and shall include, to the extent appropriate, the same elements as are required for a petition under Rule 221 or an answer under Rule 223. An intervenor shall otherwise be subject to the same rules of procedure as apply to other parties. With respect to anonymous intervention, see Rule 227.

(As effective October 3, 2008, 130 T.C. 531. For prior history, see 68 T.C. 1058 (1977); 93 T.C. 1007 (1989); 109 T.C. 669–70 (1997).)

RULE 226. JOINDER OF PARTIES

The joinder of parties in a disclosure action shall be subject to the following requirements:

(a) **Commencement of Action:** Any person who meets the requirements for commencing such an action may join with any other such person in filing a petition with respect to the same written determination, prior written determination, or background file document. But see Code sec. 6110(f)(3)(B), (h)(4).

(b) **Consolidation of Actions:** If more than one petition is filed with respect to the same written determination, prior written determination, or background file document, then see Rule 141 with respect to the consolidation of the actions.

(As effective October 3, 2008, 130 T.C. 531–32. For prior history, see 68 T.C. 1058–59 (1977); 93 T.C. 1008 (1989); 109 T.C. 670 (1997).)

RULE 227. ANONYMOUS PARTIES

(a) **Petitioners:** A petitioner in an action to restrain disclosure relating to either a written determination or a prior written determination may file the petition anonymously, if appropriate.

(b) **Intervenors:** An intervenor may proceed anonymously, if appropriate, in any disclosure action.

(c) **Procedure:** A party who proceeds pursuant to this Rule shall be designated as "Anonymous". In all cases where a party proceeds anonymously pursuant to paragraph (a) or (b) of this Rule, such party shall set forth in a separate paper such party's name and address and the reasons why such party seeks to proceed anonymously. Such separate paper shall be filed with such party's initial pleading.

Anonymity, where appropriate, shall be preserved to the maximum extent consistent with the proper conduct of the action. See Rule 13(d), relating to contempt of Court. With respect to confidential treatment of pleadings and other papers, see Rule 228.

(As effective October 3, 2008, 130 T.C. 532. For prior history, see 68 T.C. 1059 (1977); 93 T.C. 1008–09 (1989).)

RULE 228. CONFIDENTIALITY

(a) **Confidentiality:** The petition and all other papers submitted to the Court in any disclosure action shall be placed and retained by the Court in a confidential file and shall not be open to inspection unless otherwise permitted by the Court.

(b) **Publicity of Court Proceedings:** On order of the Court portions or all of the hearings, testimony, evidence, and reports in any action under this Title may be closed to the public or to inspection by the public, to the extent deemed by the Court to be appropriate in order to preserve the anonymity, privacy, or confidentiality of any person involved in an action within Code section 6110. See Code sec. 6110(f)(6).

(As effective October 3, 2008, 130 T.C. 532–33. For prior history, see 68 T.C. 1059–60 (1977).)

RULE 229. BURDEN OF PROOF

The burden of proof shall be upon the petitioner as to the jurisdictional requirements described in Rule 220(c). As to other matters, the burden of proof shall be determined consistently with Rule 142(a), subject to the following:

(a) In an action for additional disclosure, the burden of proof as to the issue of whether disclosure should be made shall be on the Commissioner and on any other person seeking to deny disclosure. See Code sec. 6110(f)(4)(A).

(b) In an action to restrain disclosure, the burden of proof as to the issue of whether disclosure should be made shall be upon the petitioner.

(c) In a third party contact action, the burden of proof shall be on the petitioner to establish that one could reasonably conclude that an impropriety occurred or undue influence was exercised with respect to

the written determination by or on behalf of the person whose identity is sought.

(As effective October 3, 2008, 130 T.C. 533. For prior history, see 68 T.C. 1060–61 (1977).)

RULE 229A. PROCEDURE IN ACTIONS HEARD BY A SPECIAL TRIAL JUDGE OF THE COURT

(a) Where the Special Trial Judge Is To Make the Decision: If a disclosure action is assigned to a Special Trial Judge who is authorized in the order of assignment to make the decision, then the opinion and proposed decision of the Special Trial Judge shall be submitted to and approved by the Chief Judge, or by another Judge designated by the Chief Judge for that purpose, prior to service of the opinion and decision upon the parties.

(b) Where the Special Trial Judge Is Not To Make the Decision: If a disclosure action is assigned to a Special Trial Judge who is not authorized in the order of assignment to make the decision, then the procedure provided in Rule 183 shall be followed.

(As effective October 3, 2008, 130 T.C. 533. For prior history, see 79 T.C. 1151 (1982); 81 T.C. 1077 (1983); 93 T.C. 1010 (1989). Rule 229A was originally designated as Rule 230, see 79 T.C. 1151 (1982). For prior Rule 230 history, see 68 T.C. 1061 (1977); 71 T.C. 1229 (1979).)

TITLE XXIII. CLAIMS FOR LITIGATION AND ADMINISTRATIVE COSTS

(As effective October 3, 2008, 130 T.C. 534. For prior history, see 79 T.C. 1152 (1982); 93 T.C. 1010–11 (1989).)

RULE 230. GENERAL

(a) Applicability: The Rules of this Title XXIII set forth the special provisions which apply to claims for reasonable litigation and administrative costs authorized by Code section 7430. Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to such claims for reasonable litigation and administrative costs. See Title XXVI for Rules relating to separate actions for administrative costs, authorized by Code section 7430(f)(2).

(b) Definitions: As used in the Rules in this Title:

(1) "Reasonable litigation costs" include the items described in Code section 7430(c)(1).

(2) "Reasonable administrative costs" include the items described in Code section 7430(c)(2).

(3) "Court proceeding" means any action brought in this Court in connection with the determination, collection, or refund of tax, interest, or penalty.

(4) "Administrative proceeding" means any procedure or other action within the Internal Revenue Service in connection with the determination, collection, or refund of tax, interest, or penalty.

(5) In the case of a partnership action, the term "party" includes the partner who filed the petition, the tax matters partner, and each person who satisfies the requirements of Code section 6226(c) and (d) or 6228(a)(4). See Rule 247(a). The term "party" also includes the partnership representative. See Rule 255.1(b)(3).

(6) "Attorney's fees" include fees for the services of an individual (whether or not an attorney) who is authorized to practice before the Court or before the Internal Revenue Service. For the procedure for admission to practice before the Court, see Rule 200.

(As effective October 3, 2008, 130 T.C. 534; as amended, effective July 15, 2019, 153 T.C. 270–71. For prior history, see 79 T.C. 1152–53 (1982); 93 T.C. 1011–13 (1989); 109 T.C. 672–74 (1997); 120 T.C. 651–53 (2003).)

RULE 231. CLAIMS FOR LITIGATION AND ADMINISTRATIVE COSTS

(a) Time and Manner of Claim:

(1) *Agreed Cases:* If the parties have reached a settlement disposing of all issues in the case including litigation and administrative costs, an award of reasonable litigation and administrative costs, if any, must be included in the stipulated decision submitted by the parties for entry by the Court.

(2) *Unagreed Cases:* If a party has substantially prevailed, or is treated as the prevailing party in the case of a qualified offer made as described in Code section 7430(g), and wishes to claim reasonable litigation or administrative costs, and there is no agreement as to that party's entitlement to those costs, a claim must be made by motion filed:

(A) within 30 days after the service of a written opinion determining the issues in the case;

(B) within 30 days after the service of the pages of the transcript that contain findings of fact or opinion stated orally pursuant to Rule 152 (or a written summary thereof); or

(C) after the parties have settled all issues in the case other than litigation and administrative costs. See paragraphs (b)(3) and (c) of this Rule regarding the filing of a stipulation of settlement with the motion in such cases.

(b) Content of Motion: A motion for an award of reasonable litigation or administrative costs must be in writing and contain the following:

(1) A statement that the moving party is a party to a Court proceeding that was commenced after February 28, 1983;

(2) if the claim includes a claim for administrative costs, a statement that the administrative proceeding was commenced after November 10, 1988;

(3) a statement sufficient to demonstrate that the moving party has substantially prevailed with respect to either the amount in controversy or the most significant issue or set of issues presented, or is treated as the prevailing party in the case of a qualified offer made as described in Code section 7430(g), either

in the Court proceeding or, if the claim includes a claim for administrative costs, in the administrative proceeding, including a stipulation in the form prescribed by paragraph (c) of this Rule as to any settled issues;

(4) a statement that the moving party meets the net worth requirements, if applicable, of section 2412(d)(2)(B) of title 28, United States Code (as in effect on October 22, 1986), which statement must be supported by an affidavit or a declaration executed by the moving party and not by counsel for the moving party;

(5) a statement that the moving party has exhausted the administrative remedies available within the Internal Revenue Service;

(6) a statement that the moving party has not unreasonably protracted the Court proceeding and, if the claim includes a claim for administrative costs, the administrative proceeding;

(7) a statement of the specific litigation and administrative costs for which the moving party claims an award, supported by an affidavit or a declaration in the form prescribed in paragraph (d) of this Rule;

(8) if the moving party requests a hearing on the motion, a statement of the reasons why the motion cannot be disposed of by the Court without a hearing (see Rule 232(a)(2) regarding the circumstances in which the Court will direct a hearing); and

(9) an appropriate prayer for relief.

(c) Stipulation as to Settled Issues: If some or all of the issues in a case (other than litigation and administrative costs) have been settled by the parties, a motion for an award of reasonable litigation or administrative costs must be accompanied by a stipulation, signed by the parties or by their counsel, setting forth the terms of the settlement as to each such issue (including the amount of tax involved). A stipulation of settlement is binding on the parties unless the Court orders otherwise or the parties agree otherwise.

(d) Affidavit or Declaration in Support of Costs Claimed: A motion for an award of reasonable litigation or administrative costs must be accompanied by a detailed affidavit or declaration by the moving party or counsel for the moving party setting forth distinctly the nature and amount of each item of costs for which an award is claimed.

(e) Qualified Offer: If a qualified offer was made by the moving party as described in Code section 7430(g), a motion for award of reasonable

litigation or administrative costs must be accompanied by a copy of the offer.

(As effective October 3, 2008, 130 T.C. 534–37; as amended, effective July 6, 2012, 139 T.C. 557–60; effective March 20, 2023, 160 T.C. 687–90. For prior history, see 79 T.C. 1153–55 (1982); 93 T.C. 1013–16 (1989); 109 T.C. 674–76 (1997); 120 T.C. 653–56 (2003).)

RULE 232. DISPOSITION OF CLAIMS FOR LITIGATION AND ADMINISTRATIVE COSTS

(a) General: A motion for reasonable litigation or administrative costs may be disposed of in one or more of the following ways, in the discretion of the Court:

(1) The Court may take action after the Commissioner's written response to the motion is filed. (See paragraph (b)).

(2) After the Commissioner's response is filed, the Court may direct that the moving party file a reply to the Commissioner's response. Additionally, the Court may direct a hearing, which will be held at a location that serves the convenience of the parties and the Court. A motion for reasonable litigation or administrative costs ordinarily will be disposed of without a hearing unless it is clear from the motion, the Commissioner's written response, and the moving party's reply that there is a bona fide factual dispute that cannot be resolved without an evidentiary hearing.

(b) Response by the Commissioner: The Commissioner shall file a written response within 60 days after service of the motion. The Commissioner's response shall contain the following:

(1) A clear and concise statement of each reason why the Commissioner alleges that the position of the Commissioner in the Court proceeding and, if the claim includes a claim for administrative costs, in the administrative proceeding, was substantially justified, and a statement of the facts on which the Commissioner relies to support each of such reasons;

(2) a statement whether the Commissioner agrees that the moving party has substantially prevailed with respect to either the amount in controversy or the most significant issue or set of issues presented, or is treated as the prevailing party in the case of a qualified offer made as described in Code section 7430(g),

either in the Court proceeding or, if the claim includes a claim for administrative costs, in the administrative proceeding;

(3) a statement whether the Commissioner agrees that the moving party meets the net worth requirements, if applicable, as provided by law;

(4) a statement whether the Commissioner agrees that the moving party has exhausted the administrative remedies available to such party within the Internal Revenue Service;

(5) a statement whether the Commissioner agrees that the moving party has not unreasonably protracted the Court proceeding and, if the claim includes a claim for administrative costs, the administrative proceeding;

(6) a statement whether the Commissioner agrees that the amounts of costs claimed are reasonable; and

(7) the basis for the Commissioner's disagreeing with any such allegations by the moving party.

If the Commissioner agrees with the moving party's request for a hearing, or if the Commissioner requests a hearing, then such response shall include a statement of the Commissioner's reasons why the motion cannot be disposed of without a hearing.

(c) Conference Required: After the date for filing the Commissioner's written response and prior to the date for filing a reply, if one is required by the Court, counsel for the Commissioner and the moving party or counsel for the moving party shall confer and attempt to reach an agreement as to each of the allegations by the parties. The Court expects that, at such conference, the moving party or counsel for the moving party shall make available to counsel for the Commissioner substantially the same information relating to any claim for attorney's fees which, in the absence of an agreement, the moving party would be required to file with the Court pursuant to paragraph (d) of this Rule.

(d) Additional Affidavit or Declaration: Where the Commissioner's response indicates that the Commissioner and the moving party are unable to agree as to the amount of attorney's fees that is reasonable, counsel for the moving party shall, within 30 days after service of the Commissioner's response, file an additional affidavit or declaration which shall include:

(1) A detailed summary of the time expended by each individual for whom fees are sought, including a description of the nature of the services performed during each period of time summarized. Each such individual is expected to maintain contemporaneous, complete, and standardized time records which accurately reflect

the work done by such individual. Where the reasonableness of the hours claimed becomes an issue, counsel is expected to make such time records available for inspection by the Court or by counsel for the Commissioner upon request.

(2) The customary fee for the type of work involved. Counsel shall provide specific evidence of the prevailing community rate for the type of work involved as well as specific evidence of counsel's actual billing practice during the time period involved. Counsel may establish the prevailing community rate by affidavits or declarations of other counsel with similar qualifications reciting the precise fees they have received from clients in comparable cases, by evidence of recent fees awarded by the courts or through settlement to counsel of comparable reputation and experience performing similar work, or by reliable legal publications.

(3) A description of the fee arrangement with the client. If any part of the fee is payable only on condition that the Court award such fee, the description shall specifically so state.

(4) The preclusion of other employment by counsel, if any, due to acceptance of the case.

(5) Any time limitations imposed by the client or by the circumstances.

(6) Any other problems resulting from the acceptance of the case.

(7) The professional qualifications and experience of each individual for whom fees are sought.

(8) The nature and length of the professional relationship with the client.

(9) Awards in similar cases, if any.

(10) A statement whether there is a special factor, such as the limited availability of qualified attorneys for the case, the difficulty of the issues presented in the case, or the local availability of tax expertise, to justify a rate in excess of the rate otherwise permitted for the services of attorneys under Code section 7430(c)(1).

(11) Any other information counsel believes will assist the Court in evaluating counsel's claim, which may include, but shall not be limited to, information relating to the novelty and difficulty of the questions presented, the skill required to perform the legal services properly, and any efforts to settle the case.

Where there are several counsel of record, all of whom are members of or associated with the same firm, an affidavit or a declaration filed by

first counsel of record or that counsel's designee (see Rule 21(b)(2)) shall satisfy the requirements of this paragraph, and an affidavit or a declaration by each counsel of record shall not be required.

(e) Burden of Proof: The moving party shall have the burden of proving that the moving party has substantially prevailed or is treated as the prevailing party in the case of a qualified offer made as described in Code section 7430(g); that the moving party has exhausted the administrative remedies available to the moving party within the Internal Revenue Service; that the moving party has not unreasonably protracted the Court proceeding or, if the claim includes a claim for administrative costs, the administrative proceeding; that the moving party meets the net worth requirements, if applicable, as provided by law; that the amount of costs claimed is reasonable; and that the moving party has substantially prevailed with respect to either the amount in controversy or the most significant issue or set of issues presented either in the Court proceeding or, if the claim includes a claim for administrative costs, in the administrative proceeding; except that the moving party shall not be treated as the prevailing party if the Commissioner establishes that the position of the Commissioner was substantially justified. See Code sec. 7430(c)(4)(B).

(f) Disposition: The Court's disposition of a motion for reasonable litigation or administrative costs shall be included in the decision entered in the case. Where the Court in its opinion states that the decision will be entered under Rule 155, or where the parties have settled all of the issues other than litigation and administrative costs, the Court will issue an order granting or denying the motion and determining the amount of reasonable litigation and administrative costs, if any, to be awarded. The parties, or either of them, shall thereafter submit a proposed decision including an award of any such costs, or a denial thereof, for entry by the Court.

(As effective October 3, 2008, 130 T.C. 537–40; as amended, effective July 6, 2012, 139 T.C. 560–64. For prior history, see 79 T.C. 1155–59 (1982); 81 T.C. 1078–79 (1983); 93 T.C. 1017–21 (1989); 109 T.C. 676–80 (1997); 120 T.C. 656–60 (2003).)

RULE 233. MISCELLANEOUS

For provisions prohibiting the inclusion of a claim for reasonable litigation and administrative costs in the petition, see Rule 34(f) (claim for reasonable litigation or administrative costs), Rule 211(b) (petition in a declaratory judgment action), Rules 241(c), 255.2(b), and 301(c) (petition in a partnership action), Rule 291(c) (petition in an employment status action), Rule 321(b) (petition in an action for determination of

relief from joint and several liability on a joint return), and Rule 331(b) (petition in a lien or levy action). For provisions regarding discovery, see Rule 70(a)(2). For provisions prohibiting the introduction of evidence regarding a claim for reasonable litigation or administrative costs at the trial of the case, see Rule 143(a).

(As effective October 3, 2008, 130 T.C. 540–41; as amended, effective July 15, 2019, 153 T.C. 271; effective March 20, 2023, 160 T.C. 690. For prior history, see 79 T.C. 1159–60 (1982); 93 T.C. 1021–22 (1989); 109 T.C. 680–81 (1997); 120 T.C. 661 (2003).)

TITLE XXIV. TEFRA PARTNERSHIP ACTIONS

(As effective October 3, 2008, 130 T.C. 541. For prior history, see 82 T.C. 1076 (1984); 90 T.C. 1359–61 (1988).)

RULE 240. GENERAL

(a) Applicability: The Rules of this Title XXIV set forth the special provisions which apply to actions for readjustment of partnership items under Code section 6226 and actions for adjustment of partnership items under Code section 6228, as enacted by section 402(a) of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. No. 97-248, 96 Stat. 648. Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to such partnership actions.

(b) Definitions: As used in the Rules in this Title:

(1) The term "partnership" means a partnership as defined in Code section 6231(a)(1).

(2) A "partnership action" is either an "action for readjustment of partnership items" under Code section 6226 or an "action for adjustment of partnership items" under Code section 6228.

(3) The term "partnership item" means any item described in Code section 6231(a)(3).

(4) The term "tax matters partner" means the person who is the tax matters partner under Code section 6231(a)(7) and who under these Rules is responsible for keeping each partner fully informed of the partnership action. See Code secs. 6223(g), 6230(l).

(5) A "notice of final partnership administrative adjustment" is the notice described in Code section 6223(a)(2).

(6) The term "administrative adjustment request" means a request for an administrative adjustment of partnership items filed by the tax matters partner on behalf of the partnership under Code section 6227(c).

(7) The term "partner" means a person who was a partner as defined in Code section 6231(a)(2) at any time during any partnership taxable year at issue in a partnership action.

(8) The term "notice partner" means a person who is a notice partner under Code section 6231(a)(8).

(9) The term "5-percent group" means a 5-percent group as defined in Code section 6231(a)(11).

(c) Jurisdiction: The Court shall have jurisdiction of a partnership action under this Title when the conditions of Code section 6226 or 6228, as applicable, have been satisfied.

(d) Form and Style of Papers: All papers filed in a partnership action shall be prepared in the form and style set forth in Rule 23, except that the caption shall state the name of the partnership and the full name and surname of any partner filing the petition and shall indicate whether such partner is the tax matters partner, as for example, "ABC Partnership, Mary Doe, Tax Matters Partner, Petitioner" or "ABC Partnership, Richard Roe, A Partner Other Than the Tax Matters Partner, Petitioner".

(As effective March 1, 2008, 130 T.C. 541–43; as amended, effective January 1, 2018, 153 T.C. 272–73; effective August 8, 2024, 161 T.C. ___. For prior history, see 82 T.C. 1076–78 (1984); 90 T.C. 1361–63 (1988); 93 T.C. 1022–23 (1989).)

RULE 241. COMMENCEMENT OF PARTNERSHIP ACTION

(a) Commencement of Action: A partnership action shall be commenced by filing a petition with the Court. See Rule 20, relating to the commencement of case; the taxpayer identification number to be provided under paragraph (b) of that Rule shall be the employer identification number of the partnership. See also Rule 22, relating to the place and manner of filing the petition; Rule 32, relating to form of pleadings; Rule 34(e), relating to number of copies to be filed; and Rule 240(d), relating to caption of papers.

(b) Content of Petition: Each petition shall be entitled either "Petition for Readjustment of Partnership Items under Code Section 6226" or "Petition for Adjustment of Partnership Items under Code Section 6228". Each such petition shall contain the allegations described in paragraph (c) of this Rule, and the allegations described in paragraph (d) or (e) of this Rule.

(c) All Petitions: All petitions in partnership actions shall contain the following:

(1) The name and State of legal residence of the petitioner.

(2) The name and principal place of business of the partnership at the time the petition is filed.

(3) The city and State of the office of the Internal Revenue Service with which the partnership's return for the period in controversy was filed.

A claim for reasonable litigation or administrative costs shall not be included in the petition in a partnership action. For the requirements as to claims for reasonable litigation or administrative costs, see Rule 231.

(d) Petition for Readjustment of Partnership Items: In addition to including the information specified in paragraph (c) of this Rule, a petition for readjustment of partnership items shall also contain:

(1) *All Petitions:* All petitions for readjustment of partnership items shall contain:

(A) The date of the notice of final partnership administrative adjustment and the city and State of the office of the Internal Revenue Service which issued the notice.

(B) The year or years or other periods for which the notice of final partnership administrative adjustment was issued.

(C) Clear and concise statements of each and every error which the petitioner alleges to have been committed by the Commissioner in the notice of final partnership administrative adjustment. The assignments of error shall include issues in respect of which the burden of proof is on the Commissioner. Any issues not raised in the assignments of error, or in the assignments of error in any amendment to the petition, shall be deemed to be conceded. Each assignment of error shall be set forth in a separately lettered subparagraph.

(D) Clear and concise lettered statements of the facts on which the petitioner bases the assignments of error, except with respect to those assignments of error as to which the burden of proof is on the Commissioner.

(E) A prayer setting forth relief sought by the petitioner.

(F) The signature, mailing address, and telephone number of each petitioner or each petitioner's counsel, as well as counsel's Tax Court bar number.

(G) A copy of the notice of final partnership administrative adjustment, which shall be appended to the petition, and with which there shall be included so much of any statement accompanying the notice as is material to the issues raised by the assignments of error. If the notice of

final partnership administrative adjustment or any accompanying statement incorporates by reference any prior notices, or other material furnished by the Internal Revenue Service, such parts thereof as are material to the assignments of error likewise shall be appended to the petition.

(2) *Petitions by Tax Matters Partner:* In addition to including the information specified in paragraph (d)(1) of this Rule, a petition filed by a tax matters partner shall also contain a separate numbered paragraph stating that the pleader is the tax matters partner.

(3) *Petitions by Other Partners:* In addition to including the information specified in paragraph (d)(1) of this Rule, a petition filed by a partner other than the tax matters partner shall also contain:

(A) A separate numbered paragraph stating that the pleader is a notice partner or a representative of a 5-percent group. See Code sec. 6226(b)(1).

(B) A separate numbered paragraph setting forth facts establishing that the pleader satisfies the requirements of Code section 6226(d).

(C) A separate numbered paragraph stating the name and current address of the tax matters partner.

(D) A separate numbered paragraph stating that the tax matters partner has not filed a petition for readjustment of partnership items within the period specified in Code section 6226(a).

(e) Petition for Adjustment of Partnership Items: In addition to including the information specified in paragraph (c) of this Rule, a petition for adjustment of partnership items shall also contain:

(1) A statement that the petitioner is the tax matters partner.

(2) The date that the administrative adjustment request was filed and other proper allegations showing jurisdiction in the Court in accordance with the requirements of Code section 6228(a)(1) and (2).

(3) The year or years or other periods to which the administrative adjustment request relates.

(4) The city and State of the office of the Internal Revenue Service with which the administrative adjustment request was filed.

(5) A clear and concise statement describing each partnership item on the partnership return that is sought to be changed, and the basis for each such requested change. Each such statement shall be set forth in a separately lettered subparagraph.

(6) Clear and concise lettered statements of the facts on which the petitioner relies in support of such requested changes in treatment of partnership items.

(7) A prayer setting forth relief sought by the petitioner.

(8) The signature, mailing address, and telephone number of the petitioner or the petitioner's counsel, as well as counsel's Tax Court bar number.

(9) A copy of the administrative adjustment request shall be appended to the petition.

(f) Notice of Filing:

(1) *Petitions by Tax Matters Partner:* After receiving the Notification of Receipt of Petition from the Court and within 30 days after filing the petition, the tax matters partner shall serve notice of the filing of the petition on each partner in the partnership as required by Code section 6223(g). Said notice shall include the docket number assigned to the case by the Court (see Rule 35) and the date the petition was served by the Clerk on the Commissioner.

(2) *Petitions by Other Partners:* Within 5 days after receiving the Notification of Receipt of Petition from the Court, the petitioner shall serve a copy of the petition on the tax matters partner, and at the same time notify the tax matters partner of the docket number assigned to the case by the Court (see Rule 35) and the date the petition was served by the Clerk on the Commissioner. Within 30 days after receiving a copy of the petition and the aforementioned notification from the petitioner, the tax matters partner shall serve notice of the filing of the petition on each partner in the partnership as required by Code section 6223(g). Said notice shall include the docket number assigned to the case by the Court and the date the petition was served by the Clerk on the Commissioner.

(g) Copy of Petition To Be Provided All Partners: Upon request by any partner in the partnership as referred to in Code section 6231(a)(2)(A), the tax matters partner shall, within 10 days of receipt of such request, make available to such partner a copy of any petition filed by the tax matters partner or by any other partner.

(h) Joinder of Parties:

(1) *Permissive Joinder:* A separate petition shall be filed with respect to each notice of final partnership administrative adjustment or each administrative adjustment request issued to separate partnerships. However, a single petition for readjustment of partnership items or petition for adjustment of partnership items may be filed seeking readjustments or adjustments of partnership items with respect to more than one notice of final partnership administrative adjustment or administrative adjustment request if the notices or requests pertain to the same partnership. For the procedures to be followed by partners who wish to intervene or participate in a partnership action, see Rule 245.

(2) *Severance or Other Orders:* With respect to a case based upon multiple notices of final partnership administrative adjustment or administrative adjustment requests, the Court may order a severance and a separate case to be maintained with respect to one or more of such notices or requests whenever it appears to the Court that proceeding separately is in furtherance of convenience, or to avoid prejudice, or when separate trials will be conducive to expedition or economy.

(As amended and effective March 1, 2008, 130 T.C. 543–47; as amended, effective July 6, 2012, 139 T.C. 564–70. For prior history, see 82 T.C. 1078–82 (1984); 90 T.C. 1363–68 (1998); 93 T.C. 1023–27 (1989); 109 T.C. 683–88 (1997).)

RULE 242. REQUEST FOR PLACE OF TRIAL

At the time of filing a petition in a partnership action, a request for place of trial shall be filed in accordance with Rule 140.

(As amended and effective March 1, 2008, 130 T.C. 547. For prior history, see 82 T.C. 1082–83 (1984).)

RULE 243. OTHER PLEADINGS

(a) Answer: The Commissioner shall file an answer or shall move with respect to the petition within the periods specified in and in accordance with the provisions of Rule 36.

(b) Reply: For provisions relating to the filing of a reply, see Rule 37.

(As effective October 3, 2008, 130 T.C. 548. For prior history, see 82 T.C. 1083 (1984).)

RULE 244. JOINDER OF ISSUE IN PARTNERSHIP ACTION

A partnership action shall be deemed at issue upon the later of:

(1) The time provided by Rule 38, or

(2) the expiration of the period within which a notice of election to intervene or to participate may be filed under Rule 245(a) or (b).

(As effective October 3, 2008, 130 T.C. 548. For prior history, see 90 T.C. 1368 (1988).)

RULE 245. INTERVENTION AND PARTICIPATION

(a) **Tax Matters Partner:** The tax matters partner may intervene in an action for readjustment of partnership items brought by another partner or partners by filing a notice of election to intervene with the Court. Such notice shall state that the intervenor is the tax matters partner and shall be filed within 90 days from the date of service of the petition by the Clerk on the Commissioner. See Code sec. 6226(b)(2); Rule 241(d)(3).

(b) **Other Partners:** Any other partner who satisfies the requirements of Code section 6226(d) or 6228(a)(4)(B) may participate in the action by filing a notice of election to participate with the Court. Such notice shall set forth facts establishing that such partner satisfies the requirements of Code section 6226(d) in the case of an action for readjustment of partnership items or Code section 6228(a)(4)(B) in the case of an action for adjustment of partnership items and shall be filed within 90 days from the date of service of the petition by the Clerk on the Commissioner. A single notice may be filed by two or more partners; however, each such partner must satisfy all requirements of this paragraph in order for the notice to be treated as filed by or for that partner.

(c) **Enlargement of Time:** The Court may grant leave to file a notice of election to intervene or a notice of election to participate out of time upon a showing of sufficient cause.

(d) **Pleading:** No assignment of error, allegation of fact, or other statement in the nature of a pleading shall be included in a notice of election to intervene or notice of election to participate. As to the form and content

of a notice of election to intervene and a notice of election to participate, see Appendix, Forms 11 and 12, respectively.

(e) Amendments to the Petition: A party other than the petitioner who is authorized to raise issues not raised in the petition may do so by filing an amendment to the petition. Such an amendment may be filed, without leave of Court, at any time within the period specified in Rule 245(b). Otherwise, such an amendment may be filed only by leave of Court. See Rule 36(a) for time for responding to amendments to the petition.

(As effective October 3, 2008, 130 T.C. 548–49. For prior history, see 90 T.C. 1368–70 (1988). Rule 245 was originally designated as Rule 244, see 90 T.C. 1368–70 (1988). For prior Rule 244 history, see 82 T.C. 1083–85 (1984); 109 T.C. 688–89 (1997).)

RULE 246. SERVICE OF PAPERS

(a) Petitions: All petitions shall be served by the Clerk on the Commissioner.

(b) Papers Issued by the Court: All papers issued by the Court shall be served by the Clerk on the Commissioner, the tax matters partner (whether or not the tax matters partner is a participating partner), and all other participating partners.

(c) All Other Papers: All other papers required to be served (see Rule 21(a)) shall be served by the parties filing such papers. Whenever a paper (other than a petition) is required by these Rules to be filed with the Court, the original paper shall be filed with the Court with certificates by the filing party or the filing party's counsel that service of the paper has been made on each of the other parties set forth in paragraph (b) of this Rule or on such other parties' counsel. The Court may return without filing documents that are not accompanied by certificates of service required by this Rule.

(As effective October 3, 2008, 130 T.C. 549. For prior history, see 90 T.C. 1370–71 (1988); 109 T.C. 689–90 (1997). Rule 246 was originally designated as Rule 245, see 90 T.C. 1370–71 (1988). For prior Rule 245 history, see 82 T.C. 1085 (1984).)

RULE 247. PARTIES

(a) In General: For purposes of this title of these Rules, the Commissioner, the partner who filed the petition, the tax matters partner, and each person who satisfies the requirements of Code section 6226(c) and (d) or 6228(a)(4) shall be treated as parties to the action.

(b) Participating Partners: Participating partners are the partner who filed the petition and such other partners who have filed either a notice of election to intervene or a notice of election to participate in accordance with the provisions of Rule 245. See Code secs. 6226(c), 6228(a)(4)(A).

(As effective October 3, 2008, 130 T.C. 549–50. For prior history, see 90 T.C. 1371–72 (1988). Rule 247 was originally designated as Rule 246, see 90 T.C. 1371–72 (1988). For prior Rule 246 history, see 82 T.C. 1085–86 (1984).)

RULE 248. SETTLEMENT AGREEMENTS

(a) Consent by the Tax Matters Partner to Entry of Decision: A stipulation consenting to entry of decision executed by the tax matters partner and filed with the Court shall bind all parties. The signature of the tax matters partner constitutes a certificate by the tax matters partner that no party objects to entry of decision. See Rule 251.

(b) Settlement or Consistent Agreements Entered Into by All Participating Partners or No Objection by Participating Partners:

(1) After the expiration of the time within which to file a notice of election to intervene or to participate under Rule 245(a) or (b), the Commissioner shall move for entry of decision, and shall submit a proposed form of decision with such motion, if:

(A) all of the participating partners have entered into a settlement agreement or consistent agreement with the Commissioner, or all of such partners do not object to the granting of the Commissioner's motion for entry of decision, and

(B) the tax matters partner (if a participating partner) agrees to the proposed decision in the case but does not certify that no party objects to the granting of the Commissioner's motion for entry of decision.

(2) Within 3 days from the date on which the Commissioner's motion for entry of decision is filed with the Court, the Commissioner

shall serve on the tax matters partner a certificate showing the date on which the Commissioner's motion was filed with the Court.

(3) Within 3 days after receiving the Commissioner's certificate, the tax matters partner shall serve on all other parties to the action other than the participating partners, a copy of the Commissioner's motion for entry of decision, a copy of the proposed decision, a copy of the Commissioner's certificate showing the date on which the Commissioner's motion was filed with the Court, and a copy of this Rule.

(4) If any party objects to the granting of the Commissioner's motion for entry of decision, then that party shall, within 60 days from the date on which the Commissioner's motion was filed with the Court, file a motion for leave to file a notice of election to intervene or to participate, accompanied by a separate notice of election to intervene or a separate notice of election to participate, as the case may be. If no such motion is filed with the Court within such period, or if the Court should deny such motion, then the Court may enter the proposed decision as its decision in the partnership action. See Code secs. 6226(f), 6228(a)(5); see also Rule 245, relating to intervention and participation, and Rule 251, relating to decisions.

(c) Other Settlement and Consistent Agreements: If a settlement agreement or consistent agreement is not within the scope of paragraph (b) of this Rule, then:

(1) in the case of a participating partner, the Commissioner shall promptly file with the Court a notice of settlement agreement or notice of consistent agreement, whichever may be appropriate, that identifies the participating partner or partners who have entered into the settlement agreement or consistent agreement; and

(2) in the case of any partner who enters into a settlement agreement, the Commissioner shall, within 7 days after the settlement agreement is executed by both the partner and the Commissioner, serve on the tax matters partner a statement which sets forth:

(A) the identity of the party or parties to the settlement agreement and the date of the agreement;

(B) the year or years to which the settlement agreement relates; and

(C) the terms of the settlement as to each partnership item and the allocation of such items among the partners.

Within 7 days after receiving the statement required by this subparagraph, the tax matters partner shall serve on all parties to the action a copy of such statement.

(As effective October 3, 2008, 130 T.C. 550–51. For prior history, see September 1, 1988, 90 T.C. 1372–76 (1988); 93 T.C. 1030–32 (1989); 109 T.C. 691–92 (1997).)

RULE 249. ACTION FOR ADJUSTMENT OF PARTNERSHIP ITEMS TREATED AS ACTION FOR READJUSTMENT OF PARTNERSHIP ITEMS

(a) Amendment to Petition: If, after the filing of a petition for adjustment of partnership items (see Code section 6228(a) and Rule 241(a)) but before the hearing of such petition, the Commissioner mails to the tax matters partner a notice of final partnership administrative adjustment for the partnership taxable year to which the petition relates, then such petition shall be treated as a petition in an action for readjustment of the partnership items to which such notice relates. The petitioner, within 90 days after the date on which the notice of final partnership administrative adjustment is mailed to the tax matters partner, shall file an amendment to the petition, setting forth every error which the petitioner alleges to have been committed by the Commissioner in the notice of final partnership administrative adjustment, and the facts on which the petitioner bases the assignments of error. A copy of the notice of final partnership administrative adjustment shall be appended to the amendment to the petition. On or before the day the amendment to petition is delivered to the Court, or, if the amendment to petition is mailed to the Court, on or before the day of mailing, the tax matters partner shall serve notice of the filing of the amendment to petition on each partner in the partnership as required by Code section 6223(g).

(b) Participation: Any partner who has filed a timely notice of election to participate in the action for adjustment of partnership items shall be deemed to have elected to participate in the action for readjustment of partnership items and need not file another notice of election to do so. Any other partner may participate in the action by filing a notice of election to participate within 90 days from the date of filing of the amendment to petition. See Rule 245.

(As effective October 3, 2008, 130 T.C. 552. For prior history, see 90 T.C. 1376–78 (1988); 93 T.C. 1032–33 (1989). Rule 249 was originally designated as Rule 247, see 90 T.C. 1376–78 (1988). For prior Rule 247 history, see 82 T.C. 1086–87 (1984).)

RULE 250. APPOINTMENT AND REMOVAL OF THE TAX MATTERS PARTNER

(a) Appointment of Tax Matters Partner: If, at the time of commencement of a partnership action by a partner other than the tax matters partner, the tax matters partner is not identified in the petition, then the Court will take such action as may be necessary to establish the identity of the tax matters partner or to effect the appointment of a tax matters partner.

(b) Removal of Tax Matters Partner: After notice and opportunity to be heard, (1) the Court may for cause remove a partner as the tax matters partner and (2) if the tax matters partner is removed by the Court, or if a partner's status as the tax matters partner is terminated for reason other than removal by the Court, then the Court may appoint another partner as the tax matters partner if the partnership fails to designate a successor tax matters partner within such period as the Court may direct.

(As effective October 3, 2008, 130 T.C. 552–53. For prior history, see 90 T.C. 1378–79 (1988); 93 T.C. 1033 (1989).)

RULE 251. DECISIONS

A decision entered by the Court in a partnership action shall be binding on all parties. For the definition of parties, see Rule 247(a).

(As effective October 3, 2008, 130 T.C. 553. For prior history, see 90 T.C. 1379–80 (1988).)

TITLE XXIV.A. PARTNERSHIP ACTIONS UNDER BBA SECTION 1101

(As adopted, effective December 19, 2018, 153 T.C. 274.)

RULE 255.1. GENERAL

(a) Applicability: The Rules of this Title XXIV.A set forth the provisions that apply to a partnership proceeding commenced pursuant to section 6234(a)(1), as added to the Code by section 1101(c)(1) of the Bipartisan Budget Act of 2015 (BBA), Pub. L. No. 114-74, 129 Stat. 584. Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to the action.

(b) Definitions: As used in the Rules in this Title:

(1) The term "partnership" means a partnership as defined in Code section 6241(1).

(2) A "partnership action" is an action for readjustment of final partnership adjustments under Code section 6234(a)(1).

(3) The term "partnership representative" means the partner (or other person) designated by the partnership or selected by the Secretary pursuant to Code section 6223(a), or designated pursuant to Rule 255.6.

(4) A "notice of final partnership adjustment" is the notice described in Code section 6231(a)(3).

(c) Jurisdiction: The Court shall have jurisdiction of a partnership action under this Title when the conditions of Code section 6234 have been satisfied.

(d) Form and Style of Papers: All papers filed in a partnership action shall be prepared in the form and style set forth in Rule 23, except that the caption shall state the name of the partnership and the name of the partnership representative.

(As adopted, effective December 19, 2018, 153 T.C. 274–75; as amended, effective August 8, 2024, 161 T.C. ___.)

RULE 255.2. COMMENCEMENT OF PARTNERSHIP ACTION

(a) Commencement of Action: A partnership action under this Title shall be commenced by filing a petition with the Court. See Rule 20, relating to commencement of case; the taxpayer identification number to be provided under paragraph (b) of that Rule shall be the partnership's employer identification number. See also Rule 22, relating to the place and manner of filing the petition; Rule 32, relating to form of pleadings; and Rule 255.1(d), relating to the caption.

(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:

(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 that the Secretary selected the partnership representative as its partnership representative.

(2) The partnership's name and principal place of business as of the time the petition is filed.

(3) The city and State of the office of the Internal Revenue Service with which the partnership's return(s) for the year(s) in controversy was filed.

(4) The date of the notice of final partnership adjustment.

(5) The amount of the imputed underpayment, determined by the Commissioner, the nature of the tax, the year or years or other periods for which the determination was made; and, if different from the Commissioner's determination, the approximate amount of the imputed underpayment in controversy, including any proposed modification of the imputed underpayment that was not approved by the Commissioner.

(6) Clear and concise statements of each and every error that the petitioner alleges the Commissioner committed in the notice of final partnership adjustment and each and every proposed modification of the imputed underpayment to which the Commissioner did not consent. The assignments of error shall include issues in respect of which the Commissioner has the burden of proof. Any issue not raised in the assignments of error, including any amendment thereto, shall be deemed to be

conceded. Each assignment of error shall be set forth in a separately lettered subparagraph.

(7) Clear and concise lettered statements of the facts on which the petitioner bases the assignments of error and the proposed modifications, except with respect to the assignments of error as to which the Commissioner has the burden of proof.

(8) A prayer setting forth the relief that the petitioner seeks.

(9) The signature, mailing address, telephone number and Tax Court bar number of the partnership's counsel; or if the partnership is self-represented, the signature, mailing address, and telephone number of the individual who filed the petition on behalf of the partnership, with a statement of the individual's capacity to file the petition on behalf of the partnership.

(10) A copy of the notice of final partnership adjustment shall be appended to the petition, as shall any statement accompanying the notice as is material to the issues that the assignments of error raise. If the notice of final partnership adjustment or any accompanying statement incorporates by reference a prior notice or other material that the Internal Revenue Service furnished, the parts thereof that are material to the assignments of error shall also be appended to the petition.

A claim for reasonable litigation or administrative costs shall not be included in the petition in a partnership action under this Title XXIV.A. For the requirements as to claims for reasonable litigation or administrative costs, see Rule 231.

(c) Joinder of Parties:

(1) *Permissive Joinder:* A separate petition shall be filed with respect to each notice of final partnership adjustment issued to separate partnerships. A single petition for readjustment, however, may be filed seeking readjustments of partnership items with respect to more than one notice of final partnership adjustment if the notices pertain to the same partnership.

(2) *Severance or Other Orders:* With respect to a case based upon multiple notices of final partnership adjustment, the Court may order a severance and a separate case to be maintained with respect to one or more of the notices whenever it appears to the Court that proceeding separately furthers convenience, or avoids prejudice, or when separate trials will be conducive to expedition or economy.

(d) Filing Fee: The fee for filing a petition for a partnership action is $60, payable at the time of filing. The payment of any fee under this

paragraph may be waived if the petitioner establishes to the satisfaction of the Court by an affidavit or a declaration containing specific financial information the inability to make the payment.

(As adopted, effective December 19, 2018, 153 T.C. 275–77.)

RULE 255.3. REQUEST FOR PLACE OF TRIAL

At the time of filing a petition in a partnership action, a request for place of trial shall be filed in accordance with Rule 140.

(As adopted, effective December 19, 2018, 153 T.C. 278.)

RULE 255.4. OTHER PLEADINGS

(a) Answer: The Commissioner shall file an answer or shall move with respect to the petition within the periods specified in and in accordance with the provisions of Rule 36.

(b) Reply: For provisions relating to the filing of a reply, see Rule 37.

(As adopted, effective December 19, 2018, 153 T.C. 278.)

RULE 255.5. JOINDER OF ISSUE IN PARTNERSHIP ACTION

A partnership action shall be deemed at issue as provided by Rule 38.

(As adopted, effective December 19, 2018, 153 T.C. 278.)

RULE 255.6. IDENTIFICATION AND REMOVAL OF PARTNERSHIP REPRESENTATIVE

(a) At the Commencement of a Case: If, at the time of commencement of a partnership action under this Title XXIV.A, the partnership representative is not identified in the petition, then the Court will take such action as may be necessary to establish the identity of the partnership representative.

(b) After the Commencement of a Case: After notice and opportunity to be heard, (1) the Court may for cause remove a partnership representative for purposes of the partnership action, and (2) if a partnership representative's status is terminated for any reason, including removal by the Court, the partnership shall then designate a successor partnership representative in accordance with the requirements of section 6223 within such period as the Court may direct.

(As adopted, effective December 19, 2018, 153 T.C. 278–79.)

RULE 255.7. DECISIONS

A decision that the Court enters in a partnership action shall be binding on the partnership and on all of its partners.

(As adopted, effective December 19, 2018, 153 T.C. 279.)

TITLE XXV. SUPPLEMENTAL PROCEEDINGS

(As effective October 3, 2008, 130 T.C. 553. For prior history, see 93 T.C. 1034 (1989).)

RULE 260. PROCEEDING TO ENFORCE OVERPAYMENT DETERMINATION

(a) Commencement of Proceeding:

(1) *How Proceeding Is Commenced:* A proceeding to enforce an overpayment determined by the Court under Code section 6512(b)(1) shall be commenced by filing a motion with the Court. The petitioner shall place on the motion the same docket number as that of the action in which the Court determined the overpayment.

(2) *When Proceeding May Be Commenced:* A proceeding under this Rule may not be commenced before the expiration of 120 days after the decision of the Court determining the overpayment has become final within the meaning of Code section 7481(a).

(b) Content of Motion: A motion to enforce an overpayment determination filed pursuant to this Rule shall contain the following:

(1) The petitioner's name and current mailing address.

(2) A statement whether any dispute exists between the parties regarding either the fact or amount of interest payable in respect of the overpayment determined by the Court and, if such a dispute exists, clear and concise lettered statements of the facts regarding the dispute and the petitioner's position in respect of each disputed matter.

(3) A copy of the Court's decision which determined the overpayment, together with a copy of any stipulation referred to therein and any computation filed pursuant to Rule 155 setting forth the amount and date of each payment made by the petitioner.

(4) A copy of the petitioner's written demand on the Commissioner to refund the overpayment determined by the Court, together with interest as provided by law; this demand shall have been made not less than 60 days before the filing of the motion under this Rule and shall have been made on the Commissioner through the Commissioner's last counsel of record in the action in which the Court determined the overpayment which the petitioner now seeks to enforce by this motion.

(5) If the petitioner requests an evidentiary or other hearing on the motion, then a statement of the reasons why the motion cannot be disposed of by the Court without a hearing. For the circumstances under which the Court will direct a hearing, see paragraph (d) of this Rule.

(c) Response by the Commissioner: Within 30 days after service of a motion filed pursuant to this Rule, the Commissioner shall file a written response. The response shall specifically admit or deny each allegation set forth in the petitioner's motion. If a dispute exists between the parties regarding either the fact or amount of interest payable in respect of the overpayment determined by the Court, then the Commissioner's response shall also include clear and concise statements of the facts regarding the dispute and the Commissioner's position in respect of each disputed matter. If the Commissioner agrees with the petitioner's request for a hearing, or if the Commissioner requests a hearing, then the response shall include a statement of the Commissioner's reasons why the motion cannot be disposed of without a hearing. If the Commissioner opposes the petitioner's request for a hearing, then the response shall include a statement of the reasons why no hearing is required.

(d) Disposition of Motion: A motion to enforce an overpayment determination filed pursuant to this Rule will ordinarily be disposed of without an evidentiary or other hearing unless it is clear from the motion and the Commissioner's written response that there is a bona fide factual dispute that cannot be resolved without an evidentiary hearing.

(e) Recognition of Counsel: Counsel recognized by the Court in the action in which the Court determined the overpayment which the petitioner now seeks to enforce will be recognized in a proceeding commenced under this Rule. Counsel not so recognized must file an entry of appearance pursuant to Rule 24(a) or a substitution of counsel pursuant to Rule 24(d).

(f) Cross-Reference: For the need, in the case of an overpayment, to include the amount and date of each payment made by the petitioner in any computation for entry of decision, see paragraphs (a) and (b) of Rule 155.

(As amended and effective March 1, 2008, 130 T.C. 553–55; as amended, effective October 6, 2020, 155 T.C. 309–11. For prior history, see 93 T.C. 1035–38 (1989); 109 T.C. 694–96 (1997).)

RULE 261. PROCEEDING TO REDETERMINE INTEREST

(a) Commencement of Proceeding:

(1) *How Proceeding Is Commenced:* A proceeding to redetermine interest on a deficiency assessed under Code section 6215 or to redetermine interest on an overpayment determined under Code section 6512(b) shall be commenced by filing a motion with the Court. The petitioner shall place on the motion the same docket number as that of the action in which the Court redetermined the deficiency or determined the overpayment.

(2) *When Proceeding May Be Commenced:* Any proceeding under this Rule must be commenced within 1 year after the date that the Court's decision becomes final within the meaning of Code section 7481(a).

(b) Content of Motion: A motion to redetermine interest filed pursuant to this Rule shall contain:

(1) *All Motions:* All motions to redetermine interest shall contain the following:

(A) The petitioner's name and current mailing address.

(B) A statement setting forth the petitioner's contentions regarding the correct amount of interest, together with a schedule detailing the computation of that amount.

(C) A statement whether the petitioner has discussed the dispute over interest with the Commissioner, and if so, the contentions made by the petitioner; and if not, the reason or reasons why not.

(2) *Motions To Redetermine Interest on a Deficiency:* In addition to including the information described in paragraph (b)(1) of this Rule, a motion to redetermine interest on a deficiency shall also contain:

(A) A statement that the petitioner has paid the entire amount of the deficiency assessed under Code section 6215 plus interest claimed by the Commissioner in respect of which the proceeding under this Rule has been commenced.

(B) A schedule setting forth:

(i) the amount of each payment made by the petitioner in respect of the deficiency and interest described in paragraph (b)(2)(A) of this Rule,

(ii) the date of each such payment, and

(iii) if applicable, the part of each such payment allocated by the petitioner to tax and the part of each such payment allocated by the petitioner to interest.

(iv) A copy of the Court's decision which redetermined the deficiency, together with a copy of any notice of assessment including any supporting schedules or any collection notice that the petitioner may have received from the Commissioner, in respect of which the proceeding under this Rule has been commenced.

(3) *Motions To Redetermine Interest on an Overpayment:* In addition to including the information described in paragraph (b)(1) of this Rule, a motion to redetermine interest on an overpayment shall also contain:

(A) A statement that the Court has determined under Code section 6512(b) that the petitioner has made an overpayment.

(B) A schedule setting forth:

(i) the amount and date of each payment made by the petitioner in respect of which the overpayment was determined, and

(ii) the amount and date of each credit, offset, or refund received from the Commissioner in respect of the overpayment and interest claimed by the petitioner.

(C) A copy of the Court's decision which determined the overpayment, together with a copy of any notice of credit or offset or other correspondence that the petitioner may have received from the Commissioner, in respect of which the proceeding under this Rule has been commenced.

(4) If the petitioner requests an evidentiary or other hearing on the motion, then a statement of the reasons why the motion cannot be disposed of by the Court without a hearing. For the circumstances under which the Court will direct a hearing, see paragraph (d) of this Rule.

(c) Response by the Commissioner: Within 60 days after service of a motion filed pursuant to this Rule, the Commissioner shall file a written response. The response shall specifically address each of the contentions made by the petitioner regarding the correct amount of interest and the petitioner's computation of that amount. The Commissioner shall attach to the Commissioner's response a schedule detailing the computation of interest claimed to be owed to or due from the

Commissioner and, in the case of a motion to redetermine interest on an overpayment, the amount and date of each credit, offset, or refund made by the Commissioner and, if applicable, the part of each such credit, offset, or refund allocated by the Commissioner to the overpayment and the part of each such credit, offset, or refund allocated by the Commissioner to interest. If the Commissioner agrees with the petitioner's request for a hearing, or if the Commissioner requests a hearing, then the response shall include a statement of the Commissioner's reasons why the motion cannot be disposed of without a hearing. If the Commissioner opposes the petitioner's request for a hearing, then the response shall include a statement of the reasons why no hearing is required.

(d) **Disposition of Motion:** A motion to redetermine interest filed pursuant to this Rule will ordinarily be disposed of without an evidentiary or other hearing unless it is clear from the motion and the Commissioner's written response that there is a bona fide factual dispute that cannot be resolved without an evidentiary hearing.

(e) **Recognition of Counsel:** Counsel recognized by the Court in the action in which the Court redetermined the deficiency or determined the overpayment the interest in respect of which the petitioner now seeks a redetermination will be recognized in a proceeding commenced under this Rule. Counsel not so recognized must file an entry of appearance pursuant to Rule 24(a) or a substitution of counsel pursuant to Rule 24(d).

(As amended and effective March 1, 2008, 130 T.C. 555–58; as amended, effective October 6, 2020, 155 T.C. 311–15. For prior history, see 93 T.C. 1038–41 (1989); 109 T.C. 696–98 (1997); 120 T.C. 675–78 (2003).)

RULE 262. PROCEEDING TO MODIFY DECISION IN ESTATE TAX CASE INVOLVING SECTION 6166 ELECTION

(a) **Commencement of Proceeding:** A proceeding to modify a decision in an estate tax case pursuant to Code section 7481(d) shall be commenced by filing a motion with the Court accompanied by a proposed form of decision. The petitioner shall place on the motion and the proposed form of decision the same docket number as that of the action in which the Court entered the decision which the petitioner now seeks to modify.

(b) **Content of Motion:** A motion to modify a decision filed pursuant to this Rule shall contain the following:

(1) The name and current mailing address of each fiduciary authorized to act on behalf of the estate.

(2) A copy of the decision entered by the Court which the petitioner now seeks to modify.

(3) A statement that the time for payment by the estate of an amount of tax imposed by Code section 2001 has been extended pursuant to Code section 6166.

(4) A schedule setting forth:

(A) the amount of interest paid by the estate on any portion of the tax imposed by Code section 2001 on the estate for which the time of payment has been extended under Code section 6166;

(B) the amount of interest on any estate, succession, legacy, or inheritance tax imposed by a State on the estate during the period of the extension of time for payment under Code section 6166; and

(C) the date that each such amount of interest was paid by the estate.

(5) A statement describing the nature of any dispute within the purview of Code section 7481(d), or if no such dispute exists, then a statement to that effect.

(6) If the petitioner requests an evidentiary or other hearing on the motion, then a statement of the reasons why the motion cannot be disposed of by the Court without a hearing. For the circumstances under which the Court will direct a hearing, see paragraph (d) of this Rule.

(c) Response by Commissioner in Unagreed Case: If a dispute exists between the parties regarding either the petitioner's right to relief under Code section 7481(d) or the amount of interest deductible as an administrative expense under Code section 2053, then the Commissioner shall, within 60 days after service of a motion filed pursuant to this Rule, file a written response accompanied by a proposed form of decision. The response shall identify the nature of the dispute, shall specifically admit or deny each allegation set forth in the petitioner's motion, and shall state the Commissioner's position in respect of each disputed matter. If the Commissioner agrees with the petitioner's request for a hearing, or if the Commissioner requests a hearing, then the response shall include a statement of the Commissioner's reasons why the motion cannot be disposed of without a hearing. If the Commissioner opposes the petitioner's request for a

hearing, then the response shall include a statement of the reasons why no hearing is required.

(d) **Disposition of Motion:** A motion to modify a decision filed pursuant to this Rule will ordinarily be disposed of without an evidentiary or other hearing unless it is clear from the motion and the Commissioner's written response that there is a bona fide factual dispute that cannot be resolved without an evidentiary hearing.

(e) **Recognition of Counsel:** Counsel recognized by the Court in the action in which the Court entered the decision which the petitioner now seeks to modify will be recognized in a proceeding commenced under this Rule. Counsel not so recognized must file an entry of appearance pursuant to Rule 24(a) or a substitution of counsel pursuant to Rule 24(d).

(f) **Cross-Reference:** For the need to move the Court to retain its official case file in the action with respect to which the petitioner seeks to modify the decision, see Rule 157.

(As amended and effective October 3, 2008, 130 T.C. 559–61; as amended, effective October 6, 2020, 155 T.C. 315–17. For prior history, see effective 93 T.C. 1041–44 (1989); 109 T.C. 698–700 (1997).)

TITLE XXVI. ACTIONS FOR ADMINISTRATIVE COSTS

(As effective October 3, 2008, 130 T.C. 561. For prior history, see 93 T.C. 1045–46 (1989).)

RULE 270. GENERAL

(a) Applicability: The Rules of this Title XXVI set forth the special provisions which apply to actions for administrative costs under Code section 7430(f)(2). Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to such actions for administrative costs.

(b) Definitions: As used in the Rules in this Title:

(1) "Reasonable administrative costs" means the items described in Code section 7430(c)(2).

(2) "Attorney's fees" include fees for the services of an individual (whether or not an attorney) admitted to practice before the Court or authorized to practice before the Internal Revenue Service. For the procedure for admission to practice before the Court, see Rule 200.

(3) "Administrative proceeding" means any procedure or other action within the Internal Revenue Service in connection with the determination, collection, or refund of any tax, interest, or penalty.

(c) Jurisdiction: The Court shall have jurisdiction of an action for administrative costs under this Title when the conditions of Code section 7430 have been satisfied.

(d) Burden of Proof: For the rules regarding the burden of proof in claims for administrative costs, see Rule 232(e).

(As amended and effective October 3, 2008, 130 T.C. 561–62; as amended, effective August 8, 2024, 161 T.C. ___. For prior history, see 93 T.C. 1046–47 (1989); 109 T.C. 700–01 (1997); 120 T.C. 680–81 (2003).)

RULE 271. COMMENCEMENT OF ACTION FOR ADMINISTRATIVE COSTS

(a) Commencement of Action: An action for an award for reasonable administrative costs under Code section 7430(f)(2) shall be commenced by filing a petition with the Court. See Rule 20, relating to commencement of case; Rule 22, relating to the place and manner of filing the petition; and Rule 32, relating to the form of pleadings.

(b) Content of Petition: A petition filed pursuant to this Rule shall be entitled "Petition for Administrative Costs (Sec. 7430(f)(2))". Such a petition shall be substantially in accordance with Form 3 shown in the Appendix, or shall, in the alternative, contain the following:

(1) In the case of a petitioner who is an individual, the petitioner's name and State of legal residence; in the case of a petitioner other than an individual, the petitioner's name and principal place of business or principal office or agency; and, in all cases, the petitioner's mailing address. The mailing address, State of legal residence, principal place of business, or principal office or agency, shall be stated as of the date that the petition is filed.

(2) The date of the decision denying an award for administrative costs in respect of which the petition is filed, and the city and State of the office of the Internal Revenue Service which issued the decision.

(3) The amount of administrative costs claimed by the petitioner in the administrative proceeding; the amount of administrative costs denied by the Commissioner; and, if different from the amount denied, the amount of administrative costs now claimed by the petitioner.

(4) Clear and concise lettered statements of the facts on which the petitioner relies to establish that, in the administrative proceeding, the petitioner substantially prevailed with respect to either the amount in controversy or the most significant issue or set of issues presented in the administrative proceeding.

(5) A statement that the petitioner meets the net worth requirements of section 2412(d)(2)(B) of title 28, United States Code (as in effect on October 22, 1986).

(6) The signature, mailing address, and telephone number of each petitioner or each petitioner's counsel, as well as counsel's Tax Court bar number.

(7) A copy of the decision denying (in whole or in part) an award for reasonable administrative costs in respect of which the petition is filed.

(c) Filing Fee: The fee for filing a petition for administrative costs shall be $60, payable at the time of filing. The payment of any fee under this paragraph may be waived if the petitioner establishes to the satisfaction of the Court by an affidavit or a declaration containing specific financial information that the petitioner is unable to make such payment.

(As amended and effective March 1, 2008, 130 T.C. 562–63; as amended, effective July 6, 2012, 139 T.C. 570–71. For prior history, see 93 T.C. 1047–49 (1989); 109 T.C. 701–03 (1997).)

RULE 272. OTHER PLEADINGS

(a) Answer:

(1) *General:* The Commissioner shall file an answer or shall move with respect to the petition within the periods specified in and in accordance with the provisions of Rule 36.

(2) *Additional Requirement for Answer:* In addition to the specific admission or denial of each material allegation in the petition, the answer shall contain the following:

(A) Clear and concise lettered statements of the facts on which the Commissioner relies to establish that, in the administrative proceeding, the Commissioner's position was substantially justified;

(B) a statement whether the Commissioner agrees that the petitioner substantially prevailed in the administrative proceeding with respect to either the amount in controversy or the most significant issue or set of issues presented in the administrative proceeding;

(C) a statement whether the Commissioner agrees that the amount of administrative costs claimed by the petitioner is reasonable;

(D) a statement whether the Commissioner agrees that the petitioner meets the net worth requirements as provided by law; and

(E) the basis for the Commissioner's disagreement with any such allegations by the petitioner.

(3) *Effect of Answer:* Every material allegation set forth in the petition and not expressly admitted or denied in the answer shall be deemed to be admitted. The failure to include in the answer any statement required by subparagraph (2) of this paragraph shall be deemed to constitute a concession by the Commissioner of that matter.

(b) Reply: A reply to the answer shall not be filed in an action for administrative costs unless the Court, on its own motion or upon motion of the Commissioner, shall otherwise direct. Any reply shall conform to the requirements of Rule 37(b). In the absence of a requirement of a reply, the provisions of the second sentence of Rule 37(c) shall not apply and the material allegations of the answer will be deemed denied.

(As effective October 3, 2008, 130 T.C. 564. For prior history, see 93 T.C. 1050–52 (1989); 109 T.C. 703–04 (1997).)

RULE 273. JOINDER OF ISSUE IN ACTION FOR ADMINISTRATIVE COSTS

An action for administrative costs shall be deemed at issue upon the filing of the answer.

(As effective October 3, 2008, 130 T.C. 565. For prior history, see 93 T.C. 1052 (1989).)

RULE 274. APPLICABLE SMALL TAX CASE RULES

Proceedings in an action for administrative costs shall be governed by the provisions of the following Small Tax Case Rules (see Rule 170) with respect to the matters to which they apply: Rule 172 (representation) and Rule 174 (trial).

(As effective October 3, 2008, 130 T.C. 565; as amended, effective July 6, 2012, 139 T.C. 571–72. For prior history, see 93 T.C. 1052 (1989).)

TITLE XXVII. ACTIONS FOR REVIEW OF FAILURE TO ABATE INTEREST

(As effective October 3, 2008, 130 T.C. 565. For prior history, see 109 T.C. 705–06 (1997).)

RULE 280. GENERAL

(a) Applicability: The Rules of this Title XXVII set forth the provisions which apply to actions for review of the Commissioner's failure to abate interest under Code section 6404. Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to such actions for review.

(b) Jurisdiction: The Court shall have jurisdiction of an action for review of the Commissioner's failure to abate interest under this Title when the conditions of Code section 6404 have been satisfied.

(As effective October 3, 2008, 130 T.C. 565; as amended, generally effective November 30, 2018, 153 T.C. 279–80; effective August 8, 2024, 161 T.C. ___. For prior history, see 109 T.C. 706 (1997); 120 T.C. 684–85 (2003).)

RULE 281. COMMENCEMENT OF ACTION FOR REVIEW OF FAILURE TO ABATE INTEREST

(a) Commencement of Action: An action for review of the Commissioner's failure to abate interest under Code section 6404 shall be commenced by filing a petition with the Court. See Rule 20, relating to commencement of case; Rule 22 relating to the place and manner of filing the petition; and Rule 32, regarding the form of pleadings.

(b) Content of Petition: A petition filed pursuant to this Rule shall be entitled "Petition for Review of Failure To Abate Interest Under Code Section 6404" and shall contain the following:

(1) In the case of a petitioner who is an individual, the petitioner's name and State of legal residence; in the case of a petitioner other than an individual, the petitioner's name and principal place of business or principal office or agency; and, in all cases, the petitioner's mailing address. The mailing address, State of legal residence, and principal place of business, or principal office or agency, shall be stated as of the date that the petition is filed.

(2) The date upon which the claim for abatement of interest, if any, was mailed to the Internal Revenue Service, and the office to which it was mailed. A copy of each such claim for abatement of interest shall be appended to the petition.

(3) The year or years or other periods to which the failure to abate interest relates.

(4) Where the Commissioner has issued a notice of final determination not to abate interest:

(A) The date of the notice of the Commissioner's determination;

(B) A copy of the notice of determination;

(C) In a separate numbered paragraph, a clear and concise assignment of each error, set forth in separate lettered subparagraphs, which the petitioner alleges the Commissioner committed in the determination; and

(D) In a separate numbered paragraph, a clear and concise statement of facts, set forth in separate lettered subparagraphs, upon which the petitioner relies to support the assignments of error and the claim for interest abatement.

(5) Where the Commissioner has failed to issue a notice of final determination not to abate interest, separate numbered paragraphs containing:

(A) A statement that the requested determination is of the type described in Code section 6404(h)(1)(A)(ii);

(B) A statement that the Commissioner has not made a determination as to the petitioner's claim for abatement of interest; and

(C) In a separate numbered paragraph, a clear and concise statement of facts, set forth in separate lettered subparagraphs, upon which the petitioner relies to support the claim for an abatement of interest.

(6) An appropriate prayer for relief;

(7) A statement that the petitioner meets the requirements of Code section 7430(c)(4)(A)(ii); and

(8) The signature, mailing address, and telephone number of each petitioner or each petitioner's counsel, as well as counsel's Tax Court bar number.

(c) Small Tax Case Under Code Section 7463(f)(3): For provisions regarding the content of a petition in a small tax case under Code section 7463(f)(3), see Rules 170 through 174.

(d) Filing Fee: The fee for filing a petition for review of failure to abate interest shall be $60, payable at the time of filing. The payment of any fee under this paragraph may be waived if the petitioner establishes to the satisfaction of the Court by an affidavit or a declaration containing specific financial information that the petitioner is unable to make such payment.

(As amended and effective March 1, 2008, 130 T.C. 565–67; as amended, effective July 6, 2012, 139 T.C. 572–73; generally effective November 30, 2018, 153 T.C. 280–82. For prior history, see 109 T.C. 707–08 (1997).)

RULE 282. REQUEST FOR PLACE OF TRIAL

At the time of filing a petition for review of failure to abate interest, a request for place of trial shall be filed in accordance with Rule 140.

(As amended and effective March 1, 2008, 130 T.C. 567. For prior history, see 109 T.C. 708 (1997).)

RULE 283. OTHER PLEADINGS

(a) Answer: The Commissioner shall file an answer or shall move with respect to the petition within the periods specified in and in accordance with the provisions of Rule 36.

(b) Reply: For provisions relating to the filing of a reply, see Rule 37.

(As effective October 3, 2008, 130 T.C. 567. For prior history, see 109 T.C. 709 (1997).)

RULE 284. JOINDER OF ISSUE IN ACTION FOR REVIEW OF FAILURE TO ABATE INTEREST

An action for review of the Commissioner's failure to abate interest under Code section 6404 shall be deemed at issue as provided by Rule 38.

(As effective October 3, 2008, 130 T.C. 567. For prior history, see 109 T.C. 709 (1997).)

TITLE XXVIII. ACTIONS FOR REDETERMINATION OF EMPLOYMENT STATUS

(As effective October 3, 2008, 130 T.C. 567. For prior history, see 120 T.C. 687–88 (2003).)

RULE 290. GENERAL

(a) Applicability: The Rules of this Title XXVIII set forth the provisions which apply to actions for redetermination of employment status under Code section 7436. Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to such actions for redetermination.

(b) Jurisdiction: The Court shall have jurisdiction of an action for redetermination of employment status under this Title when the conditions of Code section 7436 have been satisfied.

(As effective October 3, 2008, 130 T.C. 567–68; as amended, effective August 8, 2024, 161 T.C. ___. For prior history, see 120 T.C. 688–89 (2003).)

RULE 291. COMMENCEMENT OF ACTION FOR REDETERMINATION OF EMPLOYMENT STATUS

(a) Commencement of Action: An action for redetermination of employment status under Code section 7436 shall be commenced by filing a petition with the Court. See Rule 20, relating to commencement of case; Rule 22, relating to the place and manner of filing the petition; and Rule 32, relating to the form of pleadings.

(b) Content of Petition: A petition filed pursuant to this Rule shall be entitled "Petition for Redetermination of Employment Status Under Code Section 7436" and shall contain the following:

(1) In the case of a petitioner who is an individual, the petitioner's name and State of legal residence; in the case of a petitioner other than an individual, the petitioner's name and principal place of business or principal office or agency; and, in all cases, the petitioner's mailing address. The mailing address, State of legal residence, and principal place of business, or principal office or agency, shall be stated as of the date that the petition is filed.

(2) If the Commissioner sent by certified or registered mail to the petitioner notice of the Commissioner's determination of matters set forth in Code section 7436(a)(1) and (2), then:

(A) the date of the notice in respect of which the petition is filed and the city and State of the office of the Internal Revenue Service that issued the notice; and

(B) *as an attachment, a copy of such notice.*

(3) The calendar quarter or quarters for which the determination was made.

(4) Clear and concise assignments of each and every error which the petitioner alleges to have been committed by the Commissioner in the Commissioner's determination of matters set forth in Code section 7436(a)(1) and (2), and in the Commissioner's determination of the proper amount of employment tax. Any issue not raised in the assignments of error shall be deemed to be conceded. Each assignment of error shall be separately lettered.

(5) Clear and concise lettered statements of the facts on which the petitioner bases the assignments of error.

(6) A prayer setting forth the relief sought by the petitioner.

(7) The signature, mailing address, and telephone number of each petitioner or each petitioner's counsel, as well as counsel's Tax Court bar number.

A claim for reasonable litigation or administrative costs shall not be included in the petition in an action for redetermination of employment status. For the requirements as to claims for reasonable litigation or administrative costs, see Rule 231.

(c) Small Tax Case Under Code Section 7436(c): For provisions regarding the content of a petition in a small tax case under Code section 7436(c), see Rules 170 through 175.

(d) Filing Fee: The fee for filing a petition for redetermination of employment status shall be $60, payable at the time of filing.

(As amended and effective March 1, 2008, 130 T.C. 568–70. For prior history, see 120 T.C. 689–91 (2003).)

RULE 292. REQUEST FOR PLACE OF TRIAL

At the time of filing a petition for redetermination of employment status, the petitioner shall file a request for place of trial in accordance with Rule 140.

(As amended and effective March 1, 2008, 130 T.C. 570. For prior history, see 120 T.C. 691 (2003).)

RULE 293. OTHER PLEADINGS

(a) Answer: The Commissioner shall file an answer or shall move with respect to the petition within the periods specified in and in accordance with the provisions of Rule 36.

(b) Reply: For provisions relating to the filing of a reply, see Rule 37.

(As effective October 3, 2008, 130 T.C. 570. For prior history, see 120 T.C. 691–92 (2003).)

RULE 294. JOINDER OF ISSUE IN ACTION FOR REDETERMINATION OF EMPLOYMENT STATUS

An action for redetermination of employment status under Code section 7436 shall be deemed at issue as provided by Rule 38.

(As effective October 3, 2008, 130 T.C. 570. For prior history, see 120 T.C. 692 (2003).)

TITLE XXIX. LARGE PARTNERSHIP ACTIONS

(As effective October 3, 2008, 130 T.C. 571. For prior history, see 120 T.C. 692–93 (2003).)

RULE 300. GENERAL

(a) Applicability: The Rules of this Title XXIX set forth the special provisions that apply to actions for readjustment of partnership items of large partnerships under Code section 6247 and actions for adjustment of partnership items of large partnerships under Code section 6252. Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to such large partnership actions.

(b) Definitions: As used in the Rules in this Title:

(1) The term "large partnership" means an electing large partnership as defined in Code section 775. See Code sec. 6255(a)(1).

(2) A "large partnership action" is either an "action for readjustment of partnership items of a large partnership" under Code section 6247 or an "action for adjustment of partnership items of a large partnership" under Code section 6252.

(3) The term "partnership item" means any item described in Code section 6231(a)(3). See Code sec. 6255(a)(2).

(4) The term "partnership adjustment" means any adjustment in the amount of any partnership item of a large partnership. See Code sec. 6242(d)(1).

(5) The term "designated partner" means the partner or person designated by the large partnership or selected by the Commissioner pursuant to Code section 6255(b)(1).

(6) A "notice of partnership adjustment" is the notice described in Code section 6245(b).

(7) The term "administrative adjustment request" means a request for an administrative adjustment of partnership items filed by the large partnership under Code section 6251(a).

(c) Jurisdiction: The Court shall have jurisdiction of a large partnership action under this Title when the conditions of Code sections 6245, 6247, and 6252 have been satisfied.

(d) Form and Style of Papers: All papers filed in a large partnership action shall be prepared in the form and style set forth in Rule 23, and the caption shall state the name of the partnership, as for example, "ABC Partnership, Petitioner".

(As effective October 3, 2008, 130 T.C. 571–72; as amended, effective August 8, 2024, 161 T.C. ___. For prior history, see 120 T.C. 693–95 (2003).)

RULE 301. COMMENCEMENT OF LARGE PARTNERSHIP ACTION

(a) Commencement of Action: A large partnership action shall be commenced by filing a petition with the Court. See Rule 20, relating to commencement of case; Rule 22, relating to the place and manner of filing the petition; Rule 32, relating to form of pleadings; Rule 34(e), relating to number of copies to be filed; and Rule 300(d), relating to caption of papers.

(b) Content of Petition: Each petition shall be entitled either "Petition for Readjustment of Partnership Items of a Large Partnership under Code Section 6247" or "Petition for Adjustment of Partnership Items of a Large Partnership Under Code Section 6252". Each such petition shall contain the allegations described in paragraph (c) of this Rule, and the allegations described in either paragraph (d) or paragraph (e) of this Rule.

(c) All Petitions: All petitions in large partnership actions shall contain the following:

(1) The name and principal place of business of the large partnership at the time the petition is filed.

(2) The city and State of the office of the Internal Revenue Service with which the large partnership's return for the period in controversy was filed.

(3) A separate numbered paragraph setting forth the name and current address of the designated partner.

A claim for reasonable litigation or administrative costs shall not be included in the petition in a large partnership action. For the requirements as to claims for reasonable litigation or administrative costs, see Rule 231.

(d) Petition for Readjustment of Partnership Items of a Large Partnership: In addition to including the information specified in paragraph (c) of this Rule, a petition for readjustment of partnership items of a large partnership shall also contain:

(1) The date of the notice of partnership adjustment and the city and State of the office of the Internal Revenue Service that issued the notice.

(2) The year or years or other periods for which the notice of partnership adjustment was issued.

(3) Clear and concise statements of each and every error which the petitioner alleges to have been committed by the Commissioner in the notice of partnership adjustment. The assignments of error shall include issues in respect of which the burden of proof is on the Commissioner. Any issues not raised in the assignments of error, or in the assignments of error in any amendment to the petition, shall be deemed to be conceded. Each assignment of error shall be set forth in a separate lettered subparagraph.

(4) Clear and concise lettered statements of the facts on which the petitioner bases the assignments of error, except with respect to those assignments of error as to which the burden of proof is on the Commissioner.

(5) A prayer setting forth relief sought by the petitioner.

(6) The signature, mailing address, and telephone number of the petitioner's designated partner or the petitioner's counsel, as well as counsel's Tax Court bar number.

(7) A copy of the notice of partnership adjustment, which shall be appended to the petition, and with which there shall be included so much of any statement accompanying the notice as is material to the issues raised by the assignments of error. If the notice of partnership adjustment or any accompanying statement incorporates by reference any prior notices, or other material furnished by the Internal Revenue Service, such parts thereof as are material to the assignments of error likewise shall be appended to the petition.

(e) Petition for Adjustment of Partnership Items of a Large Partnership: In addition to including the information specified in paragraph (c) of this Rule, a petition for adjustment of partnership items of a large partnership shall also contain:

(1) The date that the administrative adjustment request was filed and other proper allegations showing jurisdiction in the Court in accordance with the requirements of Code section 6252(b) and (c).

(2) The year or years or other periods to which the administrative adjustment request relates.

(3) The city and State of the office of the Internal Revenue Service with which the administrative adjustment request was filed.

(4) A clear and concise statement describing each partnership item on the large partnership return that is sought to be changed, and the basis for each such requested change. Each such statement shall be set forth in a separately lettered subparagraph.

(5) Clear and concise lettered statements of the facts on which the petitioner relies in support of such requested changes in treatment of partnership items.

(6) A prayer setting forth relief sought by the petitioner.

(7) The signature, mailing address, and telephone number of the petitioner's designated partner or the petitioner's counsel, as well as counsel's Tax Court bar number.

(8) A copy of the administrative adjustment request shall be appended to the petition.

(f) Joinder of Parties:

(1) *Permissive Joinder:* A separate petition shall be filed with respect to each notice of partnership adjustment issued to separate large partnerships. However, a single petition for readjustment of partnership items of a large partnership or petition for adjustment of partnership items of a large partnership may be filed seeking readjustments or adjustments of partnership items with respect to more than one notice of partnership adjustment or administrative adjustment request if the notices or requests pertain to the same large partnership.

(2) *Severance or Other Orders:* With respect to a case based upon multiple notices of partnership adjustment or administrative adjustment requests, the Court may order a severance and a separate case may be maintained with respect to one or more of such notices or requests whenever it appears to the Court that proceeding separately is in furtherance of convenience, or to avoid prejudice, or when separate trials will be conducive to expedition or economy.

(As amended and effective March 1, 2008, 130 T.C. 572–75; as amended, effective July 6, 2012, 139 T.C. 573–76. For prior history, see 120 T.C. 695–98 (2003).)

RULE 302. REQUEST FOR PLACE OF TRIAL

At the time of filing a petition in a large partnership action, a request for place of trial shall be filed in accordance with Rule 140.

(As amended and effective March 1, 2008, 130 T.C. 575. For prior history, see 120 T.C. 698 (2003).)

RULE 303. OTHER PLEADINGS

(a) Answer: The Commissioner shall file an answer or shall move with respect to the petition within the periods specified in and in accordance with the provisions of Rule 36.

(b) Reply: For provisions relating to the filing of a reply, see Rule 37.

(As effective October 3, 2008, 130 T.C. 575. For prior history, see 120 T.C. 699 (2003).)

RULE 304. JOINDER OF ISSUE IN LARGE PARTNERSHIP ACTIONS

A large partnership action shall be deemed at issue as provided by Rule 38.

(As effective October 3, 2008, 130 T.C. 575. For prior history, see 120 T.C. 699 (2003).)

RULE 305. ACTION FOR ADJUSTMENT OF PARTNERSHIP ITEMS OF LARGE PARTNERSHIP TREATED AS ACTION FOR READJUSTMENT OF PARTNERSHIP ITEMS OF LARGE PARTNERSHIP

If, after the filing of a petition for adjustment of partnership items of a large partnership (see Code section 6252(a) and Rule 301(a)) but before the hearing of such petition, the Commissioner mails to the large partnership a notice of partnership adjustment for the partnership taxable year to which the petition relates, then such petition shall be treated as a petition in an action for readjustment of the partnership items to which such notice relates. The petitioner, within 90 days after the date on which the notice of partnership adjustment is mailed, shall file an amendment to the petition, setting forth every error which the petitioner alleges to have been committed by the Commissioner in the notice of partnership adjustment, and the facts on which the petitioner bases the assignments of error. A copy of the notice of partnership adjustment shall be appended to the amendment to the petition.

(As effective October 3, 2008, 130 T.C. 576. For prior history, see 120 T.C. 700 (2003).)

TITLE XXX. ACTIONS FOR DECLARATORY JUDGMENT RELATING TO TREATMENT OF ITEMS OTHER THAN PARTNERSHIP ITEMS WITH RESPECT TO AN OVERSHELTERED RETURN

(As effective October 3, 2008, 130 T.C. 576. For prior history, see 120 T.C. 701–02 (2003).)

RULE 310. GENERAL

(a) Applicability: The Rules of this Title XXX set forth the provisions which apply to actions for declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return pursuant to Code section 6234, as enacted by section 1231 of the Taxpayer Relief Act of 1997, Pub. L. No. 105-34, 111 Stat. 788. Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to such actions for declaratory judgment.

(b) Definitions: As used in the Rules in this Title:

(1) An "oversheltered return action" means an action for declaratory judgment provided for in Code section 6234 relating to the treatment of items other than partnership items with respect to an oversheltered return.

(2) The term "partnership item" means any item described in Code section 6231(a)(3).

(3) An "oversheltered return" means an income tax return which:

(A) shows no taxable income for the taxable year, and

(B) shows a net loss from partnership items. See Code sec. 6234(b).

(4) "Declaratory judgment" is the decision of the Court in an oversheltered return action.

(c) Jurisdiction: The Court shall have jurisdiction of an action for declaratory judgment under this Title when the conditions of Code section 6234 have been satisfied.

(As effective October 3, 2008, 130 T.C. 576–77; as amended, effective July 15, 2019, 153 T.C. 283–84; effective August 8, 2024, 161 T.C. ___. For prior history, see 120 T.C. 702–03 (2003).)

RULE 311. COMMENCEMENT OF ACTION FOR DECLARATORY JUDGMENT (OVERSHELTERED RETURN)

(a) Commencement of Action: An action for declaratory judgment shall be commenced by filing a petition with the Court. See Rule 22, relating to the place and manner of filing the petition, and Rule 32, relating to form of pleadings.

(b) Content of Petition: A petition filed pursuant to this Rule shall be entitled "Petition for Declaratory Judgment (Oversheltered Return)" and shall comply with the requirements of Rule 34(b), or shall, in the alternative, be substantially in accordance with Form 1 shown in the Appendix, except that "adjustment" shall be substituted therein for "deficiency or liability".

(c) Filing Fee: The fee for filing a petition for declaratory judgment shall be $60, payable at the time of filing.

(As effective October 3, 2008, 130 T.C. 577. For prior history, see 120 T.C. 704 (2003).)

RULE 312. REQUEST FOR PLACE OF TRIAL

At the time of filing a petition for declaratory judgment with respect to an oversheltered return, the petitioner shall file a request for place of trial in accordance with Rule 140.

(As amended and effective March 1, 2008, 130 T.C. 578. For prior history, see 120 T.C. 704–05 (2003).)

RULE 313. OTHER PLEADINGS

(a) Answer: The Commissioner shall file an answer or shall move with respect to the petition within the periods specified in and in accordance with the provisions of Rule 36.

(b) Reply: For provisions relating to the filing of a reply, see Rule 37.

(As effective October 3, 2008, 130 T.C. 578. For prior history, see 120 T.C. 705 (2003).)

RULE 314. JOINDER OF ISSUE IN ACTION FOR DECLARATORY JUDGMENT (OVERSHELTERED RETURN)

An action for declaratory judgment under this Title XXX shall be deemed at issue as provided by Rule 38.

(As effective October 3, 2008, 130 T.C. 578. For prior history, see 120 T.C. 705–06 (2003).)

RULE 315. DISPOSITION OF ACTION FOR DECLARATORY JUDGMENT (OVERSHELTERED RETURN)

Disposition of an oversheltered return action generally will be by trial, conducted in accordance with the Rules contained in Title XIV. In addition, an action for declaratory judgment may be decided without a trial in accordance with the Rules contained in Title XII.

(As effective October 3, 2008, 130 T.C. 578. For prior history, see 120 T.C. 706 (2003).)

RULE 316. ACTION FOR DECLARATORY JUDGMENT (OVERSHELTERED RETURN) TREATED AS DEFICIENCY ACTION

If, after the filing of a petition for declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return for a taxable year but before the Court makes a declaration, the treatment of any partnership item for that taxable year is finally determined pursuant to Code section 6234(g)(4), or any such item ceases to be a partnership item pursuant to Code section 6231(b), and as a result of that final determination or cessation, a deficiency can be determined with respect to the items that are the subject of the notice of adjustment, then the notice of adjustment shall be treated as a notice of deficiency under Code section 6212 and the petition shall be treated as a petition in an action brought under Code section 6213. See Code sec. 6234(g)(3).

(As effective October 3, 2008, 130 T.C. 578–79. For prior history, see 120 T.C. 706–07 (2003).)

TITLE XXXI. ACTIONS FOR DETERMINATION OF RELIEF FROM JOINT AND SEVERAL LIABILITY ON A JOINT RETURN

(As effective October 3, 2008, 130 T.C. 579. For prior history, see 120 T.C. 708–09. (2003).)

RULE 320. GENERAL

(a) Applicability: The Rules of this Title XXXI set forth the provisions that apply to actions for the determination of relief from joint and several liability on a joint return pursuant to Code section 6015(e). Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to such actions.

(b) Jurisdiction: The Court shall have jurisdiction of an action for determination of relief from joint and several liability on a joint return under this Title when the conditions of Code section 6015(e) have been satisfied.

(c) Form and Style of Papers: All papers filed in an action for determination of relief from joint and several liability on a joint return shall be prepared in the form and style set forth in Rule 23.

(As effective October 3, 2008, 130 T.C. 579. For prior history, see 120 T.C. 709–10 (2003).)

RULE 321. COMMENCEMENT OF ACTION FOR DETERMINATION OF RELIEF FROM JOINT AND SEVERAL LIABILITY ON A JOINT RETURN

(a) Commencement of Action: An action for determination of relief from joint and several liability on a joint return is commenced by filing a petition with the Court. See Rule 20, relating to commencement of case; Rule 22, relating to the place and manner of filing the petition; and Rule 32, relating to the form of pleadings.

(b) Content of Petition: A petition filed pursuant to this Rule shall be entitled "Petition for Determination of Relief From Joint and Several Liability on a Joint Return" and shall contain the following:

(1) The petitioner's name, State of legal residence, and mailing address.

(2) A statement of the facts upon which the petitioner relies to support the jurisdiction of the Court and, as an attachment, a copy of the Commissioner's notice of determination of the relief available pursuant to Code section 6015 or, if the Commissioner has not issued to the petitioner a notice of determination of the relief available pursuant to Code section 6015, a copy of the election for relief filed by the petitioner.

(3) A statement of the facts upon which the petitioner relies in support of the relief requested.

(4) A prayer setting forth the relief sought by the petitioner.

(5) The name and mailing address of the other individual filing the joint return, if available.

(6) The signature, mailing address, and telephone number of the petitioner or the petitioner's counsel, as well as counsel's Tax Court bar number.

A claim for reasonable litigation or administrative costs shall not be included in the petition in an action for determination of relief from joint and several liability on a joint return. For the requirements as to claims for reasonable litigation or administrative costs, see Rule 231.

(c) Small Tax Case Under Code Section 7463(f)(1): For provisions regarding the content of a petition in a small tax case under Code section 7463(f)(1), see Rules 170 through 175.

(d) Filing Fee: The fee for filing a petition for determination of relief from joint and several liability on a joint return shall be $60, payable at the time of filing.

(As amended and effective March 1, 2008, 130 T.C. 580–81. For prior history, see 120 T.C. 710–12 (2003).)

RULE 322. REQUEST FOR PLACE OF TRIAL

At the time of filing a petition for determination of relief from joint and several liability on a joint return, the petitioner shall file a request for place of trial in accordance with Rule 140.

(As amended and effective March 1, 2008, 130 T.C. 581. For prior history, see 120 T.C. 712 (2003).)

RULE 323. OTHER PLEADINGS

(a) Answer: The Commissioner shall file an answer or shall move with respect to the petition within the periods specified in and in accordance with the provisions of Rule 36.

(b) Reply: For provisions relating to the filing of a reply, see Rule 37.

(As effective October 3, 2008, 130 T.C. 581. For prior history, see 120 T.C. 712–13 (2003).)

RULE 324. JOINDER OF ISSUE IN ACTION FOR DETERMINATION OF RELIEF FROM JOINT AND SEVERAL LIABILITY ON A JOINT RETURN

An action for determination of relief from joint and several liability on a joint return shall be deemed at issue upon the later of:

(1) The time provided by Rule 38, or

(2) the expiration of the period within which a notice of intervention may be filed under Rule 325(b).

(As effective October 3, 2008, 130 T.C. 581–82. For prior history, see 120 T.C. 713 (2003).)

RULE 325. NOTICE AND INTERVENTION

(a) Notice: On or before 60 days from the date of the service of the petition, the Commissioner shall serve notice of the filing of the petition on the other individual filing the joint return and shall simultaneously file with the Court a copy of the notice with an attached certificate of service. The notice shall advise the other individual of the right to intervene by filing a notice of intervention with the Court not later than 60 days after the date of service on the other individual.

(b) Intervention: If the other individual filing the joint return desires to intervene, then such individual shall file a notice of intervention with the Court not later than 60 days after service of the notice by the Commissioner of the filing of the petition, unless the Court directs otherwise. All new matters of claim or defense in a notice of intervention shall be deemed denied. As to the form and content of a notice of intervention, see Appendix, Form 13.

(As amended and effective March 1, 2008, 130 T.C. 582. For prior history, see 120 T.C. 714–15 (2003).)

TITLE XXXII. LIEN AND LEVY ACTIONS

(As effective October 3, 2008, 130 T.C. 582. For prior history, see 120 T.C. 715–16 (2003).)

RULE 330. GENERAL

(a) Applicability: The Rules of this Title XXXII set forth the provisions that apply to lien and levy actions under Code sections 6320(c) and 6330(d). Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to such actions.

(b) Jurisdiction: The Court shall have jurisdiction of a lien or levy action under this Title when the conditions of Code section 6320(c) or 6330(d), as applicable, have been satisfied.

(As effective October 3, 2008, 130 T.C. 582–83. For prior history, see 120 T.C. 716–17 (2003).)

RULE 331. COMMENCEMENT OF LIEN AND LEVY ACTION

(a) Commencement of Action: A lien and levy action under Code sections 6320(c) and 6330(d) shall be commenced by filing a petition with the Court. See Rule 20, relating to commencement of case; Rule 22, relating to the place and manner of filing the petition; and Rule 32, regarding the form of pleadings.

(b) Content of Petition: A petition filed pursuant to this Rule shall be entitled "Petition for Lien or Levy Action Under Code Section 6320(c) or 6330(d)", as applicable, and shall contain the following:

(1) In the case of a petitioner who is an individual, the petitioner's name and State of legal residence; in the case of a petitioner other than an individual, the petitioner's name and principal place of business or principal office or agency; and, in all cases, the petitioner's mailing address. The mailing address, State of legal residence, and principal place of business, or principal office or agency, shall be stated as of the date that the petition is filed.

(2) The date of the notice of determination concerning collection action(s) under Code section 6320 and/or 6330 by the Internal Revenue Service Office of Appeals (hereinafter the "notice of

determination"), and the city and State of the Office which made such determination.

(3) The amount or amounts and type of underlying tax liability, and the year or years or other periods to which the notice of determination relates.

(4) Clear and concise assignments of each and every error which the petitioner alleges to have been committed in the notice of determination. Any issue not raised in the assignments of error shall be deemed to be conceded. Each assignment of error shall be separately lettered.

(5) Clear and concise lettered statements of the facts on which the petitioner bases each assignment of error.

(6) A prayer setting forth the relief sought by the petitioner.

(7) The signature, mailing address, and telephone number of each petitioner or each petitioner's counsel, as well as counsel's Tax Court bar number.

(8) As an attachment, a copy of the notice of determination.

A claim for reasonable litigation or administrative costs shall not be included in the petition in a lien and levy action. For the requirements as to claims for reasonable litigation or administrative costs, see Rule 231.

(c) Small Tax Case Under Code Section 7463(f)(2): For provisions regarding the content of a petition in a small tax case under Code section 7463(f)(2), see Rules 170 through 175.

(d) Filing Fee: The fee for filing a petition for a lien and levy action shall be $60, payable at the time of filing.

(As amended and effective March 1, 2008, 130 T.C. 583–84. For prior history, see 120 T.C. 717–19 (2003).)

RULE 332. REQUEST FOR PLACE OF TRIAL

At the time of filing a petition for a lien and levy action, a request for place of trial shall be filed in accordance with Rule 140.

(As amended and effective March 1, 2008, 130 T.C. 584. For prior history, see 120 T.C. 719 (2003).)

RULE 333. OTHER PLEADINGS

(a) Answer: The Commissioner shall file an answer or shall move with respect to the petition within the periods specified in and in accordance with the provisions of Rule 36.

(b) Reply: For provisions relating to the filing of a reply, see Rule 37.

(As effective October 3, 2008, 130 T.C. 585. For prior history, see 120 T.C. 719–20 (2003).)

RULE 334. JOINDER OF ISSUE IN LIEN AND LEVY ACTIONS

A lien and levy action under Code sections 6320(c) and 6330(d) shall be deemed at issue as provided by Rule 38.

(As effective October 3, 2008, 130 T.C. 585. For prior history, see 120 T.C. 720 (2003).)

TITLE XXXIII. WHISTLEBLOWER ACTIONS

(As adopted, effective December 20, 2006, 130 T.C. 585.)

RULE 340. GENERAL

(a) Applicability: The Rules of this Title XXXIII set forth the provisions that apply to whistleblower actions under Code section 7623(b)(4). Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to such actions.

(b) Jurisdiction: The Court shall have jurisdiction of a whistleblower action under this Title when the conditions of Code section 7623(b)(4) have been satisfied.

(As adopted, effective December 20, 2006, 130 T.C. 586–87.)

RULE 341. COMMENCEMENT OF WHISTLEBLOWER ACTION

(a) Commencement of Action: A whistleblower action under Code section 7623(b)(4) shall be commenced by filing a petition with the Court. See Rule 20, relating to commencement of case; Rule 22, relating to the place and manner of filing the petition; and Rule 32, regarding the form of pleadings.

(b) Content of Petition: A petition filed pursuant to this Rule shall be entitled "Petition for Whistleblower Action Under Code Section 7623(b)(4)" and shall contain the following:

(1) The petitioner's name, State of legal residence, and mailing address, stated as of the date that the petition is filed.

(2) The date of the determination regarding an award under Code section 7623(b)(1), (2), or (3) by the Internal Revenue Service Whistleblower Office.

(3) Lettered statements explaining why the petitioner disagrees with the determination by the Internal Revenue Service Whistleblower Office.

(4) Lettered statements setting forth the facts upon which the petitioner relies to support the petitioner's position.

(5) A prayer setting forth the relief sought by the petitioner.

(6) The signature, mailing address, and telephone number of each petitioner or each petitioner's counsel, as well as counsel's Tax Court bar number.

(7) As an attachment, a copy of the determination.

(c) Filing Fee: The fee for filing a petition for a whistleblower action shall be $60, payable at the time of filing.

(As adopted, effective December 20, 2006, 130 T.C. 587–88.)

RULE 342. REQUEST FOR PLACE OF TRIAL

At the time of filing a petition for a whistleblower action, a request for place of trial shall be filed in accordance with Rule 140.

(As adopted, effective December 20, 2006, 130 T.C. 588.)

RULE 343. OTHER PLEADINGS

(a) Answer: The Commissioner shall file an answer or shall move with respect to the petition within the periods specified in and in accordance with the provisions of Rule 36.

(b) Reply: For provisions relating to the filing of a reply, see Rule 37.

(As adopted, effective December 20, 2006, 130 T.C. 588–89.)

RULE 344. JOINDER OF ISSUE IN WHISTLEBLOWER ACTION

A whistleblower action under Code section 7623(b)(4) shall be deemed at issue as provided by Rule 38.

(As adopted, effective December 20, 2006, 130 T.C. 589.)

RULE 345. PRIVACY PROTECTIONS FOR FILINGS IN WHISTLEBLOWER ACTIONS

(a) Anonymous Petitioner: A petitioner in a whistleblower action may move the Court for permission to proceed anonymously, if appropriate. Unless otherwise permitted by the Court, a petitioner seeking to proceed anonymously pursuant to this Rule shall file with the petition a motion, with or without supporting affidavits or declarations, setting forth a sufficient, fact-specific basis for anonymity. The petition and all other filings shall be temporarily sealed pending a ruling by the Court on the motion to proceed anonymously.

(b) Redacted Filings: Except as otherwise directed by the Court, in an electronic or paper filing with the Court in a whistleblower action, a party or nonparty making the filing shall refrain from including, or shall take appropriate steps to redact, the name, address, and other identifying information of the taxpayer to whom the claim relates. The party or nonparty filing a document that contains redacted information shall file under seal a reference list that identifies each item of redacted information and specifies an appropriate identifier that uniquely corresponds to each item listed. The list may be amended as a matter of right. Subsequent references in the case to a listed identifier will be construed to refer to the corresponding item of information. The Court in its discretion may later unseal the reference list, in whole or in part, if appropriate.

(c) Other Applicable Rules: For Rules concerned with privacy protections and protective orders, generally, see Rules 27 and 103(a).

(As adopted, effective July 6, 2012, 139 T.C. 576–80.)

TITLE XXXIV. CERTIFICATION AND FAILURE TO REVERSE CERTIFICATION ACTION WITH RESPECT TO PASSPORTS

(As adopted, generally effective November 30, 2018, 153 T.C. 284.)

RULE 350. GENERAL

(a) Applicability: The Rules of this Title XXXIV set forth the provisions that apply to a certification or a failure to reverse a certification action under Code section 7345(e). Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to the action.

(b) Jurisdiction: The Court shall have jurisdiction of a certification or a failure to reverse a certification action under Code section 7345(e) when the conditions of that section are satisfied.

(As adopted, generally effective November 30, 2018, 153 T.C. 284.)

RULE 351. COMMENCEMENT OF CERTIFICATION ACTION

(a) Commencement of Action: A certification action under Code section 7345(e) shall be commenced by filing a petition with the Court. See Rule 20, relating to commencement of case; Rule 22, relating to the place and manner of filing the petition; and Rule 32, regarding the form of pleadings.

(b) Content of Petition: A petition filed pursuant to this Rule shall be entitled "Petition for Certification or Failure to Reverse Certification Action Under Code Section 7345(e)" and shall contain the following:

(1) The petitioner's name, State of legal residence, and mailing address, stated as of the date that the petition is filed.

(2) The date of the notification of the certification under Code section 7345(d).

(3) Lettered statements explaining why the petitioner disagrees with the certification or the failure to reverse the certification.

(4) Lettered statements setting forth the facts upon which the petitioner relies to support the petitioner's position.

(5) A prayer setting forth the relief sought by the petitioner.

(6) The signature, mailing address, and telephone number of the petitioner or each petitioner's counsel, as well as counsel's Tax Court bar number.

(7) As an attachment, a copy of the notification of the certification action under Code section 7345(d).

(c) Filing Fee: The fee for filing a petition for a certification or a failure to reverse a certification action under Code section 7345(e) is $60, payable at the time of filing. The payment of any fee under this paragraph may be waived if the petitioner establishes to the satisfaction of the Court by an affidavit or a declaration containing specific financial information the inability to make the payment.

(As adopted, effective November 30, 2018, 153 T.C. 285–86.)

RULE 352. REQUEST FOR PLACE OF TRIAL

At the time of filing a petition for a certification or a failure to reverse a certification action under Code section 7345(e), a request for place of trial shall be filed in accordance with Rule 140.

(As adopted, effective November 30, 2018, 153 T.C. 286.)

RULE 353. OTHER PLEADINGS

(a) Answer: The Commissioner shall file an answer or shall move with respect to the petition within the periods specified in and in accordance with the provisions of Rule 36.

(b) Reply: For provisions relating to the filing of a reply, see Rule 37.

(As adopted, effective November 30, 2018, 153 T.C. 286.)

RULE 354. JOINDER OF ISSUE IN CERTIFICATION ACTION

A certification or a failure to reverse a certification action under Code section 7345(e) shall be deemed at issue as provided by Rule 38.

(As adopted, effective November 30, 2018, 153 T.C. 286.)

APPENDIX

The following forms are listed in this appendix:

All the forms are available on the Court's website at *www.ustaxcourt.gov* and upon request from the Clerk of the Court. The forms also may be manually prepared, except that any subpoena (Form 14A or Form 14B) must be obtained either from the Clerk of the Court or from the Court's website. When preparing papers for filing with the Court, attention should be given to the applicable requirements of Rule 23 in regard to form, size, type, and number of copies, as well as to such other Rules of the Court as may apply to the particular item.

(As adopted and amended, effective October 3, 2008, 130 T.C. 590–613; generally effective January 1, 2010, 134 T.C. 379–84; effective May 5, 2011, 136 T.C. 640–52; effective July 6, 2012, 139 T.C. 581–82; effective 2019, 153 T.C. 287–98; effective March 20, 2023, 160 T.C. 577–90. For prior history, see 60 T.C. 1155–71 (1973); 90 T.C. 1381–83 (1988); 93 T.C. 1053–71 (1989); 109 T.C. 710–24 (1997); 120 T.C. 721–35 (2003).)

Form 1. Petition (Sample Format)

FORM 1

PETITION (Sample Format)*

(See Rules 30 through 34.)
www.ustaxcourt.gov

UNITED STATES TAX COURT

..... Petitioner(s)	
v.	Docket No.
COMMISSIONER OF INTERNAL REVENUE,	
Respondent	

PETITION

Petitioner hereby petitions for a redetermination of the deficiency (or liability) set forth by the Commissioner of Internal Revenue in the Commissioner's notice of deficiency (or liability) dated ....., and as the basis for petitioner's case alleges as follows:

1. Petitioner is [set forth whether an individual, corporation, etc., as provided in Rule 60] with mailing address now at

.....
Street (or P.O. Box) City State ZIP Code

and with the State of legal residence (or principal office) now in (if different from the mailing address) .....

The return for the period here involved was filed with the Office of the Internal Revenue Service at .....
City State

---

*Form 1 provides a sample format that is especially appropriate for use by counsel in complex deficiency and liability cases. See Rule 34(a)(1), (b)(1). To adapt Form 1 for use in the following types of actions, see also the applicable Rules, as indicated: Declaratory judgment actions (Rule 211); disclosure actions (Rule 221); partnership actions (Rules 241, 255.2, 301); interest abatement actions (Rule 281); employment status actions (Rule 291); actions for determination of relief from joint and several liability (Rule 321); lien and levy actions (Rule 331); and whistleblower actions (Rule 341). See Form 2 for a fillable form that may be useful for self-represented petitioners and may also be used by counsel in simple cases with limited issues. See Form 3 for a fillable form that may be used for administrative costs actions.

2. The notice of deficiency (or liability) was mailed to petitioner on ....., and was issued by the Office of the Internal Revenue Service at .....
City State

A copy of the notice of deficiency (or liability), including so much of the statement and schedules accompanying the notice as is material, should be redacted as provided by Rule 27 and attached to the petition as Exhibit A. Petitioner must submit with the petition a Form 4, Statement of Taxpayer Identification Number.

3. The deficiencies (or liabilities) as determined by the Commissioner are in income (estate, gift, or certain excise) taxes for the calendar (or fiscal) year ....., in the amount of $ ....., of which $ ..... is in dispute.

4. The determination of the tax set forth in the said notice of deficiency (or liability) is based upon the following errors: [Here set forth specifically in lettered subparagraphs the assignments of error in a concise manner. Do not plead facts, which properly belong in the succeeding paragraph.]

5. The facts upon which petitioner relies, as the basis of petitioner's case, are as follows: [Here set forth allegations of fact, but not the evidence, sufficient to inform the Court and the Commissioner of the positions taken and the bases therefor. Set forth the allegations in orderly and logical sequence, with subparagraphs lettered, so as to enable the Commissioner to admit or deny each allegation. See Rules 31(a) and 34(b)(5).]

WHEREFORE, petitioner prays that [here set forth the relief desired].

(Signed) .....
Petitioner or Counsel

.....
Present Address–City, State, ZIP Code

Dated: .....

.....
(Area code) Telephone No.

.....
E-mail Address

.....
Counsel's Tax Court Bar Number

Form 2. Petition (Simplified Form)

FORM 2

United States Tax Court

Washington, DC 20217

_____ (PLEASE TYPE OR PRINT NAME OR NAMES) Petitioner v. COMMISSIONER OF INTERNAL REVENUE, Respondent	Docket No.

PETITION
(Simplified Form)

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

- ☐ Notice of Deficiency
- ☐ Notice of Determination Concerning Collection Action
- ☐ Notice of Final Determination for [Full/Partial] Disallowance of Interest Abatement Claim (or Failure of IRS to Make Final Determination Within 180 Days After Claim for Abatement)
- ☐ Notice of Determination of Worker Classification
- ☐ Notice of Determination Concerning Relief From Joint and Several Liability Under Section 6015 (or Failure of IRS to Make Determination Within 6 Months After Election or Request for Relief)
- ☐ Notice of Certification of Your Seriously Delinquent Federal Tax Debt to the Department of State
- ☐ Notice of Determination Under Section 7623 Concerning Whistleblower Action

NOTE: For additional information, please see "Taxpayer Information: Starting a Case" at www.ustaxcourt.gov or in the Court's information booklet.

2. If applicable, provide the date(s) the IRS issued the NOTICE(S) checked above and the city and State of the IRS office(s) issuing the NOTICE(S): _____

3. Provide the year(s) or period(s) for which the NOTICE(S) was/were issued: _____

4. Select one of the following (unless your case is a whistleblower or a certification action):

If you want your case conducted under small tax case procedures, check here: ☐
If you want your case conducted under regular tax case procedures, check here: ☐ **(CHECK ONE BOX)**

NOTE: A decision in a "small tax case" cannot be appealed to a Court of Appeals by the taxpayer or the IRS. If you do not check either box, the Court will file your case as a regular tax case.

5. Explain why you disagree with the IRS action(s) in this case (please list each point separately):

_____

_____

_____

_____

_____

FORM 2 (REV. 03/23)

6. State the facts upon which you rely (please list each point separately):

_____

_____

_____

_____

_____

You may use additional pages to explain why you disagree with the IRS action(s) or to state additional facts. Please do not submit tax forms, receipts, or other types of evidence with this petition.

Please check the appropriate boxes to indicate that you will include the following items with this petition:

☐ A copy of any NOTICE(S) the IRS issued to you (omit or redact personal information (e.g., Social Security Numbers))

☐ Statement of Taxpayer Identification Number (Form 4) (see PRIVACY NOTICE below)

☐ Request for Place of Trial (Form 5) ☐ The filing fee

PRIVACY NOTICE: Form 4 (Statement of Taxpayer Identification Number) will not be part of the Court's public files. All other documents filed with the Court, including this petition and any IRS Notice that you enclose with this petition, will become part of the Court's public files. To protect your privacy, omit or redact (e.g., black out or cover) from this petition, any enclosed IRS Notice, and any other document (other than Form 4) your taxpayer identification number (e.g., your Social Security number) and certain other confidential information as specified in the Tax Court's "Notice Regarding Privacy and Public Access to Case Files," available at www.ustaxcourt.gov.

_____ _____

SIGNATURE OF PETITIONER DATE (AREA CODE) TELEPHONE NO.

_____ _____

MAILING ADDRESS CITY, STATE, ZIP CODE

State of legal residence (if different from the mailing address): _____ EMAIL ADDRESS: _____

Check this box if you want to register for electronic filing and electronic service at the email address provided above.
If this box is checked, then no paper service will be made to your mailing address after the Court verifies your email address.

_____ _____

SIGNATURE OF ADDITIONAL PETITIONER (e.g., SPOUSE) DATE (AREA CODE) TELEPHONE NO.

_____ _____

MAILING ADDRESS CITY, STATE, ZIP CODE

State of legal residence (if different from the mailing address): _____ EMAIL ADDRESS: _____

Check this box if you want to register for electronic filing and electronic service at the email address provided above.
If this box is checked, then no paper service will be made to your mailing address after the Court verifies your email address.

_____ _____ _____

SIGNATURE OF COUNSEL, IF RETAINED BY PETITIONER(S) NAME OF COUNSEL DATE

_____ _____

TAX COURT BAR NO. MAILING ADDRESS, CITY, STATE, ZIP CODE

_____ _____

EMAIL ADDRESS (AREA CODE) TELEPHONE NO.

Electronic filing is generally required for all papers filed by parties represented by counsel in open cases. See Tax Court Rule 26(b).

FORM 2 (REV. 03/23)

United States Tax Court

Washington, DC 20217

Filing a Case in the United States Tax Court

Before filing your case in the United States Tax Court, please read these instructions carefully. It is important that you properly complete your petition and submit all required documents. Please do not submit tax forms, receipts, or other types of evidence with your petition.

You can file your petition electronically on the Court's website, www.ustaxcourt.gov, by following the Court's eFiling & Case Management page to DAWSON, the Court's electronic filing and case management system. If you do not already have one, create a DAWSON account. Follow the prompts and instructions for filing a petition and accompanying required documents. For further important information and guidance, see "Guidance for Petitioners" on the Court's website or the "Information for Persons Representing Themselves Before the U.S. Tax Court" booklet available from the Tax Court.

Alternatively, you can file a petition by mailing it, along with the required documents listed below, to United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217. Please make sure to enclose the following items with your petition:

1) A copy of any Notice of Deficiency, Notice of Determination, or Final Determination the IRS sent you. **Omit or redact (e.g., black out or cover) your personal information (e.g., Social Security Number, Individual Taxpayer Identification Number) on the IRS notice or determination.**

2) Your Statement of Taxpayer Identification Number (Form 4). This is the only document that should include personal information (e.g., Social Security Number, Individual Taxpayer Identification Number).

3) The Request for Place of Trial (Form 5).

4) The $60 filing fee, payable by check, money order, or other draft, to the "Clerk, United States Tax Court," or, if applicable, the application for waiver of filing fee. If the filing fee is not paid or waived, the case will be dismissed.

Small Tax Case or Regular Tax Case

You can choose to have your case conducted as either a small tax case or a regular case by checking the appropriate box in paragraph 4 of the petition form (Form 2). "Small tax cases" are handled under simpler, less formal procedures than regular cases. However, the Tax Court's decision in a small tax case cannot be appealed to a Court of Appeals by the IRS or by the taxpayer(s). If you do not check either box, then the Court will file your case as a regular case.

Only certain disputes are eligible to be filed as small tax cases. You cannot file your case as a small tax case if you seek review of a whistleblower or a certification action. You may file your case as a small tax case if your dispute is one of the eligible actions listed in paragraph 1 of the petition form (Form 2) and meets certain dollar limits, which vary slightly depending on the type of action you seek to have the Tax Court review:

1) If you seek review of a **Notice of Deficiency**, the amount of the deficiency (including any additions to tax or penalties) that you dispute cannot exceed $50,000 for any year.

2) If you seek review of a **Notice of Determination Concerning Collection Action**, the total amount of unpaid tax cannot exceed $50,000 for all years combined.

3) If you seek review of a **Notice of Final Determination for [Full/Partial] Disallowance of Interest Abatement Claim** (or at least 180 days have passed since you filed a claim for interest abatement and the IRS has failed to send you a Notice of Final Determination), the amount of the claimed abatement in dispute cannot exceed $50,000.

4) If you seek review of a **Notice of Determination of Worker Classification**, the amount in dispute cannot exceed $50,000 for any calendar quarter.

5) If you seek review of a **Notice of Determination Concerning Relief From Joint and Several Liability Under Section 6015** (or at least 6 months have passed since you filed a request for spousal relief and the IRS has not issued a Notice of Determination to you), the amount of spousal relief sought cannot exceed $50,000 for all years combined.

Form 3. Petition for Administrative Costs (Sec. 7430(f)(2))

FORM 3

PETITION FOR ADMINISTRATIVE COSTS (SEC. 7430(f)(2))

(See Rules 270 through 274.)

www.ustaxcourt.gov

UNITED STATES TAX COURT

.....
Petitioner(s)
v.
COMMISSIONER OF INTERNAL REVENUE,
Respondent
} Docket No.

PETITION FOR ADMINISTRATIVE COSTS
(Sec. 7430(f)(2))

1. Petitioner(s) appeal(s) the DECISION dated ..... denying (in whole or in part) an award for reasonable administrative costs by the Internal Revenue Service. A copy of the DECISION should be redacted as provided by Rule 27 and attached to the petition. You must submit with the petition a Form 4, Statement of Taxpayer Identification Number.

2. Set forth in the appropriate column the AMOUNT of administrative costs (a) claimed in the administrative proceeding, (b) denied by the Internal Revenue Service, and (c) now claimed in this Court proceeding (if different from the amount claimed in the administrative proceeding).

(a) Claimed	(b) Denied	(c) Now claimed
$	$	$

3. Explain briefly why you disagree with the DECISION denying an award for reasonable administrative costs by the Internal Revenue Service.

.....
.....
.....
.....

4. Petitioner(s)' present net worth (does) (does not) exceed $2,000,000. [Strike through as appropriate.]

....
Signature of Petitioner Date Signature of Petitioner (Spouse) Date

.....
Present Address—City, State, ZIP Code, Telephone No. (including Area Code)

.....
Signature of counsel (if retained by petitioners) Date

.....
Name, Address, Telephone No. (including Area Code), and Tax Court Bar No. of Counsel

(7/6/12)

Form 4. Statement of Taxpayer Identification Number

UNITED STATES TAX COURT
www.ustaxcourt.gov

_____
Petitioner(s)

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent

} Docket No.

STATEMENT OF TAXPAYER IDENTIFICATION NUMBER
(E.g., Social Security number(s), employer identification number(s))

Name of Petitioner _____

Petitioner's Taxpayer Identification Number _____

Name of Additional Petitioner _____

Additional Petitioner's Taxpayer Identification Number _____

If either petitioner is seeking relief from joint and several liability on a joint return pursuant to Section 6015, I.R.C. 1986, and Rules 320 through 325, name of the other individual with whom petitioner filed a joint return:

_____

Taxpayer Identification Number of the other individual, if available:

_____

_____ _____
SIGNATURE OF PETITIONER OR COUNSEL DATE

_____ _____
SIGNATURE OF ADDITIONAL PETITIONER DATE

T.C. FORM 4 (01/08)

Form 5. Request for Place of Trial

UNITED STATES TAX COURT
www.ustaxcourt.gov

Petitioner(s)

v.

COMMISSIONER OF INTERNAL REVENUE,

Respondent

Docket No.

REQUEST FOR PLACE OF TRIAL

PLACE AN "X" IN ONLY ONE BOX TO REQUEST THE PLACE OF TRIAL. IF PETITIONER(S) ELECTED TO HAVE THE CASE CONDUCTED AS A SMALL TAX CASE, REQUEST ANY CITY LISTED BELOW; OTHERWISE, REQUEST ANY CITY NOT MARKED WITH AN ASTERISK (*).

ALABAMA
- ☐ Birmingham
- ☐ Mobile

ALASKA
- ☐ Anchorage

ARIZONA
- ☐ Phoenix

ARKANSAS
- ☐ Little Rock

CALIFORNIA
- ☐ Fresno*
- ☐ Los Angeles
- ☐ San Diego
- ☐ San Francisco

COLORADO
- ☐ Denver

CONNECTICUT
- ☐ Hartford

DISTRICT OF COLUMBIA
- ☐ Washington

FLORIDA
- ☐ Jacksonville
- ☐ Miami
- ☐ Tallahassee*
- ☐ Tampa

GEORGIA
- ☐ Atlanta

HAWAII
- ☐ Honolulu

IDAHO
- ☐ Boise
- ☐ Pocatello*

ILLINOIS
- ☐ Chicago
- ☐ Peoria*

INDIANA
- ☐ Indianapolis

IOWA
- ☐ Des Moines

KANSAS
- ☐ Wichita*

KENTUCKY
- ☐ Louisville

LOUISIANA
- ☐ New Orleans
- ☐ Shreveport*

MAINE
- ☐ Portland*

MARYLAND
- ☐ Baltimore

MASSACHUSETTS
- ☐ Boston

MICHIGAN
- ☐ Detroit

MINNESOTA
- ☐ St. Paul

MISSISSIPPI
- ☐ Jackson

MISSOURI
- ☐ Kansas City
- ☐ St. Louis

MONTANA
- ☐ Billings*
- ☐ Helena

NEBRASKA
- ☐ Omaha

NEVADA
- ☐ Las Vegas
- ☐ Reno

NEW MEXICO
- ☐ Albuquerque

NEW YORK
- ☐ Albany*
- ☐ Buffalo
- ☐ New York City
- ☐ Syracuse*

NORTH CAROLINA
- ☐ Winston-Salem

NORTH DAKOTA
- ☐ Bismarck*

OHIO
- ☐ Cincinnati
- ☐ Cleveland
- ☐ Columbus

OKLAHOMA
- ☐ Oklahoma City

OREGON
- ☐ Portland

PENNSYLVANIA
- ☐ Philadelphia
- ☐ Pittsburgh

SOUTH CAROLINA
- ☐ Columbia

SOUTH DAKOTA
- ☐ Aberdeen*

TENNESSEE
- ☐ Knoxville
- ☐ Memphis
- ☐ Nashville

TEXAS
- ☐ Dallas
- ☐ El Paso
- ☐ Houston
- ☐ Lubbock
- ☐ San Antonio

UTAH
- ☐ Salt Lake City

VERMONT
- ☐ Burlington*

VIRGINIA
- ☐ Richmond
- ☐ Roanoke*

WASHINGTON
- ☐ Seattle
- ☐ Spokane

WEST VIRGINIA
- ☐ Charleston

WISCONSIN
- ☐ Milwaukee

WYOMING
- ☐ Cheyenne*

Signature of Petitioner(s) or Counsel

Date

T.C. FORM 5 (REV. 09/10)

Form 6. Corporate Disclosure Statement

FORM 6

United States Tax Court

Washington, DC 20217

Petitioner v. COMMISSIONER OF INTERNAL REVENUE, Respondent	Docket No.

CORPORATE DISCLOSURE STATEMENT

(See Rule 20(c).)

The undersigned counsel or duly authorized representative for _____ (name of filer) certifies that (please mark the appropriate option):

(1) _____ The filer's parent corporation and any publicly held corporation owning 10% or more of the filer's stock are listed here:

_____

_____

_____

OR

(2) _____ The filer does not have a parent corporation, nor is there any publicly held corporation that owns 10% or more of the filer's stock.

_____ _____

Signature of Filer's Counsel or Duly Authorized Representative — Date

_____

Mailing Address

_____

City/State/Zip Code

_____

Email Address

FORM 6 (REV. 03/23)

Form 7. Entry of Appearance

UNITED STATES TAX COURT

_____,
Petitioner(s)

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent

Docket No. _____

ENTRY OF APPEARANCE

The undersigned, being duly admitted to practice before the United States Tax Court, hereby enters an appearance for _____ in the above-entitled case.
(Party/Parties)

Dated: _____

_____
Signature

_____
Printed Name

_____
Office Address

_____
City State/ZIP Code

_____
(Area Code) Telephone No.

_____
Tax Court Bar No.

_____
E-mail Address

A SEPARATE ENTRY OF APPEARANCE MUST BE FILED
FOR EACH DOCKET NUMBER.

Form 7 (Rev. 7/19)

Form 8. Substitution of Counsel

UNITED STATES TAX COURT

_____,
Petitioner(s)

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent

Docket No. _____

SUBSTITUTION OF COUNSEL

The undersigned, being duly admitted to practice before the United States Tax Court, hereby enters an appearance for _____ in the above-entitled case.
(Party/Parties)

Dated: _____

_____
Signature

_____
Printed Name

_____
Office Address

_____
City State/ZIP Code

_____
(Area Code) Telephone No.

_____
Tax Court Bar No.

_____
E-mail Address

The undersigned hereby withdraws as counsel for _____ in the above-entitled case. Notice of the substitution of the above-named counsel has been given to petitioner(s) and/or counsel for petitioner(s) and to each of the other parties to the case or their counsel, and no party objects to the substitution and withdrawal.

Dated: _____

_____
Signature

_____
Printed Name

Form 8 (Rev. 7/19)

Form 9. Certificate of Service

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing paper was served on

_____ by (delivering the same to _____

at _____

on _____) or (mailing the same on _____

in a postage-paid wrapper addressed to _____

at _____).

Dated: _____ _____

T.C. Form 9 (08/12)

Form 10. Notice of Change of Address

FORM 10

United States Tax Court
Washington, DC 20217

Petitioner v. COMMISSIONER OF INTERNAL REVENUE, Respondent	Docket No.

NOTICE OF CHANGE OF ADDRESS
(See Rule 21(c).)*

Please take notice that my address and/or contact information has changed. My present address and contact information are as follows:

Name _____

Mailing Address _____

City, State, Zip Code _____

Email Address _____

Telephone Number _____

Tax Court Bar No. (if applicable) _____

_____ _____
Signature Date

*See also Rule 200(e), which requires each person admitted to practice before the Tax Court promptly to notify the Admissions Clerk of any change in address. The most expedient way a practitioner can notify the Court of a change in office or email address is to update his or her contact information through the Court's electronic filing and case management system (DAWSON), https://dawson.ustaxcourt.gov, which will result in the system's automatically generating a notice updating the practitioner's contact information in open cases and cases closed within 6 months before the update. Alternatively, a practitioner can file Form 10 in each pending case in which the practitioner has entered an appearance. A practitioner who has not entered an appearance in a pending case can satisfy the Rule 200(e) notification requirement by submitting Form 10 (omitting any caption and docket number) or other written communication to the Admissions Clerk via mail or email at admissions@ustaxcourt.gov.

FORM 10 (REV. 03/23)

Form 11. Notice of Election to Intervene

FORM 11

NOTICE OF ELECTION TO INTERVENE
(Action for Readjustment of Partnership Items)

(See Rule 245.)
www.ustaxcourt.gov

UNITED STATES TAX COURT

ABC Partnership, Richard Roe,
A Partner Other Than the Tax
Matters Partner,
Petitioner
v.
COMMISSIONER OF INTERNAL REVENUE,
Respondent

} Docket No.

NOTICE OF ELECTION TO INTERVENE

Mary Doe, the tax matters partner in the ABC Partnership, hereby elects to intervene, pursuant to section 6226(b)(5), I.R.C. 1986, and Rule 245(a), Tax Court Rules of Practice and Procedure, in the above-entitled action for readjustment of partnership items.

Dated: .....

.....
Mary Doe
Tax Matters Partner
Present Address—City, State,
ZIP Code, Telephone No.
(including Area Code)

Dated: .....

.....
Counsel for Tax Matters Partner
Present Address—City, State,
ZIP Code, Telephone No.
(including Area Code)
Tax Court Bar No.

(7/6/12)

Form 12. Notice of Election to Participate

FORM 12

NOTICE OF ELECTION TO PARTICIPATE
(Action for Readjustment of Partnership Items)

(See Rule 245.)
www.ustaxcourt.gov

UNITED STATES TAX COURT

ABC Partnership, Mary Doe,
Tax Matters Partner,
Petitioner
v.
COMMISSIONER OF INTERNAL REVENUE,
Respondent

} Docket No.

NOTICE OF ELECTION TO PARTICIPATE

Richard Roe hereby elects to participate, pursuant to section 6226(c)(2), I.R.C. 1986, and Rule 245(b), Tax Court Rules of Practice and Procedure, in the above-entitled action for readjustment of partnership items.

Richard Roe satisfies the requirements of section 6226(d), I.R.C. 1986, because he was a partner during the applicable period(s) for which readjustment of partnership items is sought and, if such readjustment is made, the tax attributable to such partnership items may be assessed against him.

Dated: .....

.....
Richard Roe
Present Address—City, State,
ZIP Code, Telephone No.
(including Area Code)

Dated: .....

.....
Counsel for Richard Roe
Present Address—City, State,
ZIP Code, Telephone No.
(including Area Code)
Tax Court Bar No.

(7/6/12)

Form 13. Notice of Intervention

UNITED STATES TAX COURT

WASHINGTON, DC 20217

_____,
Petitioner(s)

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent

Docket No. _____

NOTICE OF INTERVENTION

Intervenor, _____, the spouse or former spouse of petitioner, hereby intervenes, pursuant to section 6015(e)(4), I.R.C. 1986, and Rule 325, Tax Court Rules of Practice and Procedure, in the above-entitled action.

The grounds for my intervention and reasons why I agree or disagree with the Petition for Determination of Relief From Joint and Several Liability on a Joint Return served on me by respondent, are as follows:

_____

_____

_____

_____

_____

Dated: _____

_____
Intervenor

_____
Present Address

_____
Telephone No. (including area code)

Dated: _____

_____
Counsel for Intervenor (if retained by intervenor)

_____
Present Address

_____
Telephone No. (including area code)

_____
Tax Court Bar No.

T.C. Form 13 (08/12)

Form 14A. Subpoena to Appear and Testify at a Hearing or Trial

FORM 14A

United States Tax Court
Washington, DC 20217

_____,
Petitioner(s)

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent

} Docket No.

SUBPOENA TO APPEAR AND TESTIFY AT A HEARING OR TRIAL

To _____

YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a hearing or trial before the United States Tax Court in the above-captioned case and not to depart without leave of the Court:

Place: _____ Date and Time: _____

_____ _____

_____ _____

Production: You must also bring with you to the hearing or trial the following documents, electronically stored information, or tangible things *(blank if not applicable)*:

_____

_____

_____

Use reverse if necessary

The provisions of Tax Court Rule of Practice and Procedure 147(d), relating to your protection as a person subject to a subpoena, and Rule 147(e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: _____

Signature: _____
Counsel for ----------

/s/ Charles G. Jeane
Clerk of the Court

RETURN ON SERVICE

The above-named witness was summoned on _____ (Date) at _____ (Time)
by delivering a copy of this subpoena to the witness and complying with the requirements of Rule 147(b)(1) of the Rules of Practice and Procedure of the Tax Court concerning fees and mileage.

Dated _____ Signed _____

Subscribed and sworn to before me this _____ day of _____, 20____

[SEAL]

_____ (Name) _____ (Title)

FORM 14A (REV. 03/23)

Small Tax Case or Regular Tax Case

You can choose to have your case conducted as either a small tax case or a regular case by checking the appropriate box in paragraph 4 of the petition form (Form 2). "Small tax cases" are handled under simpler, less formal procedures than regular cases. However, the Tax Court's decision in a small tax case cannot be appealed to a Court of Appeals by the IRS or by the taxpayer(s). If you do not check either box, then the Court will file your case as a regular case.

Only certain disputes are eligible to be filed as small tax cases. You cannot file your case as a small tax case if you seek review of a whistleblower or a certification action. You may file your case as a small tax case if your dispute is one of the eligible actions listed in paragraph 1 of the petition form (Form 2) and meets certain dollar limits, which vary slightly depending on the type of action you seek to have the Tax Court review:

1) If you seek review of a **Notice of Deficiency**, the amount of the deficiency (including any additions to tax or penalties) that you dispute cannot exceed $50,000 for any year.

2) If you seek review of a **Notice of Determination Concerning Collection Action**, the total amount of unpaid tax cannot exceed $50,000 for all years combined.

3) If you seek review of a **Notice of Final Determination for [Full/Partial] Disallowance of Interest Abatement Claim** (or at least 180 days have passed since you filed a claim for interest abatement and the IRS has failed to send you a Notice of Final Determination), the amount of the claimed abatement in dispute cannot exceed $50,000.

4) If you seek review of a **Notice of Determination of Worker Classification**, the amount in dispute cannot exceed $50,000 for any calendar quarter.

5) If you seek review of a **Notice of Determination Concerning Relief From Joint and Several Liability Under Section 6015** (or at least 6 months have passed since you filed a request for spousal relief and the IRS has not issued a Notice of Determination to you), the amount of spousal relief sought cannot exceed $50,000 for all years combined.

Form 14B. Subpoena to Testify at a Deposition

FORM 14B

United States Tax Court
Washington, DC 20217

_____,
Petitioner(s)

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent

} Docket No.

SUBPOENA TO TESTIFY AT A DEPOSITION

To _____

_____

YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in the above-captioned case:

Place: _____ Date and Time: _____

The deposition will be recorded by (name of officer or recording company): _____

Production: You must also bring with you to the deposition the following documents, electronically stored information, or tangible things *(blank if not applicable)*:

_____

_____

_____

Use reverse if necessary

The provisions of Tax Court Rule of Practice and Procedure 147(d), relating to your protection as a person subject to a subpoena, and Rule 147(e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: _____

Signature: _____
Counsel for ----------

/s/ Charles G. Jeane
Clerk of the Court

RETURN ON SERVICE

The above-named witness was summoned on _____ (Date) at _____ (Time)
by delivering a copy of this subpoena to the witness and complying with the requirements of Rule 147(b)(1) of the Rules of Practice and Procedure of the Tax Court concerning fees and mileage.

Dated _____ Signed _____

Subscribed and sworn to before me this _____ day of _____, 20____

[SEAL]

_____ (Name) _____ (Title)

FORM 14B (REV. 03/23)

Tax Court Rule of Practice and Procedure 147 (d) and (e)
(Effective 03/20/2023)

(d) Protecting a Person Subject to a Subpoena; Enforcement:

(1) *Avoiding Undue Burden or Expense; Sanctions*: A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The Court will enforce this duty and impose an appropriate sanction, which may include an award of lost earnings and reasonable attorney's fees, against a party or attorney who fails to comply.

(2) *Command To Produce Materials*:

(A) *Release from Attendance*: If a person has complied with a command in a subpoena to produce documents, electronically stored information, or tangible things, the serving party may excuse the person from attending and giving testimony at the time and place specified in the subpoena.

(B) *Objections*: A person commanded to produce documents or tangible things may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials, or to producing electronically stored information in the form or forms requested. The objection must be served within 15 days after the subpoena is served or within the time specified for compliance, if earlier. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the Court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena*:

(A) *When Required*: On timely motion, the Court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iii) subjects a person to undue burden.

(B) *When Permitted*: To protect a person subject to or affected by a subpoena, the Court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative*: In the circumstances described in Rule 147(d)(3)(B), the Court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena:

(1) *Producing Documents or Electronically Stored Information*: These procedures apply to producing documents or electronically stored information:

(A) *Documents*: A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified*: If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form*: The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information*: The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the Court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 70(c)(1). The Court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection*:

(A) *Information Withheld*: A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced*: If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party who received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the Court for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

Form 15. Application for Order to Take Deposition to Perpetuate Evidence

UNITED STATES TAX COURT

_____
Petitioner,

V.

Commissioner of Internal Revenue,
Respondent.

} Docket No.

APPLICATION FOR ORDER TO TAKE DEPOSITION TO PERPETUATE EVIDENCE*

To the United States Tax Court:

1. Application is hereby made by the above-named _____ (petitioner or respondent)

for an order to take the deposition(s) of the following-named person(s) who has (have) been served with a copy of this application, as evidenced by the attached certificate of service.

	Name of witness	*Post office address*
(a)	_____	_____
(b)	_____	_____
(c)	_____	_____
(d)	_____	_____

2. It is desired to take the deposition(s) of the above-named person(s) for the following reasons (With respect to each of the above-named persons, set forth the reasons for taking the depositions rather than waiting until trial to introduce the testimony or other evidence):

(a) _____

(b) _____

(c) _____

(d) _____

3. The substance of the testimony, to be obtained through the deposition(s), is as follows (With respect to each of the above-named persons, set forth briefly the substance of the expected testimony or other evidence):

(a) _____

(b) _____

(c) _____

(d) _____

*An application for an order to take deposition to perpetuate evidence must be filed at least 45 days prior to the date set for trial. When the applicant seeks to take depositions upon written questions, the title of the application shall so indicate and the application shall be accompanied by an original and five copies of the proposed questions. The taking of depositions upon written questions is not favored, except when the depositions are to be taken in foreign countries, in which case any depositions taken *must* be upon written questions, except as otherwise directed by the Court for cause shown. (See Rule 84(a).) If the parties so stipulate, depositions may be taken without application to the Court. (See Rule 81(d).) This form may not be used for depositions for discovery purposes, which may be taken only in accordance with Rule 74.

(OVER)

4. The following books, papers, documents, electronically stored information, or other tangible things to be produced at the deposition, are as follows (With respect to each of the above-named persons, describe briefly all things which the applicant desires to have produced at the deposition):

(a) _____

_____

(b) _____

_____

(c) _____

_____

(d) _____

_____

5. The expected testimony or other evidence is material to one or more matters in controversy, in the following Respects:

(a) _____

_____

(b) _____

_____

(c) _____

_____

(d) _____

_____

6. *(a)* This deposition (will) (will not) be taken on written questions (see Rule 84).
(b) All such written questions are annexed to this application (attach such questions pursuant to Rule 84).

7. The petition in this case was filed with the Court on _____. The pleadings in this case
(month, day, year)
(are) (are not) closed. This case (has) (has not) been placed on a trial calendar.

8. An arrangement as to payment of fees and expenses of the deposition is desired which departs from the Rules 81(g) and 103, as follows:

_____

_____

9. It is desired to take the testimony of _____ on the _____ day

of _____, 20_____, at the hour of _____ o'clock _____ m, at

_____
(state room number, street number, street name, city and state)

before _____
(state name and official title)

10. _____ is a person who is authorized
(name of person before whom deposition is to be taken)

to administer an oath, in his/her capacity as _____. Such person is not a relative or employee or counsel of any party, or a relative or employee or associate of such counsel, nor is he/she financially interested in the action. (For possible waiver of this requirement, see Rule 81(e)(3).)

11. It is desired to record the testimony of _____
(name of witness)

before _____ by videotape. The name and address of the videotape
(name of person before whom deposition is to be taken)

operator is _____
(name)

_____
(address)

and the name and address of his/her employer is _____
(name)

_____
(address)

Dated _____, 20_____

(Signed) _____
(Petitioner or Counsel)

_____
(Post Office Address)

_____
(Counsel's Tax Court Bar Number)

Form 16. Certificate on Return of Deposition

UNITED STATES TAX COURT

WASHINGTON, DC 20217

_____,
Petitioner(s)

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent

Docket No. _____

CERTIFICATE ON RETURN OF DEPOSITION

To the United States Tax Court:

I, _____, the person named in an order of this Court dated _____, to take depositions in this case, hereby certify:

1. I proceeded, on _____ (Date), at the office of _____, at _____ (Room number, street number, street name, city and State), at _____ o'clock __.m., under the said order and in the presence of _____ and _____, the counsel of the respective parties, to take the following depositions, viz:

_____, a witness produced on behalf of the _____ (Petitioner or Respondent);

_____, a witness produced on behalf of the _____ (Petitioner or Respondent);

_____, a witness produced on behalf of the _____ (Petitioner or Respondent).

2. Each witness was examined under oath at such times and places as conditions of adjournment required, and the testimony of each witness (or each witness's answers to the questions filed) was recorded or otherwise reported and reduced to writing by me or under my direction.

3. After the said testimony of each witness was reduced to writing, the transcript of the testimony was read and signed by the witness and was acknowledged by the witness to be the witness's testimony, in all respects only and correctly transcribed except as otherwise stated.

4. All exhibits introduced during the deposition are transmitted herewith, except to the following extent agreed to by the parties or directed by the Court [state disposition of exhibits if not transmitted with the deposition]:

5. This deposition _____ (was or was not) taken on written questions pursuant to Rule 84 of the Rules of Practice and Procedure of the United States Tax Court. All such written questions are annexed to the deposition.

6. After the signing of the deposition, no alterations or changes were made therein.

7. I am not a relative or employee or counsel of any party, or a relative or employee or associate of such counsel, nor am I financially interested in the action.

_____
Signature of person taking deposition

_____
Official title

NOTE—This form, when properly executed, should be attached to and bound with the transcript preceding the first page thereof. It should then be delivered to the party taking the deposition or such party's counsel.

T.C. Form 16 (08/12)

Form 17. Notice of Appeal to Court of Appeals

FORM 17

NOTICE OF APPEAL TO COURT OF APPEALS FROM A DECISION OF
THE UNITED STATES TAX COURT
(See Rules 190 and 191.)
www.ustaxcourt.gov

UNITED STATES TAX COURT
Washington, D.C.

Docket No. _____

_____
Petitioner(s)

v.

Notice of Appeal

COMMISSIONER OF INTERNAL REVENUE,
Respondent

_____ (name all parties taking the appeal)*

appeal to the United States Court of Appeals for the _____ Circuit from the

decision entered on _____ (state the date the decision was entered).

(s)_____

Attorney for _____

Address:_____

* See Rule 3(c) of the Federal Rules of Appellate Procedure for permissible ways of identifying appellants.

Information For Self-Represented Petitioners About Filing a Notice of Appeal

Tax Court Form 17 provides the form to use in filing a notice of appeal of a Tax Court decision or dispositive order. It is important that you take the time to carefully read the following information and that you properly complete the notice of appeal form before filing it with the Tax Court. See Rule 190. How Appeal Taken.

Notice of Appeal in a Regular Case

If your case is a regular case, you may appeal the Tax Court's decision to one of the U.S. Courts of Appeals. A decision is a judicial determination that disposes of a case. In most cases, the Court will first issue an opinion that explains the grounds for the decision. You must wait for a decision (as opposed to the Court's opinion) to be entered by the Tax Court before you file a notice of appeal. A dispositive order is treated as a decision of the Court for purposes of appeal. See Rule 190(b).

Important Note: The Tax Court's decision in a small tax case cannot be appealed by the taxpayer/petitioner or by the IRS. See I.R.C. section 7463(b).

Identifying the Person(s) Taking the Appeal

All persons who wish to appeal a Tax Court decision must be identified in the first sentence of the notice of appeal. Rule 3(c) of the Federal Rules of Appellate Procedure sets forth permissible ways of identifying appellants (i.e., the persons filing the notice of appeal) and provides in relevant part that a notice of appeal filed by a person who is self-represented is considered filed on behalf of the signer and the signer's spouse unless the notice clearly indicates otherwise.

Time For Filing a Notice of Appeal

A notice of appeal must be filed with the Tax Court within 90 days after the Tax Court decision is entered. If the IRS files a timely notice of appeal, the petitioner may file a notice of appeal within 120 after the Court's decision is entered. See Rule 190. How Appeal Taken.

How/Where to File a Notice of Appeal

A notice of appeal may be filed electronically pursuant to the Court's eFiling provisions or mailed to the U.S. Tax Court, 400 Second Street, N.W., Washington, D.C. 20217.

Filing Fee

The filing fee for a notice of appeal is set forth in the Court of Appeals Miscellaneous Fee Schedule. The Tax Court strongly encourages a party filing a notice of appeal to pay the filing fee through Pay.gov. The filing fee may also be paid by cash, check, money order or other draft made payable to the order of "Clerk, United States Tax Court".

Request for Waiver of Filing Fee

The Courts of Appeals have the sole authority to grant requests to waive the filing fee. Consequently, any request to waive the filing fee must be submitted directly to the Court of Appeals. Do not file with the Tax Court a request to waive the filing fee for a notice of appeal.

Tax Court Records

After you have filed a notice of appeal, the Tax Court will transmit the record in your case to the Court of Appeals when that court requests it. See Rule 191. Preparation Of The Record On Appeal.

Additional Filings

Once you have filed a notice of appeal, all future filings in your case should be filed with the Court of Appeals.

Assessment and Collection

The filing of a notice of appeal does not stop the IRS from assessing or collecting a deficiency redetermined by the Tax Court in its decision unless you first file a bond with the Tax Court under I.R.C. section 7485.

Form 18. Unsworn Declaration Under Penalty of Perjury

UNITED STATES TAX COURT
www.ustaxcourt.gov

_____,
Petitioner(s)

v.
COMMISSIONER OF INTERNAL REVENUE,
Respondent

Docket No. _____

UNSWORN DECLARATION UNDER PENALTY OF PERJURY

I, _____, declare from my personal knowledge that the following facts are true:

[State the facts in as many numbered paragraphs as are needed. Attach additional pages if necessary.]

1. _____

2. _____

3. _____

4. _____

5. _____

I declare under penalty of perjury that the foregoing is true and correct. Executed on _____.

_____
[Signature]

OR

[If the declaration is executed outside of the United States:]

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on _____.

_____
[Signature]

T.C. FORM 18 (07/12)

INDEX

References are to Rule numbers except where specified otherwise.