

**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).)