

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).)