

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).)