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).)