

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).)