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February 22, 2016

Chief Judge Michael B. Thornton
United States Tax Court
400 Second Street, NW
Washington, DC 20217

Re: Proposed Tax Court Rule Changes

Dear Judge Thornton,

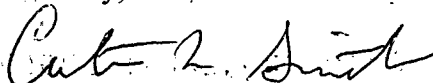
Last fall, the Court solicited comments, concerns, and proposals in connection with revising the Tax Court Rules of Practice and Procedure. I submitted a comment letter, dated September 25, 2015. I apologize for sending this letter so belatedly, but there is another matter that needs changing which I forgot to include in my prior letter. My new comment has to do with the Tax Court's form for a notice of appeal, Form 17.

Rather than give my own comment, I simply wanted to highlight the following passage from Shah v. Commissioner, 790 F.3d 767, 768 n.1 (7th Cir. 2015) (per curiam):

On a related note, the notice of appeal signed by Shah -- which is a form made available by the Tax Court -- includes a footnote stating, "If husband and wife are parties, then both must sign if both want to appeal." *See T.C. Form 17, UNITED STATES TAX COURT*, https://www.ustaxcourt.gov/forms/Notice_of_Appeal_Form_17.pdf (last visited June 3, 2015). The footnote on the Tax Court's form is improper, as it directly contradicts Federal Rule of Appellate Procedure 3(c)(2). Rule 3(c)(2) applies to appeals from the Tax Court, *see* FED. R. APP. P. 13(a)(3), 14; TAX CT. R. 190(a), and provides that a "pro se appeal is considered filed on behalf of the signer and the signer's spouse and minor children (if they are parties), unless the notice clearly indicates otherwise," FED. R. APP. P. 3(c)(2).

Form 17 needs to be modified to conform to the Federal Rules of Appellate Procedure by modifying its footnote accordingly.

Sincerely,


Carlton M. Smith