



# Guidance for Petitioners

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This guide, also available on the U.S. Tax Court's [website](#), provides information, but not legal advice, for individuals who represent themselves before the Tax Court. It answers some of taxpayers' most frequent questions. It is a brief step-by-step explanation of the process of:

- Starting a case
- Things that occur before trial
- Things that occur during trial
- Things that occur after trial

A helpful [Glossary](#) (definition of terms) is available on the Court's website. A [User Guide](#) for the Court's electronic filing and case management system, is also available.

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## Starting A Case

### How do I start a case in the Tax Court?

You must file a [petition](#) to begin a case in the Tax Court. You can file a paper petition by mail or in person, or you can file an electronic petition through the Court's [DAWSON](#) system.

A party who files a petition in response to an IRS notice of deficiency, notice of determination, or notice of certification is called the "petitioner". The Commissioner of Internal Revenue is referred to as the "respondent" in Tax Court cases.

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### Who can file a petition with the Tax Court?

Anyone can file a petition who has received:

1. A notice of deficiency,
2. A notice of determination, or
3. A notice of certification.

You can also file a petition (in certain circumstances) if you filed a claim with the IRS for relief from joint and several liability (“innocent spouse relief”), six months have passed, and the IRS has not issued you a determination letter.

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**Is there anyone who can help me file a petition and/or help me in my case against the IRS?**

Yes. You may hire an attorney or other person admitted to practice before the Tax Court to represent you before the Tax Court.

You might qualify for help from an organization referred to as a tax clinic. There are a number of tax clinics throughout the United States participating in the Tax Court’s Clinical Program. You may want to contact a clinic in your geographic area. The Internal Revenue Service (Taxpayer Advocate Service) has a list of tax clinics on its website. The clinics have income restrictions, and a representative of the clinic will let you know whether you qualify to be represented. The Tax Court will send you information about tax clinics when you file your petition and when a Notice of Trial is sent to you.

There is additional help from organizations we refer to as calendar call programs. Tax practitioners volunteer their time to assist unrepresented low income taxpayers through professional organizations. If there is a participating Calendar Call Program in the city where you have requested trial, the Judge may identify the volunteer practitioners at the beginning of the trial session.

These tax clinics and Bar-related calendar call programs are not part of the Internal Revenue Service or the Tax Court. The Tax Court does not endorse or recommend any particular tax clinic or Bar-related calendar call program.

You may be represented in your Tax Court case by a private attorney, a clinic representative, or other person admitted to practice before the Court. The agreement of representation is between you and the representative and is independent of the Tax Court or the IRS. Your representative must be admitted to practice before the Tax Court. All representatives who practice before the Tax Court are subject to the American Bar Association’s Model Rules of Professional Conduct.

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## How can I find a tax clinic?

There are [tax clinics throughout the United States participating in the Tax Court's Clinical Program](#). You may want to contact one of the clinics in your geographic area. The Taxpayer Advocate of the Internal Revenue Service has a more extensive clinic list available on the IRS website ([www.irs.gov](http://www.irs.gov)). The Tax Court will send you information about tax clinics when you file your petition. The Court will also send tax clinic information when the Notice of Trial is sent to you. These tax clinics are not part of the Internal Revenue Service or the Tax Court. The Tax Court does not endorse or recommend any particular tax clinic or organization.

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## If I want to represent myself or if I don't qualify for representation by a tax clinic, can I represent myself?

You may file a petition with the Tax Court even if you do not have a representative. You may also present your case to a Judge without being represented. This guide is provided to help you in that process. If you decide to file a petition and to proceed to trial without a representative, you must pay close attention to all the Tax Court orders and notices you receive, and all the instructions provided. A petitioner who is not represented is still required to abide by the [Tax Court Rules of Practice and Procedure](#) (Tax Court Rules). If you have difficulty reading, writing, or understanding written instructions, you should seek help.

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## What should I do if I don't speak and/or understand English very well?

All proceedings in the Tax Court are in English. The Tax Court does not have staff available to assist non-English speaking petitioners. The [Tax Court Rules](#) provide that it is the responsibility of the parties to make arrangements for and compensate interpreters.

Many Low Income Taxpayer Clinics (LITCs) offer services in languages other than English. You can review [the Court's list](#) or the [Taxpayer Advocate's \(IRS\) more extensive list](#) and find a clinic convenient to you that may provide the language assistance you need.

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**Are there any circumstances where the Court will help pay for the cost of an interpreter at trial?**

Ordinarily, the parties are expected to arrange for and compensate any needed interpreters. There may, however, be extraordinary situations in which the Court will compensate an interpreter. You may file a motion requesting that the Court pay the expenses of an interpreter. In your motion you must satisfy the Court that (1) a language barrier exists (you speak primarily a language other than English or you have a hearing impairment); (2) you do not have the financial means to pay for an interpreter; and (3) the case presents a substantial question which is not frivolous. A Judge has discretion to grant or deny your motion to pay the expenses of an interpreter.

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**If I need an interpreter at trial, what should I do?**

You should make arrangements as early as possible to have an interpreter available. If you are unable to afford an interpreter, you should file a motion to request that the Court pay the expenses of an interpreter as soon as possible and generally no later than 30 days before trial. In your motion you should explain to the Court that you satisfy the three conditions set forth above: (1) A language barrier exists (you speak primarily a language other than English or you have a hearing impairment); (2) you do not have the financial means to pay for an interpreter; and (3) the case presents a substantial question which is not frivolous.

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**I thought I came to an agreement with the IRS, but the IRS sent me a notice of deficiency or a notice of determination stating that I have a right to file a petition with the Tax Court. Should I file a petition even though I thought my case was settled?**

It is difficult to know the circumstances in which you believe your case was settled. Because the IRS issued a notice, the IRS may be proceeding as if there is no settlement. To protect yourself against an unagreed assessment of tax or collection action, you should file a petition within the period set forth in the notice. You may also wish to contact the IRS about the status of your case.

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## **If I decide to file a petition, what is the next step?**

You can fill out a petition on the Tax Court website and print it, print out the petition form and fill it out, or fill in the petition form contained in the informational packet available from the Court. You may also file a petition online. For more information about eFiling a petition, refer to the Tax Court website at <https://ustaxcourt.gov/dawson.html>.

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## **How do I fill out my petition?**

**To eFile a petition, refer to the instructions and user guides available on the Tax Court website at <https://ustaxcourt.gov/dawson.html>.**

### **To file a paper petition:**

1. First, fill in your full name on the line at the top left of the petition. If you are a married couple filing a joint petition or if you were married in the tax year the return was filed and wish to file a joint petition, fill in both names on this line.
2. Next, check the appropriate box on line 1 for the type of case you intend to file. Place an X in the box that represents the type of letter you received from the IRS. For example:
  - If you received a Notice of Deficiency, check that box.
  - If you have a collection case, that is, the IRS has filed a Federal tax lien against property you own or has proposed a levy on your wages, bank accounts, State tax refunds, etc., and issued you a notice of determination, check the box for Notice of Determination Concerning Collection Action.
  - If you received a notice of determination concerning a request for relief from joint and several liability (innocent spouse relief), or if you filed a claim with the IRS for relief from joint and several liability, six months have passed, and the IRS has not issued a determination letter, check the box marked Notice of Determination Concerning Your Request for Relief From Joint and Several Liability.
  - If you received a Notice of Determination Concerning Worker Classification, check that box.
  - If you received a Final Determination for Disallowance of Interest Abatement, or if you requested abatement of interest and the IRS failed to make a determination within 180 days, check the box marked Notice of

Final Determination for [Full/Partial] Disallowance of Interest Abatement Claim (or Failure of IRS to Make Final Determination Within 180 Days After Claim for Abatement).

- If you received a Notice of Certification of Your Seriously Delinquent Federal Tax Debt to the Department of State, check that box.
  - If you received a Notice of Determination Under Section 7623 Concerning Whistleblower Action, check that box.
3. On line 2, put the mailing date of the notice you received. You should also enter the city and State of the IRS office that issued you the notice.
  4. Put the tax year(s) for which the notice was issued on line 3.
  5. On line 4, you should choose whether you want your case conducted as a regular or small tax case and check the appropriate box. If you do not check a box, the Court will file your case as a regular case.

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### **How do I decide whether to elect regular or small tax case procedures?**

The tax laws provide for small (S case) procedures for resolving disputes between taxpayers and the IRS. To have your case tried as an S case, you must qualify for and choose to have S case procedures applied to your case, and the Tax Court must agree with your choice. Generally, the Tax Court will agree with your request if you qualify for S case procedures.

1. Do I qualify for S case procedures?

In a deficiency case, the amount of the deficiency and any additions to tax or penalties—but not including interest—that you dispute for each year must be \$50,000 or less. In a collection action, the total unpaid tax (including interest and penalties) for all years cannot exceed \$50,000. In a request for spousal relief, the total amount of relief sought (including interest and penalties) cannot exceed \$50,000. In a worker classification case, the amount of employment taxes in dispute cannot exceed \$50,000 for any calendar quarter. In an interest abatement case, the amount of the abatement sought cannot exceed \$50,000. Not all types of cases are eligible for S case procedures.

2. What should I consider in deciding whether to choose S case procedures?

You should consider the following:

A. S case trials are held in about 15 more cities than are regular cases.

B. Pretrial and trial procedures are less formal in S cases.

C. The Federal Rules of Evidence (which provide many of the rules that regulate the conduct of the trial) are relaxed in S cases. This means that the Judge can consider any evidence that is relevant.

**D. There is no right of appeal to a U.S. Court of Appeals from a decision in an S case. If you lose your case, or lose some issues in your case, you cannot appeal the decision of the Tax Court to one of the U.S. Courts of Appeals. If you win your case, or win some issues in your case, the IRS cannot appeal. In contrast, you and/or the IRS can appeal a decision in a regular (non-S) case to a U.S. Court of Appeals.**

3. How do I choose S case procedures?

If you are filing in paper and you are using a Form 2, Petition (Simplified Form), place an X in the box on the petition form that indicates that you want your case conducted under small tax case procedures. If you are eFiling your petition, choose S case when prompted.

4. What do I do if I don't want to choose S case procedures?

If you are filing in paper and using Form 2, Petition (Simplified Form), place an X in the box on the petition form that indicates that you want your case conducted under regular tax case procedures.

5. If I don't choose S case status in my petition, may I choose it later?

Yes. If your case qualifies, you can generally choose S case procedures any time before trial. After your trial begins, however, it is too late to choose S case status.

6. What if I chose, and the Tax Court granted me, S case status but I changed my mind and want my case heard as a regular case? How do I change the status of my case?

You can change from S case to regular case status. You need to make the choice, however, before the trial of your case begins. You should make the request to the Tax Court in writing and should include your name and the docket number in

your request. You should send a copy of your request to the IRS attorney who filed the "Answer" to your petition. Because the Tax Court has about 15 more places of trial in S cases than in regular cases, it is possible that the place of trial might need to be changed if you change from S case to regular case status.

7. How can I tell whether my case is an S case?

Look at the number in the upper right corner of any document you have received from the Tax Court. That number is known as the "docket number". If that number has an S at the end, it means that your case is an S case. Example: 98765-04S is an S case docket number because it ends in S.

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**What should I say in my petition?**

Line 5 of the paper petition asks you to tell the Court why you disagree with the IRS determination in your case. The eFiling petition prompts will ask for the same information. You should list clearly and concisely the errors that you believe the IRS made in the notice that was sent to you. List each issue separately using letters or numbers for each item, and briefly state why you disagree with the IRS. Be sure to list each item in the notice with which you disagree. For example:

A. I disagree with the IRS's disallowance of my claim for head of household status because I satisfied the requirements for claiming that status.

B. I disagree with the IRS's disallowance of my dependent exemptions for my children because each of them satisfies the tests for dependency.

C. I disagree with the IRS's disallowance of my claim for the earned income credit because I correctly calculated the credit on my return.

Or:

I disagree with the IRS's determination that a levy be imposed on my wages because:

(1) such a levy would constitute a financial hardship for me and my family; and

(2) because I have proposed an alternative method of paying my federal tax liability.

On line 6 of the paper petition, or when prompted if eFiling, you should briefly state the



facts on which you rely to support your position. List each statement of facts in the same order as you listed the issues before. Clearly stating why you believe the IRS is wrong and what facts you rely upon will help the Tax Court understand your position.

Lastly, sign your name on the paper petition, preferably in blue ink, on the line for signature of petitioner. If you are eFiling a petition, your log-on and password will count as your signature.

If you are filing a joint petition—paper or electronic—be sure to have your spouse sign the petition. It is important that each signature on a paper petition be an original signature (and not a copy). For electronic petition signature requirements, refer to the [DAWSON FAQs](#). Fill in your address and phone number on the lines provided. If the petition is a joint petition, provide your spouse's address and phone number.

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### **When should I file my petition?**

The tax laws set forth the different time limits for filing petitions in different kinds of cases. The IRS notice usually provides the number of days that you will have to file a petition, counting from the date the IRS notice was mailed to you. That date is usually stamped on the notice of deficiency or the notice of determination. In addition, the IRS notice may state the last date for filing the petition. The tax laws are very strict on filing dates and do not allow extra time for filing a petition. For example, in a deficiency case, the petition must be filed by the 90<sup>th</sup> day (or the 150<sup>th</sup> day if the notice is addressed to a person outside the United States) from the date of the mailing of the notice of deficiency, but in a collection action, the petition must be filed within 30 days of the mailing of the notice of determination. The Tax Court cannot extend the time for filing a petition.

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### **How do I file my petition?**

[Paper petitions](#) must be filed with the Tax Court in Washington, D.C. You may hand deliver it to the Tax Court between 8 a.m. and 4:30 p.m. (Eastern time), or mail it to:

United States Tax Court  
400 Second Street, N.W.  
Washington, D.C. 20217-0002

If you are unable to use the form from this website and want to file a paper petition, write a letter to the Tax Court stating that you want to file a petition and that you would

like any necessary forms and documents sent to you. The letter should include the amount in dispute, your name, your address, your telephone number, the year(s) at issue in your case, and a list of the errors you believe the IRS made. Include a copy of the IRS notice (see privacy discussion below) that you wish to dispute and follow the mailing procedures described above.

You may also file a petition electronically. E-filed petitions will be submitted electronically through the DAWSON case management system. For more information, see "Filing a Petition" at <https://ustaxcourt.gov/dawson.html>.

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### **How can I protect the privacy of my Social Security number?**

You should submit [Form 4, Statement of Taxpayer Identification Number](#), when you file your petition, and redact (delete) your Social Security number or Employer Identification number from any notice you attach to your petition and from any other document you file with the Court. The word redact means to remove or delete information. See [Tax Court Rule 27](#). **Do not include your Social Security number on any document you send to the Court (except Form 4).**

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### **How can I protect the privacy of personal information such as my financial account numbers?**

You should not include on, and where necessary you should redact or delete from, any document filed with the Court personal information such as Social Security numbers or Employer Identification numbers, dates of birth, names of minor children, and financial account numbers. See [Tax Court Rule 27\(a\)](#). If you do not do so, your personal information will be part of the public record of your case. When information is part of the public record, it means that anyone can come to the Court and look at the file and obtain that information.

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### **How do I delete or redact my Social Security number or other private numbers from documents?**

The simplest way to delete or redact is to use a black marker and black out the numbers or information you want to be private. For example, if the notice you received from the IRS has your Social Security number (000-00-0000), you should black out the number when you attach the notice to the petition. Do not write these numbers on your petition, or on any other documents submitted to the Court. You should write your Social

Security number on [Form 4, Statement of Taxpayer Identification Number](#), which will not be available to the public.

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### **What if I forget to redact or delete personal information?**

You may send the Court within 60 days of the original filing of a document on which you inadvertently disclosed personal information a complete, redacted copy of the previously filed document for substitution in the record; the redacted document should be clearly marked "redacted" (under the docket number). You should explain that you want to substitute the redacted document for the previously submitted (unredacted) document. See [Tax Court Rule 27\(h\)](#).

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### **May I file my petition electronically or by fax?**

The Tax Court does permit eFiling of petitions. Refer to the user guides and other information on the Court's website at <https://ustaxcourt.gov/dawson.html>.

The Court does not accept filings of any document by fax or email.

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### **How do I ensure that the petition is filed on time?**

The petition must be received by the Court or mailed to the Court within the time specified in the Internal Revenue Code. The Court's electronic filing system logs documents received using Eastern time. The IRS normally lists the last day for filing a timely petition with the Court in a notice of deficiency.

Generally, your petition will be treated as timely filed if the Tax Court receives it in an envelope bearing a legible U.S. Postal Service (USPS) postmark that is within the time for timely filing. There are safer alternatives to using regular first-class mail to mail a petition to the Court. Using certified or registered mail and obtaining a postmarked receipt from the USPS provides strong evidence that the petition was sent to the Tax Court on the certified or registered date of mailing. Another alternative is to use a **DESIGNATED** private delivery service. You should be aware that not all services offered by private delivery companies are **DESIGNATED** private delivery services. Please review [IRS guidelines](#) for what constitutes a **DESIGNATED** private delivery service. Using a **DESIGNATED** private delivery service provides strong evidence that the petition was sent to the Tax Court on either the date that is shown on the shipping label

generated by the private delivery company or the date that is recorded electronically by the private delivery company to its database.

Caution: A private meter mail stamp or a “postmark” from a private, online postage-printing service will not prove that the petition was timely mailed.

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**My petition is due today. Is it too late to file a petition with the Tax Court?**

No. You can file electronically, place your petition in the mail today, or hand deliver the petition to the Tax Court in Washington, D.C., today. (If the last day for filing is a Saturday, Sunday, or [holiday](#) in the District of Columbia, then you have until the next business day.) Using certified or registered mail or a designated private delivery service is preferable because it provides strong evidence that the petition was sent to the Tax Court on the registered mailing date. You will need a postmarked USPS registered mail or certified mail receipt or a receipt from a designated private delivery service.

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**Can I get an extension of time to file a petition?**

No. By law, the Tax Court cannot extend the time for filing a petition.

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**Does it cost anything to file a petition?**

Yes. The filing fee is \$60. You may pay by check, money order, or using Pay.gov. See [https://ustaxcourt.gov/pay\\_filing\\_fee.html](https://ustaxcourt.gov/pay_filing_fee.html) for more information.

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**Are there any circumstances where I do not have to pay the \$60 filing fee?**

Yes. The Tax Court may waive the filing fee if a petitioner establishes to the satisfaction of the Tax Court an inability to pay. The [Application for Waiver of Filing Fee](#) requires detailed information and must be signed under penalty of perjury. If the petition is a joint petition (filed by a married couple), then you may file one waiver form which should be signed by both petitioners. If the Tax Court denies your request to waive the filing fee and you do not pay the filing fee, your case may be dismissed.

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## **Must I pay the amount of tax that the IRS says I owe while my case is pending in the Tax Court?**

No, you do not usually need to pay the amount in dispute while your case is pending before the Tax Court. If the Tax Court ultimately concludes, however, that you owe some amount of tax, or if you settle or agree to an amount of tax liability, the law provides generally that interest runs on any unpaid tax from the date it was originally due until paid in full. Interest also runs on some penalties. Although you do not need to pay the amount in dispute while your case is pending in the Tax Court, you may do so if you want to stop the interest on the unpaid tax from accruing.

The rules regarding prepayment of tax and penalties differ in U.S. District Courts and the U.S. Court of Federal Claims. This guide does not provide information about the rules or procedures of those courts.

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## **Should I include anything else with my petition?**

Yes. Attach to the petition a complete copy of the notice you received from the IRS (notice of deficiency, notice of determination, notice of certification), including the explanation of adjustments or IRS Appeals Officer's report that you may have received with the notice. You should remove your Social Security number from the notice of deficiency or notice of determination because documents submitted to the Tax Court are [public record](#). Do not attach any other documents such as tax returns, copies of receipts, or other types of evidence to the petition.

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## **Should I send anything else to the Tax Court when I file my petition?**

Yes. You should also submit a [Statement of Taxpayer Identification Number](#) (Form 4) and, if filing a paper petition, a [Request for Place of Trial](#) (Form 5), which tells the Tax Court where you would like to have your trial held. Select from the list of [cities](#) in which the Tax Court holds trial sessions.

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**Where may I request a place of trial if I elected to conduct my case as a small tax case?**

If you elected to conduct your case as a small tax case, you may request a place of trial in any of the cities listed on paper [Form 5, Request for Place of Trial](#). Place an "X" in only one box to request your place of trial.

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**Where may I request a place of trial if I elected to conduct my case as a regular tax case?**

If you elected to conduct your case as a regular case, you may request any of the cities not marked with an asterisk on paper [Form 5, Request for Place of Trial](#). Place an "X" in only one box to request your place of trial. You may not select one of the cities marked with an asterisk (\*). If you are eFiling a petition, you will only be asked to choose from among the cities that are available for regular tax cases.

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**May I request trial in a more conveniently located city outside my state?**

Yes. You may select the city that is most convenient to you without regard to the state in which you live. However, if you elected to conduct your case as a regular tax case, you may not select one of the cities marked with an asterisk (\*).

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**How can I be sure that I have done everything correctly?**

Review the checklist below:

**A checklist for Filing a paper [Petition](#) is below.** If you are eFiling a petition, see instead [https://ustaxcourt.gov/creating\\_a\\_case.html](https://ustaxcourt.gov/creating_a_case.html).

Have I:

- Printed my full name on the petition, signed the petition, and included my mailing address and telephone number?
- If it is a joint petition, printed the name of my spouse and included my spouse's signature?

- Included a check or money order for \$60 made out to “Clerk, United States Tax Court”?
- Filled in all information required on the petition form?
- Completed the Statement of Taxpayer Identification Number (Form 4)?
- Omitted or removed from the petition, from any enclosed notice of deficiency or notice of determination, and from any other document (other than Form 4) my Social Security number and certain other confidential personal and financial information as specified in the [Notice Regarding Privacy and Public Access to Case Files](#)?
- Completed Form 5 (Request for Place of Trial) to indicate where I want to have my trial held?
- Placed in an envelope the (1) original signed petition, (2) Statement of Taxpayer Identification Number, (3) Request for Place of Trial, and (4) check or money order for \$60 for mailing to: United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217?
- Either hand delivered the petition or mailed the petition using the U.S. Postal Service or a designated private delivery service and kept some evidence of the date I mailed the petition to the Tax Court (U.S. Postal Service postmarked certified or registered mail receipt or receipt from the designated private delivery service)?
- Retained a copy of the petition for my records?

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### **What can I do if I forgot to say everything I wanted to in my petition?**

You may want to file an amended petition. If so, you may be required by the Tax Court Rules to file a motion asking for leave to do so. If you are permitted to file an amended petition, you should indicate the additional facts and arguments in the amended petition.

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### **After I file my paper petition, how many copies of any documents should I send the Tax Court if I decide I want to file anything else?**

You should mail a signed original and one copy of any document to the Tax Court. You also should send to the attorney representing the IRS a copy of any paper document you mail to the Tax Court. You do not need to make copies if you are filing the document electronically and service on the IRS will be made for you.

Do not forget to include your name and docket number at the top of any document you want to file with the Tax Court. **However, do not include your Social Security Number**

**on any document (other than Form 4) you file with the Tax Court.** Do include your docket number on any documents you mail to the Court.

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### **What happens after I file my petition?**

If you filed a paper petition, you will receive a notice of receipt of petition from the Tax Court by mail acknowledging the filing of the petition. That document will tell you the docket number of your case. If you eFiled your petition, the DAWSON system will provide the docket number. For example, if you file the petition in 2007, the last two digits will be -07. The docket number might look like 1234-07. If you chose, and the Tax Court granted, S case status, the docket number will contain the letter S at the end, for example, 1234-07S. You should include the docket number assigned to you on all letters and documents you send to the Tax Court and to the IRS. Next, an Answer is filed by the IRS. After your petition has been filed, you should send a copy of everything you send to the Tax Court to the attorney representing the IRS. The name and address of the IRS attorney is on the last page of the Answer.

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### **How can I check on the status of my case?**

Docket records are available through the Tax Court's website. The Court's case management system **DAWSON** provides easy access to docket records by allowing you to search using a docket number or individual party name. Orders issued or entered and decisions entered after March 1, 2008, and Tax Court and memorandum opinions starting September 25, 1995 (summary opinions starting January 1, 2001), are available to the public through the Tax Court's website without registration for electronic access.

Complete instructions for using DAWSON are available under Reference Materials on the Tax Court's website at <https://ustaxcourt.gov/dawson.html>.

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### **Who can I contact if I have questions?**

Contact the Office of the Clerk for all case-related questions. You can contact the Tax Court by mail at U.S. Tax Court, 400 Second Street, N.W., Washington, D.C. 20217-0002 or by telephone at (202) 521-0700.

If you need assistance with DAWSON, the Tax Court's case management system, email [dawson.support@ustaxcourt.gov](mailto:dawson.support@ustaxcourt.gov).



A [directory](#) is available on the Court's website.

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### **Someone told me that if I want to ask the Tax Court to take some action affecting the other party, I should file a motion. What is a motion?**

A motion is a request filed by one of the parties asking the Tax Court to take some action or asking the Tax Court to direct the other party to do something.

When you send a paper motion to the Tax Court, you should also send a copy of it to IRS counsel (and the other parties, if any, in the case). Attach a Certificate of Service to the copy you send to the Court. A sample Certificate of Service is available as Form 9 in **Appendix I** of the Tax Court Rules; there is also a fillable [Certificate of Service](#) form on the Forms page. If you are filing a response to a motion electronically, see the [DAWSON User Guides](#).

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### **What are some of the common motions that can be filed?**

- Motion for continuance
  - Motion for leave to file an amended petition
  - Motion to change place of trial
  - Motion for summary judgment
  - Motion for submission of case fully stipulated ([Tax Court Rule 122](#))
  - Motion for reconsideration of opinion
  - Motion to vacate decision
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### **What is a motion for summary judgment? How should I respond to one?**

**The motion.** A motion for summary judgment requests a ruling from a Judge on some or all of the issues in a case before trial. If a motion for summary judgment is filed, the Judge will review the documents submitted by the parties and consider whether the case can be decided without a trial. The party filing the motion must show that there is no genuine dispute of any important fact and that the party filing the motion is entitled to judgment in their favor as a matter of law. See [Tax Court Rule 121](#).

**Your response.** If the Court orders you to file a response to a motion for summary judgment, your response must: specify which factual statements in the motion for summary judgment you dispute, state what you contend the actual facts are, and cite the specific evidence that you rely on to support your factual contentions. That is, you

must do more than deny or disagree with the motion. Instead, you must set forth specific facts that establish there is a factual dispute and that a trial is necessary to resolve that dispute. It is not enough merely to claim that a fact is in dispute. You must support your claim that there is a question about a material fact (or facts) by submitting with your response the evidence on which you rely.

**Your evidence.** Your supporting evidence may include your own sworn affidavit or unsworn declaration given under penalty of perjury. ([Form 18, Unsworn Declaration under Penalty of Perjury](#)). Your declaration can state facts about which you have personal knowledge. If your evidence includes documents, then you should submit those with your response (preferably numbered as Exhibits), and your declaration should identify and authenticate those documents. Your supporting evidence may also include other affidavits, stipulations, admissions, answers to interrogatories, or deposition transcripts.

**Legal disputes.** A motion for summary judgment may involve not only factual disputes but also legal disputes. If you disagree with the IRS's explanation of the law that applies to your case, you should explain your disagreement and cite the statutes, regulations, or other authorities that apply to your case.

**Failure to respond.** If the IRS files a motion for summary judgment in your case and the Court orders you to file a response, then your failure to file a response may be grounds for granting the motion. See [Tax Court Rules 121\(d\)](#) and [123\(b\)](#).

**Results of summary judgment.** If a motion for summary judgment is granted in favor of the IRS, then there will be no trial, and a judgment will be entered against you. Similarly, if you file a motion for summary judgment and it is granted, then there will be no trial, and a judgment will be entered in your favor.

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**I would like to file a motion but I'm not sure what to title it. Will the Court correct the title of a motion (or other document) that is titled incorrectly?**

You are expected to submit a motion and other documents that are proper in title, form, and content. The Court expects filings to comply with the Court's Rules of Practice and Procedure. In some circumstances, the Court may retitle a motion or document to more clearly convey the contents and comply with the Tax Court Rules, or the Court may issue an order directing you to correct or supplement your document.

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## **Where do I send responses to motions?**

A response to a motion submitted in paper should be sent both to the Court and to respondent's counsel (and the other parties, if any, in the case). Attach a Certificate of Service to the copy you send to the Court. If you are filing a response to a motion electronically, see the [DAWSON User Guides](#).

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## **I filed a timely petition with the Tax Court in a deficiency case. I received a letter from the IRS seeking to assess or collect the tax for the same tax year(s) I petitioned. What should I do?**

In a deficiency case, the IRS generally may not attempt to collect the amount in dispute while your case is pending in the Tax Court. You may consider filing a Motion To Restrain Assessment and Collection, and you should include a copy of the collection letter or notice you received from the IRS.

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## **What should I do if I receive a "no change" letter from the IRS after I file a petition in the Tax Court?**

You should contact the IRS attorney, paralegal or Appeals officer handling your case and provide them with a copy of the "no change" letter. **Be sure to redact your Social Security number from the "no change" letter.** In most instances, the IRS will prepare a stipulated decision (an agreed decision) consistent with the "no change" letter. You and the IRS attorney should sign the stipulated decision and submit it to the Court. Your Tax Court case will be closed once the Judge enters the stipulated decision.

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## **What happens if I can't find my copy of a document filed with the Tax Court?**

The Tax Court is a court of public record and files are generally available for viewing in the Records Section at the Tax Court. You may also request that particular documents be copied by contacting the Reproduction Section by mail at United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217-0002 or by telephone at (202) 521-4683. There is a fee for copy work.

You may view, download, or print any document filed in your case if you have registered for electronic filing. You may also view any orders issued or entered and decisions

entered after March 1, 2008, through [DAWSON](#) on the Court's website without registering for electronic filing.

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**What if I move or change my address after I file a petition?**

You should file a [Notice of Change of Address](#) (Form 10) with the Tax Court. If you file the document in paper, you should send a copy to the attorney representing the IRS. If you have moved to a new geographic area, you may want to change the place of trial to a city closer to your new address. If you want a different [place of trial](#), you should send a Motion To Change Place of Trial to the Tax Court and send a copy to the IRS attorney. Please identify the city in which you now want your trial to be held.

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# Things That Occur Before Trial

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## **After I get my docket number, when will I have my trial?**

You will not have a trial immediately. A few things will occur before the trial.

1. The IRS attorney will file an "Answer" with the Court and serve a copy on you by mail. In the answer, the IRS will generally admit or deny the statements made in your petition. Sometimes the answer will indicate that the IRS does not have enough information to admit or deny what has been said in the petition. The purpose of the answer is to have the IRS respond to your petition and let you and the Court know what the disagreements are between the taxpayer and the IRS. Most importantly, the answer will contain the name, address, and telephone number of the attorney from the IRS whom you may contact about your case.
2. An IRS employee will contact you after the answer is filed to schedule a conference or meeting. Your case may be scheduled for trial as soon as six months after the answer is filed. If you do not hear from the IRS, you may call or write the IRS and have a conference in person or by telephone. One of the reasons for the conference or meeting is to try to come to an agreement (settlement) on some or all of the issues in your case and stipulate (agree) to facts. You should participate in any scheduled meetings and bring to the meetings all documents that may help you to support your position on the items in question.
3. If you settle your case with the IRS, a settlement document (stipulated decision) will be prepared by the IRS. If you agree with the settlement document, sign it and send it back to the IRS. The IRS attorney will also sign the stipulated decision and then send it to the Tax Court. The Tax Court will enter the decision into the official record and send you a copy of the entered decision. If this occurs before the trial date of your case, you will not be required to appear in court.

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## **What happens if I don't settle my case before trial?**

You should meet or talk with the IRS representative to see whether you can agree to (stipulate) facts and documents that will be offered to convince the Judge that you are correct. You should enter into a stipulation of facts (a formal written document in which you and the IRS representative agree to facts and documents).

The stipulation of facts is usually a typewritten document that results from conversations

between you and the IRS attorney. For example, some of the things you should be able to agree to are:

1. A copy of the tax return(s);
2. a copy of the notice of deficiency, the notice of determination, or the notice of certification;
3. copies of agreements or contracts (if any) that concern the items in dispute; and
4. copies of canceled checks, receipts, or invoices (if any) that concern the items in dispute.

It helps everyone to stipulate facts and documents that the parties agree are not in dispute.

You can also stipulate issues that you have settled with the IRS.

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### **How can I obtain evidence to prove my case?**

Because a taxpayer's tax liability usually turns on the taxpayer's own activities, transactions, and expenditures, the evidence in many Tax Court trials consists simply of the petitioner's own testimony and documents. Where the documents of a third party are needed, they are most often obtained by informal requests; and where a third party's testimony is needed, it is usually obtained simply by asking the person to appear as a witness. However, if a third party refuses to cooperate, then a subpoena may be used to compel the person to appear at the trial.

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### **What is a subpoena?**

A subpoena is an order issued by the Tax Court (1) directing a person to appear and testify at a scheduled Tax Court Trial Session or (2) directing a person to appear at a deposition prearranged at a specific time and location. The subpoena may include directions for the person (witness) to produce specific books, papers, documents, electronically stored information, or tangible things. See [Tax Court Rules 147, 74](#) and [81](#).

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### **When is it appropriate to use a Tax Court subpoena?**

If you can't get documents you need for Court and/or you need a witness to testify at a deposition or at trial, you can consider serving a subpoena. Most often, the parties

agree to documents in the stipulation process and you don't need a subpoena. (See the discussion above about stipulation of facts). Sometimes, however, documents are not readily available or a witness is uncooperative, and a subpoena may be needed to get a witness to testify or to produce a document to assist you in proving your case.

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### **How do I obtain and serve a Tax Court subpoena?**

You may obtain a **subpoena form (Tax Court Form 14)** under the "**Forms**" tab on the Court's internet website. You may also obtain a copy of a subpoena form from a trial clerk at a trial session.

After the top portion of the subpoena form is completed, a copy of the subpoena must be served on the witness, in person, by a United States marshal, a deputy marshal, or by any other person who is not a party to the case and who is not less than 18 years of age. The person who actually serves the subpoena must complete the "Return of Service" section at the bottom of the subpoena form. See **Tax Court Rule 147(c)**. You will submit the signed original to the Court only if it is necessary to ask the Court to enforce the subpoena.

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### **Is there a cost related to a subpoena?**

Yes. If you as a petitioner are serving a subpoena on a witness, you must pay fees to the witness in advance equal to one day's attendance and mileage. See **Tax Court Rule 147(c)**. These fees must be paid to the witness when the subpoena is served. A witness is entitled to the same fees for attendance and transportation as witnesses in the United States District Courts. See **Tax Court Rule 148**. For more detail as to the amount of the fees and travel allowances go to the definition of Subpoena in the **Glossary**.

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### **Is it possible to serve a subpoena without paying fees and mileage if I only want a person to mail documents to me?**

No. A subpoena directs a witness to appear at a Tax Court trial session or at a prearranged deposition and may or may not include a request for books, papers, or documents. You should first attempt to obtain the documents that you need through informal means (e.g., by telephone call or letter). If you believe that you cannot obtain the documents without a subpoena, you will be obliged to pay the fees described above.

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### **What should I do if I am served with a subpoena? Can I challenge a subpoena?**

As a general matter you should comply with a subpoena. If you are served with a subpoena, and you believe it was issued in error, is unreasonable or oppressive, or was not properly served, you may file a Motion To Quash the subpoena with the Court. If you fail to appear as directed by a subpoena, you may be found to be in contempt of Court. See [Tax Court Rule 147\(e\)](#).

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### **How will I know when and where my trial will take place?**

The Tax Court will issue either a [notice for S cases](#) or a [notice for regular cases](#) setting your case for trial generally about five months before the trial date. The notice setting the case for trial provides information such as where and when to appear for your trial session. The Tax Court will attempt to schedule the trial at the city requested in your request for place of trial, but if no courtroom is available, the Tax Court may schedule it at a city reasonably nearby. The Tax Court will issue a [Standing Pretrial Order](#) in a regular case or a [Standing Pretrial Order For Small Tax Cases](#) which will inform you what you need to do to prepare for trial. For information specific to remote proceedings, see [Remote Proceeding Information](#).

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### **Will the Court send me any instructions telling me what I should do to prepare for trial?**

Yes. The Tax Court will issue a [Standing Pretrial Order](#) in a regular case or a [Standing Pretrial Order For Small Tax Cases](#). Read this order from the Tax Court carefully and keep a copy. The Standing Pretrial Order has very specific instructions about getting ready for trial. One of the provisions of the Standing Pretrial Order sent to petitioners in regular cases is that you must file a pretrial memorandum. The Standing Pretrial Order For Small Tax Cases states that you should submit a pretrial memorandum. The Court encourages all parties to submit a pretrial memorandum. You should look at the Standing Pretrial Order and the form attached, which shows what a pretrial memorandum looks like. The pretrial memorandum can be very helpful in organizing and preparing your case. The pretrial memorandum may also help the Judge to understand your position. The Standing Pretrial Order also tells you what you need to do to settle your case and how to stipulate facts if you do not settle.

Depending upon the city in which your trial will take place, the Tax Court may send you



a letter from a tax clinic inviting you to talk with one of the clinic's attorneys or law students. If you qualify on the basis of certain income standards, the clinic may agree to represent you in your trial. Generally there is no fee for this representation. Many petitioners who are represented by a clinic representative are able to settle their cases with the IRS. The tax clinics are not part of the IRS or the Tax Court; they are totally independent and prepared to help you to fairly resolve your tax dispute with the IRS.

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**What is a pretrial memorandum? Do I need to prepare one?**

A pretrial memorandum form is attached as part of the **Standing Pretrial Order** or **Standing Pretrial Order For Small Tax Cases**. You must file a pretrial memorandum in a regular case. You should submit a pretrial memorandum in an S case. The Court encourages all parties to file a pretrial memorandum. Preparing the pretrial memorandum may help you in organizing your case and help the Judge to understand your position. Carefully read the instructions in the Standing Pretrial Order or Notice. Follow the form and instructions. Send your pretrial memorandum to the Court and send a copy to the IRS attorney.

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**After I have received the notice setting my case for trial in a specific city, should I use the address of the place of trial to contact the Tax Court?**

No. The Tax Court receives all of its mail at the address in Washington, D.C. You should always address mail to: United States Tax Court, 400 Second Street NW, Washington, DC 20217-0002. Keep in mind that, if you send anything by regular mail to the Tax Court in Washington, D.C., within one week before your trial session, it may not be received in time for your trial. You may want to either use a private overnight delivery service or bring the document with you to trial.

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## Petitioner (Taxpayer) Trial Preparation Check List

Some of the instructions contained in the Tax Court's Standing Pretrial Order are repeated below. **Before you come to Court:**

- If possible, register for DAWSON, the Court's electronic filing and case management system. Registering allows you to submit documents electronically and to view documents submitted by the IRS or issued by the Court as soon as they are filed.
- Review all the materials the Court has sent you.
- Think about what facts you want to tell the Judge.
- Organize your facts and arguments so you can tell your side of the story.
- Organize any documents you have to support your case.
- Speak to the people at the IRS who call or write to you after you get this notice.
- Provide copies of documents to the IRS as soon as possible. The parties are required to exchange copies of any documents they want to use at trial.
- Agree (stipulate) in writing to facts and documents that are not in dispute. All minor issues should be settled so that the Judge can focus on the remaining issue(s). The Stipulation of Facts needs to be filed with the Court no later than 14 days before trial.
- If the IRS will not agree (stipulate) to your documents, submit them to the Court as proposed trial exhibits no later than 14 days before trial. Read the instructions on the Court's website on to how to label each exhibit and remember to include page numbers.
- Consider whether you need any witnesses to support your case. If you plan to have a witness, let the IRS know no later than 21 days before trial. Make sure the witness is available for trial at the trial session.
- Respond to communications and meeting requests from the Judge.
- Be at your trial session early so you are ready when your case is called. You may wish to be there an hour before the starting time to have the opportunity to meet with clinical and calendar call attorneys.
- Be ready when your case is called for trial.
- Learn more about the U.S. Tax Court at [www.ustaxcourt.gov](http://www.ustaxcourt.gov).

# Things That Occur During Trial

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## **What happens at the beginning of the trial session?**

On the first morning of the trial session, a Tax Court employee, the trial clerk, will announce the name of (call) each case that has not been settled. This process is known as a calendar call. Unless otherwise excused, be sure to arrive in court in time to attend the calendar call. When your name is called by the trial clerk, come forward and identify yourself to the Judge by stating your name. The attorney representing the IRS will also state his/her name. The Judge may ask a few questions to determine the status of your case.

In many cities, there are tax clinics and organizations of tax practitioners that we refer to as calendar call programs; these practitioners may provide assistance to unrepresented taxpayers. If there is such a clinic or calendar call program in the city where you have requested trial, the Judge may identify the volunteer practitioners at the beginning of the trial session. If you want to speak with one of the clinic or calendar call lawyers, you should ask the Judge for an opportunity to do so.

After the calendar call, the Judge will schedule cases for trial at specific times and days during the trial session. The time and date for your trial will be announced by the Judge or the trial clerk.

Beginning two weeks before the start of a trial session, the parties may also jointly contact a Judge's chambers to request a time and date certain for trial. The Judge will attempt to accommodate the request, if practicable. You may not need to appear at the calendar call if your case has been set for a time and date certain.

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## **What if I can't come to Court on the date set for trial or I am not ready for trial?**

There may be a few options:

1. As early as possible, you may ask the Judge to postpone your trial by filing a motion for continuance. Depending on the circumstances, the Judge may or may not grant that request.
2. You should ask the IRS attorney if he or she will agree with the request for continuance and you should let the Tax Court know if there is any objection. The Judge may or may not grant your request for continuance. If your request is not granted, you must be prepared to try your case.

3. Sometimes a case can be considered by the Tax Court without the need for testimony or a trial. If you and the IRS agree about all of the facts and documents you want admitted into the record, talk with the IRS attorney about whether your case can be submitted without a trial (fully stipulated). To do this, you and the IRS attorney must include in a stipulation all of the agreed facts and documents necessary for the Tax Court to reach its decision. The Judge will review the stipulation and make a decision based solely on the documents and facts agreed to by you and the IRS attorney. If your case can be submitted fully stipulated to the Tax Court in advance of the date set for the calendar call, you will not need to come to court.

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### **What happens if I don't show up for Court?**

If you do not come to court for the calendar call or at the date and time set for trial and you have not been otherwise excused by the Tax Court, your case may be dismissed for failure to prosecute and a decision may be entered against you. If your case is dismissed for failure to prosecute, it means you lose your case.

Be sure that you contact the Tax Court and the IRS as soon as possible if you can't come to court at the scheduled time and date.

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### **If my spouse and I have filed a joint petition with the Tax Court, do we both need to come to court on the date set forth in the notice of trial?**

Yes. Both parties' signatures may be needed for important papers such as a stipulation of facts, a stipulation of settled issues, or a stipulated decision. If either party fails to attend the trial, that party forfeits the opportunity to testify or present any other evidence. The Judge may decide to enter a decision for a spouse who is absent on the same basis as is entered for the spouse who attended the trial. Under some circumstances, upon advance request, the Judge may excuse one of the spouses from appearing at trial.

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### **Who represents the IRS?**

An attorney who works for the Office of Chief Counsel of the IRS will represent the IRS in each case.

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### **What if I have difficulty speaking and understanding English?**

It is generally the responsibility of each petitioner to bring someone to court who can help in communicating in English with the Judge and the IRS attorney. In some cities, the Tax Court may have an interpreter available to help the Judge on the first day of the trial session. You should let the Judge and the IRS know as early as possible that you will require help with English. Sometimes the IRS will also have someone who can help.

See the related questions and answers in the “Starting a Case” section.

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### **Someone told me that the petitioner (taxpayer) has the burden of proof. I don't understand this. What is the burden of proof?**

The burden of proof is a legal term that refers to a party's duty to prove a disputed assertion. The burden of proof is generally on the petitioner. This means that you need to bring to court evidence, such as documents and testimony of witnesses (you and maybe others), to prove that the determination of the IRS is not correct and that your position is correct.

There are some limited circumstances where the burden of proof is on the IRS. For the burden of proof to shift to the IRS on a factual issue, the petitioner must introduce credible evidence in court with respect to that issue. The petitioner must also comply with substantiation and record-keeping requirements set forth in the tax laws. Also the petitioner must show that he or she cooperated with reasonable requests from the IRS for witnesses, information, documents, meetings, and interviews. In most cases, the burden of proof does not shift to the IRS and the petitioner must show that the IRS's determinations are wrong.

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### **What happens at the trial?**

The trial clerk will call your case, and both you and the IRS attorney will state your names. For procedures specific to COVID-19, refer to the Tax Court's [COVID-19 Resources](#) page and information on [Zoomgov proceedings](#).

The Judge may ask a few questions and dispose of other preliminary matters such as the filing of the stipulation of facts and pretrial memoranda. The Judge may allow each party to make an opening statement. An opening statement is simply a statement of what that party believes the facts and law are and how the Judge should rule. The

petitioner usually goes first.

Caution: Opening statements generally are not made under oath, and facts alleged in opening statements cannot be considered by the Judge unless they are established by other evidence such as sworn testimony. Sometimes the petitioner makes an opening statement under oath to avoid the need for repeating the same facts later during the trial.

After the opening statements have been made, you may present your first witness. The purpose of a witness is to present information to the Judge that is relevant and from which the Judge can find facts. Often, the first, and sometimes the only, witness is you. You will take an oath or affirm to tell the truth and then tell your side of the case. If you are not representing yourself, your representative will ask you questions. This is called direct examination.

When you have concluded your testimony, the IRS attorney will have an opportunity to ask you questions. This is called cross-examination. After cross-examination you can ask the Judge for an opportunity to clarify any answers you provided with additional testimony. If you have witnesses other than yourself, the same procedure will be followed.

After you have concluded your side of the case, the IRS attorney can call witnesses and ask questions (direct examination).

After direct examination of each witness by the IRS, you can ask the witness questions (cross-examination). Throughout the trial, the Judge may ask questions and request clarification of evidence from both sides.

After all the witnesses have testified and all the documents have been entered into evidence, the trial will be over and the record will be closed. This means that no more evidence may be submitted to the Court.

Reminder: The Judge can consider only evidence admitted into the record of your case. Therefore, you should bring with you to court all of your documents not already included in a stipulation of facts even if you provided them to the IRS earlier.

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### **Some Dos and Don'ts of Trial**

- Do organize all your papers and documents and bring them with you.
- Do present your facts and state your position to the Judge.
- Do respect the Judge and the Tax Court.
- Don't bring food or chew gum in court.
- Do turn off cell phones and other electronic devices in the courtroom.
- Don't argue with a witness but do ask questions.
- Don't argue with the IRS attorney but do state your position to the Judge.

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### **Does a case ever get settled after trial?**

Yes. Sometimes during or after trial, one of the parties or the Judge will suggest that the parties talk to each other with the goal of settling the case. On occasion the petitioner's and/or the IRS attorney's evaluation of the merits of the case may change after trial. Such circumstances may provide an opportunity for settlement discussions.

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### **Is there a stenographer or a recording of the trial?**

Yes. The Tax Court is a court of record. This means that everything that happens in court will be recorded. The Tax Court contracts with an independent reporting company who records the entire trial. Because the reporter recording the trial is not a Tax Court employee, you should not leave any documents with the reporter. You can obtain more information about the typewritten record of the trial (**Transcript**) under the section "**After Trial**".

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# Things That Occur After Trial

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## What happens after I finish my trial?

The Judge may direct the filing of posttrial briefs or may permit the parties to make oral argument or file memoranda or statements of legal authority. A brief is a legal document in which a party presents proposed findings of fact and legal arguments. At the end of the trial, the Judge will tell you what will be required.

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## When will the Judge decide my case? (When will I find out whether I've won or lost my case?)

1. There is no fixed time within which a Judge will decide your case. The Judge might issue an oral opinion (called a Bench Opinion) during the trial session. If a Bench Opinion is not issued, the Judge will return to Washington, D.C., to review the testimony and exhibits in the case and issue an opinion as quickly as practicable.
2. Does the Tax Court issue different types of opinions?

Yes. The different kinds of opinions are set forth below.

A. **Bench Opinion** - As described above, the Judge may issue a Bench Opinion in a regular or S case during the trial session. In this situation, the Judge orally states the opinion in court during the trial session. The Tax Court will send you a copy of the transcript reflecting the Judge's opinion within a few weeks after the trial. A Bench Opinion cannot be relied on as precedent. All bench opinions delivered after March 1, 2008, are electronically viewable through the Tax Court's Docket Inquiry system.

B. **Summary Opinion** - A Summary Opinion is issued in an S case. A Summary Opinion cannot be relied on as precedent, and the decision cannot be appealed.

C. **Tax Court Opinion or Memorandum Opinion** - The Chief Judge decides whether an opinion in a regular case will be issued as a Memorandum Opinion or as a Tax Court Opinion.

Generally, a Memorandum Opinion is issued in a regular case that does not



involve a novel legal issue. A Memorandum Opinion addresses cases where the law is settled or factually driven. A Memorandum Opinion can be cited as legal authority, and the decision can be appealed. A Memorandum Opinion is cited as [Name of Petitioner] v. Commissioner, T.C. Memo. [year issued - #].

Generally, a Tax Court Opinion is issued in a regular case when the Tax Court believes it involves a sufficiently important legal issue or principle. A Tax Court Opinion can be cited as legal authority, and the decision can be appealed. A Tax Court Opinion is cited as [Name of Petitioner] v. Commissioner, [Volume of Tax Court Reports] T.C. [page of the volume] (year issued).

The opinions of the Tax Court (other than Bench Opinions) are posted daily on the Tax Court's website after 3:30 p.m. (Eastern time) under "Today's Opinions" and categorized as described above. Bench Opinions issued after March 1, 2008, are electronically viewable on the Tax Court's website.

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### **Does a petitioner (taxpayer) ever win a case?**

Yes. Sometimes the petitioner wins some or all of the issues. Sometimes the IRS wins some or all of the issues. Sometimes, in a lien or levy case, the case may be sent back to the IRS to reconsider collection alternatives or other matters.

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### **How will I find out whether I won or lost my case?**

You will receive a copy of the opinion in the mail. The same day it is mailed, the Tax Court will post the opinion on its website after 3:30 p.m. (Eastern time). Court personnel may call you to tell you the opinion is on the website. The opinion, written by the Judge, explains the conclusions reached after the trial or hearing. After the opinion is issued, a decision will be entered that is consistent with the opinion issued by the Judge.

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### **What if I disagree with the opinion of the Judge?**

You may not appeal the Judge's decision in an S case. In a regular (non-S) case, you may appeal the Judge's decision, or you may file a motion for reconsideration of an opinion within 30 days after the written opinion was mailed. Your motion for reconsideration should clearly explain what you disagree with and the reasons you believe your disagreement has merit. Normally, the Judge who decided your case will decide the

motion for reconsideration. A motion for reconsideration will not usually be granted absent unusual circumstances or substantial error.

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### **How do I file an appeal from the Judge's decision? Can I appeal my case?**

If you chose, and the Tax Court granted you, small tax case status, there is no appeal from the decision of the Tax Court. See the discussion above about choosing S case status. In an S case, neither the IRS nor the petitioner can appeal. The Judge's decision is final.

If your case is a regular case, you may appeal the decision to one of the U.S. Courts of Appeals. You must wait for a decision (as opposed to the opinion) to be entered by the Tax Court before you file an appeal. A decision is a judicial determination that disposes of a case. An opinion is a statement explaining the Tax Court's decision. The notice of appeal must be filed with the Tax Court within 90 days after the decision is entered, or 120 days if the IRS appeals first. The cost for filing a notice of appeal depends on the Federal Circuit to which the appeal is being made but generally costs \$500-\$505. See **Tax Court Rules 190, 191, 192, and 193**.

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### **Will my documents be returned to me when the case is over?**

Documents filed with the Court will not be returned to you. If you did not keep a copy of a document, you may request copies of particular documents by contacting the Court's Copywork Section by mail at: United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217-0002, or telephone at (202) 521-4688. See <https://ustaxcourt.gov/transcripts and copies.html>. You may also view, download, or print any document filed in your case if you have registered for electronic access through **DAWSON**.

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### **Do I need a transcript of the trial and how can I get a transcript?**

A transcript of the trial is the typewritten record prepared by the reporting company reflecting everything that is said in court. A transcript is usually required if posttrial briefs are ordered by the Court and/or if your case is being appealed to the U.S. Court of Appeals. Each of the parties (petitioner and respondent) is responsible for ordering and paying for a copy of their own transcript. The reporting company is a private company and is not part of the Tax Court. You should talk with the reporter during the trial session or visit the website at <https://ustaxcourt.gov/transcripts and copies.html> for

more information. Transcripts are not viewable even to the parties through DAWSON until 90 days after the date of the trial (or hearing)

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**Are there any circumstances where the Court will pay for my transcript?**

In some very limited circumstances the Judge may direct that the Court pay for a transcript for a pro se petitioner. A pro se petitioner may file a motion requesting that the Court pay the expenses of a transcript. You must satisfy the Court that (1) you need a transcript to prepare posttrial briefs ordered by the Judge; (2) you do not have the financial means to pay for the transcript; and (3) the case presents a substantial question and is not frivolous. A Judge has discretion to grant or deny your motion.

You may be considered a "pro se petitioner", with respect to a motion requesting the Court pay the expenses of a transcript, if you represent yourself or if you are receiving assistance from a participating low-income taxpayer clinic or a participating bar-sponsored calendar call program.

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**Can I get money back from the IRS for my costs (but not taxes) if I win my case?**

There are some limited circumstances where a petitioner, as a prevailing party, can recover fees and costs from the IRS. In general, a party is not a prevailing party if the IRS establishes that its position was "substantially justified". A request for fees and costs cannot be filed until after the parties have settled their dispute or the Tax Court has issued its opinion.

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