

**TITLE XVII**  
**SMALL TAX CASES<sup>1</sup>**

**RULE 170. GENERAL**

The Rules of this Title XVII, referred to herein as the “Small Tax Case Rules”, set forth the special provisions which are to be applied to small tax cases. The term “small tax case” means a case in which the amount in dispute is \$50,000 or less (within the meaning of the Internal Revenue Code) and the Court has concurred in the petitioner’s election. See Code secs. 7436(c), 7463. Except as otherwise provided in these Small Tax Case Rules, the other Rules of practice of the Court are applicable to such cases.

**RULE 171. ELECTION OF SMALL TAX CASE  
PROCEDURE**

With respect to classification of a case as a small tax case, the following shall apply:

**(a)** A petitioner who wishes to have the proceedings in the case conducted as a small tax case may so request at the time the petition is filed. See Rule 173.

**<sup>2</sup>(b)** If the Commissioner opposes the petitioner’s request to have the proceedings conducted as a small tax case, then the Commissioner shall file with the answer a motion that the proceedings not be conducted as a small tax case.

**<sup>3</sup>(c)** A petitioner may, at any time after the petition is filed and before the trial commences, request that the proceedings be conducted as a small tax case. If such request is made after the answer is filed, then the Commissioner may move without leave of the Court that the proceedings not be conducted as a small tax case.

**<sup>4</sup>(d)** If such request is made in accordance with the provisions of this Rule 171, then the case will be docketed as a small tax case. The Court, on its own motion or on the motion of a party to the case, may, at any time before the trial

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<sup>1</sup>The amendment deleting former Rule 175 is effective as of July 6, 2012.

<sup>2</sup>New paragraph (b) is effective with respect to petitions filed after May 5, 2011.

<sup>3</sup>The amendments are effective as of May 5, 2011.

<sup>4</sup>The amendments are effective as of May 5, 2011.

commences, issue an order directing that the small tax case designation be removed and that the proceedings not be conducted as a small tax case. If no such order is issued, then the petitioner will be considered to have exercised the petitioner's option and the Court shall be deemed to have concurred therein.

### **RULE 172. REPRESENTATION**

A petitioner in a small tax case may appear without representation or may be represented by any person admitted to practice before the Court. As to representation, see Rule 24.

### **RULE 173. PLEADINGS**

**(a) Petition:** (1) *Form and Content:* The petition in a small tax case shall be substantially in accordance with Form 2 shown in Appendix I.

<sup>1</sup>(2) *Filing Fee:* The fee for filing a petition shall be \$60, payable at the time of filing. The payment of any fee under this paragraph may be waived if the petitioner establishes to the satisfaction of the Court by an affidavit or a declaration containing specific financial information the inability to make such payment.

**(b) Answer:** The Commissioner shall file an answer or shall move with respect to the petition within the periods specified in, and in accordance with the provisions of, Rule 36.

**(c) Reply:** A reply to the answer shall not be filed unless the Court otherwise directs. Any reply shall conform to the requirements of Rule 37(b). In the absence of a requirement of a reply, the provisions of the second sentence of Rule 37(c) shall not apply and the affirmative allegations of the answer shall be deemed denied.

### **RULE 174. TRIAL**

**(a) Place of Trial:** At the time of filing the petition, the petitioner may, in accordance with Form 5 in Appendix I or by other separate writing, request the place where the petitioner would prefer the trial to be held. If the petitioner has

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<sup>1</sup>The amendment is effective as of July 6, 2012.

not filed such a request, then the Commissioner, at the time the answer is filed, shall file a request showing the place of trial preferred by the Commissioner. The Court will make reasonable efforts to conduct the trial at the location most convenient to that requested where suitable facilities are available.

**(b) Conduct of Trial and Evidence:** Trials of small tax cases will be conducted as informally as possible consistent with orderly procedure, and any evidence deemed by the Court to have probative value shall be admissible.

**(c) Briefs:** Neither briefs nor oral arguments will be required in small tax cases unless the Court otherwise directs.