

REPORTS
OF THE
UNITED STATES
TAX COURT



July 1, 2019, to December 31, 2019

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JUDGES OF THE UNITED STATES TAX COURT

Chief Judge

MAURICE B. FOLEY

Judges

JOSEPH H. GALE	ALBERT G. LAUBER
MICHAEL B. THORNTON	JOSEPH W. NEGA
L. PAIGE MARVEL ¹	CARY DOUGLAS PUGH
DAVID GUSTAFSON	TAMARA W. ASHFORD
ELIZABETH CREWSON PARIS	PATRICK J. URDA
RICHARD T. MORRISON	ELIZABETH A. COPELAND
KATHLEEN KERRIGAN	COURTNEY D. JONES ²
RONALD L. BUCH	EMIN TORO ³

Senior Judges recalled to perform judicial duties under the provisions of section 7447 of the Internal Revenue Code:

MARY ANN COHEN	JAMES S. HALPERN
JOEL GERBER	JUAN F. VASQUEZ
THOMAS B. WELLS	JOSEPH ROBERT GOEKE
ROBERT P. RUWE	MARK V. HOLMES
JOHN O. COLVIN	

Special Trial Judges

LEWIS R. CARLUZZO, *Chief Special Trial Judge*

PETER J. PANUTHOS	DANIEL A. GUY, JR.
ROBERT N. ARMEN, JR. ⁴	DIANA L. LEYDEN

STEPHANIE A. SERVOS, *Clerk*

¹ Judge Marvel retired on December 5, 2019, and was recalled on December 6, 2019.

² Judge Jones took the oath of office on August 9, 2019.

³ Judge Toro took the oath of office on October 18, 2019.

⁴ Special Trial Judge Armen retired on August 31, 2019.

**AMENDMENTS
TO THE
RULES OF PRACTICE AND PROCEDURE
OF THE
UNITED STATES TAX COURT**

Rules 3, 11, 13, 20, 22, 23, 25, 34, 38, 60, 61, 74, 143, 230, 233, 240, 280, 281, and 310 of the Rules of Practice and Procedure (Rules) of the United States Tax Court are amended, and new Title XXIV.A, Partnership Actions Under BBA Section 1101 (including new Rules 255.1 to 255.7), and new Title XXXIV, Certification And Failure To Reverse Certification Action With Respect To Passports (including new Rules 350 to 354), are added. Form 1 (Petition), Form 2 (Simplified Petition), Form 7 (Entry of Appearance), Form 8 (Substitution of Counsel), Form 10 (Notice of Change of Address), and Form 14 (Subpoena) are also amended. The effective dates of the amendments and new Rules are stated in Notes to the Rules.

The Notes accompanying these amendments and new Rules were prepared by the Rules Committee and are included herein for the convenience of the public and the Bar. They are not officially part of the Rules and are not included in the printed publication prepared for general distribution.

RULE 3. DEFINITIONS

(a) **Division:** The Chief Judge may from time to time divide the Court into Divisions of one or more Judges and, in case of a Division of more than one Judge, designate the chief thereof.

(b) **Clerk:** Reference to the Clerk in these Rules means the Clerk of the United States Tax Court.

(c) **Commissioner:** Reference to the Commissioner in these Rules means the Commissioner of Internal Revenue.

(d) **Special Trial Judge:** The term “Special Trial Judge” as used in these Rules refers to a judicial officer appointed pursuant to Code section 7443A(a). See Rule 180.

(e) **Time:** As provided in these Rules and in orders and notices of the Court, time means standard time in the location mentioned except when advanced time is substituted therefor by law. For computation of time, see Rule 25.

(f) **Business Hours:** As to the Court’s business hours, see Rule 10(d).

(g) **Filing:** For requirements as to filing with the Court, see Rule 22.

(h) **Code:** Any reference or citation to the Code relates to the Internal Revenue Code of 1986, as in effect for the relevant period or the relevant time.

(i) **Paper:** Unless the context otherwise indicates, the term “paper” means a pleading, motion, brief, entry of appearance, or any other document that these Rules permit to be filed.

Note

Rule 3 is amended to add new paragraph (i) defining the term “paper”. The amendment is effective November 30, 2018.

RULE 11. PAYMENTS TO THE COURT

All payments to the Court for fees or charges of the Court may be made either in cash or by check, money order, or other draft made payable to the order of “Clerk, United States Tax Court”, and shall be mailed or delivered to the Clerk of the Court at Washington, D.C. Alternatively, in accordance with procedures that the Court establishes, payments to the Court for fees or charges may be made electronically through Pay.gov.

Note

Rule 11 is amended to provide that payments to the Court for fees or charges may be made electronically through Pay.gov and to eliminate redundancy. The amendment is effective November 30, 2018.

RULE 13. JURISDICTION

(a) Notice of Deficiency or of Transferee or Fiduciary Liability Required: Except in actions for declaratory judgment (Title XXI), for disclosure (Title XXII), for readjustment or adjustment of TEFRA partnership items (Title XXIV), for BBA partnership actions (Title XXIV.A), for administrative costs (Title XXVI), for review of failure to abate interest (Title XXVII), for redetermination of employment status (Title XXVIII), for determination of relief from joint and several liability (Title XXXI), for lien and levy (Title XXXII), for review of whistleblower awards (Title XXXIII), or for certification actions with respect to passports (Title XXXIV), the jurisdiction of the Court depends: (1) In a case commenced in the Court by a taxpayer, upon the issuance by the Commissioner of a notice of deficiency in income, gift, or estate tax or, in the taxes under Code Chapter 41, 42, 43, or 44 (relating to the excise taxes on certain organizations and persons dealing with them), or in the tax under Code Chapter 45 (relating to the windfall profit tax), or in any other taxes which are the subject of the issuance of a notice of deficiency by the Commissioner; and (2) in a case commenced in the Court by a transferee or fiduciary, upon the issuance by the Commissioner of a notice of liability to the transferee or fiduciary. See Code secs. 6212, 6213, 6901.

(b) Declaratory Judgment, Disclosure, Partnership, Administrative Costs, Review of Failure To Abate Interest, Redetermination of Employment Status, Determination of Relief From Joint and Several Liability, Lien and Levy, Whistleblower Action, or Certification Action With Respect to Passports: For the jurisdictional requirements in an action for declaratory judgment, see Rule 210(c); for a disclosure action, see Rule 220(c); for readjustment or adjustment of TEFRA partnership items, see Rule 240(c); for BBA partnership actions, see Rule 255.1(c); for administrative costs, see Rule 270(c); for review of failure to

abate interest, see Rule 280(b); for redetermination of employment status, see Rule 290(b); for large partnership actions, see Rule 300(c); for determination of relief from joint and several liability, see Rule 320(b); for lien and levy actions, see Rule 330(b); for review of whistleblower awards, see Rule 340(b); or for certification actions with respect to passports, see Rule 350(b).

(c) Timely Petition Required: In all cases, the jurisdiction of the Court also depends on the timely filing of a petition.

(d) Contempt of Court: Contempt of Court may be punished by fine or imprisonment within the scope of Code section 7456(c).

(e) Bankruptcy and Receivership: With respect to the filing of a petition or the continuation of proceedings in this Court after the filing of a bankruptcy petition, see 11 U.S.C. section 362(a)(8) and Code sections 6015(e)(6), 6213(f)(1), 6320(c), and 6330(d)(2). With respect to the filing of a petition in this Court after the appointment of a receiver in a receivership proceeding, see Code section 6871(c)(2).

Note

Paragraphs (a) and (b) of Rule 13 are amended to conform with new Rules pertaining to certification actions with respect to passports under Title XXXIV and BBA partnership actions under Title XXIV.A and are reorganized for clarity. The amendment pertaining to actions with respect to passport actions is effective November 30, 2018, and the amendment pertaining to BBA partnership actions is effective July 15, 2019.

Paragraph (c) of Rule 13 is amended to eliminate redundancy. The amendment is effective July 15, 2019.

Paragraph (e) of Rule 13 is amended to reflect amendments to Code sections 6015(e) and 6330(d). Section 424 of the Protecting Americans from Tax Hikes Act of 2015 (enacted in Division Q of the Consolidated Appropriations Act, 2016, Pub. L. No. 114–113, 129 Stat. 2422, 3124 (2015)), amended Code sections 6015(e) and 6330(d) to provide that the period for filing a petition for review of a claim for spousal relief or a petition for review of a levy action is suspended during the period that a bankruptcy filing under title 11 of the United States Code prevents a taxpayer from petitioning

this Court and, thereafter, for an additional 60 days for petitions for review of a claim for spousal relief or for an additional 30 days for petitions for review of a levy action. Code section 6320(c) states that the rules of Code section 6330(d) (except for paragraph 3(B)) apply in the case of actions subject to section 6320, so the additional time provided in section 6330(d)(2) also applies by cross-reference to petitions to review a lien action under section 6320. The amendment is effective March 28, 2016, and is applicable to petitions filed under section 6015(e), 6320(c), or 6330(d)(2) after December 18, 2015.

RULE 20. COMMENCEMENT OF CASE

(a) General: A case is commenced in the Court by filing a petition with the Court. See Rule 13.

(b) Statement of Taxpayer Identification Number: The petitioner shall submit with the petition a statement of the petitioner's taxpayer identification number (e.g., Social Security number or employer identification number), or lack thereof. The statement shall be substantially in accordance with Form 4 shown in Appendix I.

(c) Disclosure Statement: A nongovernmental corporation, large partnership, or limited liability company, or a tax matters partner, partner other than the tax matters partner, or partnership representative of a nongovernmental partnership filing a petition with the Court shall file with the petition a separate disclosure statement. In the case of a nongovernmental corporation, the disclosure statement shall identify any parent corporation and any publicly held entity owning 10 percent or more of petitioner's stock or state that there is no such entity. In the case of a nongovernmental large partnership or limited liability company, or a tax matters partner, partner other than a tax matters partner, or partnership representative of a nongovernmental partnership, the disclosure statement shall identify any publicly held entity owning an interest in the large partnership, the limited liability company, or the partnership, or state that there is no such entity. A petitioner shall promptly file a supplemental statement if there is any change in the information required under this rule. For the form of such disclosure statement, see Form 6, Appendix I. For the definition of a large partnership, see Rule 300(b)(1). For the definitions of

a partnership and a tax matters partner, see Rule 240(b)(1), (4). A partner other than a tax matters partner is a notice partner or a 5-percent group as defined in Rule 240(b)(8) and (9). For the definition of a partnership representative, see Rule 255.1(b)(3).

(d) Filing Fee: At the time of filing a petition, a fee of \$60 shall be paid. 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.

Note

Paragraph (a) of Rule 20 is amended to eliminate redundancy. The amendment is effective November 30, 2018.

Paragraph (c) of Rule 20 is amended to include the term “partnership representative” and to refer to the definition of that term in Rule 255.1 pertaining to BBA partnership actions under new Title XXIV.A. The amendment is effective July 15, 2019.

RULE 22. FILING

(a) General Rule: Except for a paper filed electronically in accordance with electronic filing procedures established by the Court, a paper must be filed with the Clerk in Washington, D.C., during business hours.

(b) Exceptions: A Judge or Special Trial Judge presiding at a trial session of the Court may permit or require a paper pertaining thereto to be filed at that session. The Court also may direct that a paper be filed in accordance with another procedure other than the general rule.

(c) Timely Mailing: For the circumstances under which a timely mailed paper will be considered timely filed, see Code section 7502.

(d) Timely Electronic Filing: A paper will be considered timely filed if it is electronically filed at or before 11:59 p.m., eastern time, on the last day of the applicable period for filing.

Note

Rule 22 is reorganized into separate paragraphs and is amended to permit the electronic filing of a paper consistent with any electronic filing procedure that the Court establishes. The Court's electronic filing procedures are published on its Web site. The amendments are effective November 30, 2018.

RULE 23. FORM AND STYLE OF PAPERS

(a) Caption, Date, and Signature Required: Any paper filed with the Court shall have a caption, shall be dated, and shall be signed, as follows:

(1) *Caption:* A proper caption shall be placed on all papers filed with the Court, and the requirements provided in Rule 32(a) shall be satisfied with respect to all such papers. All prefixes and titles, such as "Mr.", "Ms.", or "Dr.", shall be omitted from the caption. The full name and surname of each individual petitioner shall be set forth in the caption. The name of an estate or trust or other person for whom a fiduciary acts shall precede the fiduciary's name and title, as for example "Estate of Mary Doe, Deceased, Richard Roe, Executor".

(2) *Date:* The date of signature shall be placed on all papers filed with the Court.

(3) *Signature:* An electronically filed paper shall be signed in accordance with electronic filing procedures established by the Court. Any other paper to be filed with the Court shall bear the original signature of the party's counsel, or of the party personally if the party is self-represented, except as otherwise provided by these Rules. An individual rather than a firm name shall be used, except that the signature of a petitioner corporation or unincorporated association shall be in the name of the corporation or association by one of its active and authorized officers or members, as for example "Mary Doe, Inc., by Richard Roe, President". The name, mailing address, email address (if any), and telephone number of the party or the party's counsel, as well as counsel's Tax Court bar number, shall be typed or printed immediately beneath the signature. The mailing address of a signatory shall include a firm

name if it is an essential part of the accurate mailing address.

(b) Number Filed: For each document filed in paper form, there shall be filed the signed original and one conformed copy, except as otherwise provided in these Rules. Where filing is in more than one case (as a motion to consolidate, or in cases already consolidated), the number filed shall include one additional copy for each docket number in excess of one. If service of a paper is to be made by the Clerk, copies of any attachments to the original of such paper shall be attached to each copy to be served by the Clerk. As to stipulations, see Rule 91(b).

(c) Legible Papers Required: Papers filed with the Court may be prepared by any process, but only if all papers, including copies, filed with the Court are clear and legible.

(d) Size and Style: Typewritten or printed papers shall be typed or printed only on one side, on opaque, unglazed paper, 8½ inches wide by 11 inches long. All such papers shall have margins on both sides of each page that are no less than 1 inch wide, and margins on the top and bottom of each page that are no less than ¾ inch wide. Text and footnotes shall appear in consistent typeface no smaller than 12 characters per inch produced by a typewriting element, 12-point type produced by a nonproportional print font (e.g., Courier), or 14-point type produced by a proportional print font (e.g., Times New Roman), with double spacing between each line of text and single spacing between each line of indented quotations and footnotes. Quotations in excess of five lines shall be set off from the surrounding text and indented. Double-spaced lines shall be no more than three lines to the vertical inch, and single-spaced lines shall be no more than six lines to the vertical inch.

(e) Binding and Covers: All papers shall be bound together on the upper left-hand side only and shall have no backs or covers.

(f) Citations: All citations of case names shall be underscored when typewritten, and shall be in italics when printed.

(g) Acceptance by the Clerk: Except as otherwise directed by the Court, the Clerk must not refuse to file a paper solely because it is not in the form prescribed by these Rules.

Note

Paragraph (a)(3) of Rule 23 is amended to permit the electronic filing of a paper that does not bear an original (i.e., handwritten) signature if the filing is consistent with any electronic filing procedures that the Court establishes. The Court's electronic filing procedures are published on its Web site. Rule 23(a)(3) is also amended to require that the email address (if any) of the party or the party's counsel be typed or printed immediately beneath the signature and to delete the word "written" as surplusage. The amendments are effective November 30, 2018.

RULE 25. COMPUTATION OF TIME

(a) Computation: (1) *General:* In computing any period of time prescribed or allowed by these Rules or by direction of the Court or by any applicable statute which does not provide otherwise, the day of the act, event, or default from which a designated period of time begins to run shall not be included, and (except as provided in subparagraph (2)) the last day of the period so computed shall be included. If service is made by mail or electronically, then a period of time computed with respect to the service shall begin on the day after the date of mailing or electronic service.

(2) *Saturdays, Sundays, and Holidays:* Saturdays, Sundays, and all legal holidays shall be counted, except that, (A) if the period prescribed or allowed is less than 7 days, then intermediate Saturdays, Sundays, and legal holidays in the District of Columbia shall be excluded in the computation; (B) if the last day of the period so computed is a Saturday, Sunday, or a legal holiday in the District of Columbia, then that day shall not be included and the period shall run until the end of the next day which is not a Saturday, Sunday, or such a legal holiday; and (C) if any act is required to be taken or completed no later than (or at least) a specified number of days before a date certain, then the earliest day of the period so specified shall not be included if it is a Saturday, Sunday, or a legal holiday in the District of Columbia, and the earliest such day shall be the next preceding day which is not a Saturday, Sunday, or such a legal holiday. When such a legal holiday falls on a Sunday, the next day shall be considered

a holiday; and, when such a legal holiday falls on a Saturday, the preceding day shall be considered a holiday.

(b) District of Columbia Legal Holidays: The legal holidays within the District of Columbia, in addition to any other day appointed as a holiday by the President or the Congress of the United States, are as follows:

New Year's Day—January 1
 Birthday of Martin Luther King, Jr.—Third Monday in January
 Inauguration Day—Every fourth year
 Washington's Birthday—Third Monday in February
 District of Columbia Emancipation Day—April 16
 Memorial Day—Last Monday in May
 Independence Day—July 4
 Labor Day—First Monday in September
 Columbus Day—Second Monday in October
 Veterans Day—November 11
 Thanksgiving Day—Fourth Thursday in November
 Christmas Day—December 25

(c) Enlargement or Reduction of Time: Unless precluded by statute, the Court in its discretion may make longer or shorter any period provided by these Rules. As to continuances, see Rule 133. Where a motion is made concerning jurisdiction or the sufficiency of a pleading, the time for filing a response to that pleading shall begin to run from the date of service of the order disposing of the motion by the Court, unless the Court shall direct otherwise. Where the dates for filing briefs are fixed, an extension of time for filing a brief or the granting of leave to file a brief after the due date shall correspondingly extend the time for filing any other brief due at the same time and for filing succeeding briefs, unless the Court shall order otherwise. The period fixed by statute, within which to file a petition with the Court, cannot be extended by the Court.

Note

Paragraph (a)(1) of Rule 25 is amended to clarify that the computation of a period of time related to electronic service shall begin on the day after the date of electronic service. The amendment is effective November 30, 2018.

Paragraphs (a)(3) and (d) of Rule 25 are deleted to eliminate redundancy. The amendments are effective July 15, 2019.

RULE 34. PETITION

(a) General: (1) *Deficiency or Liability Action:* The petition with respect to a notice of deficiency or a notice of liability shall be substantially in accordance with Form 1 shown in Appendix I, and shall comply with the requirements of these Rules relating to pleadings. Ordinarily, a separate petition shall be filed with respect to each notice of deficiency or each notice of liability. However, a single petition may be filed seeking a redetermination with respect to all notices of deficiency or liability directed to one person alone or to such person and one or more other persons or to a husband and a wife individually, except that the Court may order a severance and a separate case to be maintained with respect to one or more of such notices. Where the notice of deficiency or liability is directed to more than one person, each such person desiring to contest it shall file a petition, either separately or jointly with any such other person, and each such person must satisfy all the requirements of this Rule in order for the petition to be treated as filed by or for such person. The petition shall be complete, so as to enable ascertainment of the issues intended to be presented. A petition may be filed electronically under the electronic filing procedures established by the Court, or a petition may be filed by properly mailing or hand delivering it to the Court. No paper will be recognized as a petition if it is submitted to the Court in any other way. The address to be used to mail or hand deliver a petition is set forth in Rule 10(e). Petitions may be hand delivered to the Court only during business hours. See Rule 10(d). Failure of the petition to satisfy applicable requirements may be ground for dismissal of the case. As to the joinder of parties, see Rule 61; and as to the effect of misjoinder of parties, see Rule 62. For the circumstances under which a timely mailed petition will be treated as having been timely filed, see Code section 7502.

(2) *Other Actions:* For the requirements relating to the petitions in other actions, see the following Rules: Declaratory judgment actions, Rules 211(b), 311(b); disclosure actions, Rule 221(b); partnership actions, Rules 241(b), 255.2(b), 301(b); administrative costs actions, Rule 271(b); abatement of interest actions, Rule 281(b); redetermination of employment status actions, Rule 291(b); determination of relief from joint and several liability on a joint return

actions, Rule 321(b); lien and levy actions, Rule 331(b); whistleblower actions, Rule 341(b); and certification actions with respect to passports, Rule 350(b). As to joinder of parties in declaratory judgment actions, in disclosure actions, and in partnership actions, see Rules 215, 226, 241(h), 255.2(c), and 301(f), respectively.

(b) Content of Petition in Deficiency or Liability

Action: The petition in a deficiency or liability action shall contain (see Form 1, Appendix I):

(1) In the case of a petitioner who is an individual, the petitioner's name and State of legal residence; in the case of a petitioner other than an individual, the petitioner's name and principal place of business or principal office or agency; and, in all cases, the petitioner's mailing address and the office of the Internal Revenue Service with which the tax return for the period in controversy was filed. The mailing address, State of legal residence, principal place of business, or principal office or agency shall be stated as of the date of filing the petition. In the event of a variance between the name set forth in the notice of deficiency or liability and the correct name, a statement of the reasons for such variance shall be set forth in the petition.

(2) The date of the notice of deficiency or liability, or other proper allegations showing jurisdiction in the Court, and the City and State of the office of the Internal Revenue Service which issued the notice.

(3) The amount of the deficiency or liability, as the case may be, determined by the Commissioner, the nature of the tax, the year or years or other periods for which the determination was made; and, if different from the Commissioner's determination, the approximate amount of taxes in controversy.

(4) Clear and concise assignments of each and every error which the petitioner alleges to have been committed by the Commissioner in the determination of the deficiency or liability. The assignments of error shall include issues in respect of which the burden of proof is on the Commissioner. Any issue not raised in the assignments of error shall be deemed to be conceded. Each assignment of error shall be separately lettered.

(5) Clear and concise lettered statements of the facts on which the petitioner bases the assignments of error, except

with respect to those assignments of error as to which the burden of proof is on the Commissioner.

(6) A prayer setting forth relief sought by the petitioner.

(7) The signature, mailing address, and telephone number of each petitioner or each petitioner's counsel, as well as counsel's Tax Court bar number.

(8) A copy of the notice of deficiency or liability, as the case may be, which shall be appended to the petition, and with which there shall be included so much of any statement accompanying the notice as is material to the issues raised by the assignments of error. If the notice of deficiency or liability or accompanying statement incorporates by reference any prior notices, or other material furnished by the Internal Revenue Service, such parts thereof as are material to the issues raised by the assignments of error likewise shall be appended to the petition.

A claim for reasonable litigation or administrative costs shall not be included in the petition in a deficiency or liability action. For the requirements as to claims for reasonable litigation or administrative costs, see Rule 231.

(c) Content of Petition in Other Actions: For the requirements as to the content of the petition in a small tax case, see Rule 173(a); declaratory judgment actions, see Rules 211(b)–(g) and 311(b); disclosure actions, see Rule 221(b)–(e); partnership actions, see Rules 241(b)–(e), 255.2(b), and 301(b)–(e); administrative costs actions, see Rule 271(b); abatement of interest actions, see Rule 281(b); redetermination of employment status actions, see Rule 291(b); actions for determination of relief from joint and several liability on a joint return, see Rule 321(b); lien and levy actions, see Rule 331(b); whistleblower actions, see Rule 341(b); and certification actions with respect to passports, see Rule 351(b).

(d) Use of Form 2 Petition: The use of a properly completed Form 2 petition satisfies the requirements of this Rule.

(e) Original Required: Notwithstanding Rule 23(b), only the signed original of each petition is required to be filed.

Note

Paragraph (a)(1) of Rule 34 is amended to pave the way for the electronic filing of petitions and certain other papers that may not be filed electronically at this time. Before the Court implements electronic filing of petitions and certain other papers, however, the Court will furnish detailed information about those procedures in the Court's electronic filing guidelines on the Court's website. The amended Rule will allow the electronic filing of a petition that is unaccompanied by an original signature if the filing is consistent with the Court's Rules or any procedure established thereunder. A stylistic change is made to delete examples of forms of communication (e.g., telephone call, faxed copy) that are not recognized as a petition and to replace the deleted examples with an affirmative statement that a petition must be filed either electronically under the Court's electronic filing procedure, or by mailing or hand delivering the petition to the Court in accordance with the Rules. The amendments are effective November 30, 2018.

Paragraphs (a)(2) and (c) of Rule 34 are amended to conform with the additions of Rules pertaining to BBA partnership actions under new Title XXIV.A and certification actions with respect to passports under new Title XXXIV. Paragraph (c) is also reorganized for clarity. The amendments are effective July 15, 2019.

RULE 38. JOINDER OF ISSUE

A case shall be deemed at issue upon the filing of the answer, unless a reply is required under Rule 37, in which event it shall be deemed at issue upon the filing of a reply or the entry of an order disposing of a motion under Rule 37(c) or the expiration of the period specified in Rule 37(c) in case the Commissioner fails to move. With respect to declaratory judgment actions, see Rules 214 and 314; disclosure actions, see Rule 224; partnership actions, see Rules 244, 255.5, and 304; administrative costs actions, see Rule 273; abatement of interest actions, see Rule 284; actions for redetermination of employment status, see Rule 294; actions for determination of relief from joint and several liability on a joint return, see Rule 324; lien and levy actions, see Rule 334;

whistleblower actions, see Rule 344; and certification actions with respect to passports, see Rule 354.

Note

Rule 38 is amended to conform with the additions of Rules pertaining to BBA partnership actions under new Title XXIV.A and certification actions with respect to passports under new Title XXXIV and is reorganized for clarity. The amendment pertaining to certification actions with respect to passports is effective November 30, 2018, and the amendment pertaining to BBA partnership actions is effective July 15, 2019.

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.

Note

Paragraph (a)(2) of Rule 60 is amended to conform with the addition of Rules pertaining to BBA partnership actions under new Title XXIV.A. The amendment is effective July 15, 2019.

RULE 61. PERMISSIVE JOINDER OF PARTIES

(a) Permissive Joinder: No person to whom a notice of deficiency or notice of liability has been issued may join with any other such person in filing a petition in the Court, except as may be permitted by Rule 34(a)(1). With respect to the joinder of parties in declaratory judgment actions, see Rule 215; in disclosure actions, see Rule 226; and in partnership actions, see Rules 241(h), 255.2(c)(1), and 301(f).

(b) Severance or Other Orders: The Court may make such orders as will prevent a party from being embarrassed, delayed, or put to expense by the inclusion of a party, or may order separate trials or make other orders to prevent delay or prejudice; or may limit the trial to the claims of one or more parties, either dropping other parties from the case on such terms as are just or holding in abeyance the proceedings with respect to them. Any claim by or against a party may be severed and proceeded with separately. See also Rule 141(b).

Note

Paragraph (a) of Rule 61 is amended to conform with the addition of Rules pertaining to BBA partnership actions under new Title XXIV.A. The amendment is effective July 15, 2019.

RULE 74. DEPOSITIONS FOR DISCOVERY PURPOSES

(a) General: In conformity with this Rule, a party may obtain discovery by depositions with the consent of the parties under paragraph (b) and without the consent of the parties under paragraph (c). Paragraph (d) describes additional uses for depositions of expert witnesses, and paragraphs (e) and (f) set forth general provisions governing the taking of all depositions for discovery purposes. An application for an order to take a deposition is required only with respect to depositions to perpetuate evidence. See Rules 80 through 84.

(b) Depositions Upon Consent of the Parties: (1) *When Deposition May Be Taken:* Upon consent of all the parties to a case, and within the time limits provided in Rule 70(a)(2), a deposition for discovery purposes may be taken of either a party, a nonparty witness, or an expert witness. Such consent shall be set forth in a stipulation filed in duplicate with the Court, which shall contain the information required in Rule 81(d) and which otherwise shall be subject to the procedure provided in Rule 81(d).

(2) *Notice to Nonparty Witness or Expert Witness:* A notice of deposition shall be served on a nonparty witness or an expert witness. The notice shall state that the deposition is to be taken under Rule 74(b) and shall set forth

the name of the party or parties seeking the deposition; the name and address of the person to be deposed; the time and place proposed for the deposition; the name of the officer before whom the deposition is to be taken; a statement describing any books, papers, documents, electronically stored information, or tangible things to be produced at the deposition; and a statement of the issues in controversy to which the expected testimony of the witness, or the document, electronically stored information, or thing relates, and the reasons for deposing the witness. With respect to the deposition of an organization described in Rule 81(c), the notice shall also set forth the information required under that Rule, and the organization shall make the designation authorized by that Rule.

(3) *Objection by Nonparty Witness or Expert Witness:* Within 15 days after service of the notice of deposition, a nonparty witness or expert witness shall serve on the parties seeking the deposition any objections to the deposition. The burden shall be upon a party seeking the deposition to move for an order with respect to such objection or other failure of the nonparty witness or expert witness, and such party shall annex to any such motion the notice of deposition with proof of service thereof, together with a copy of the response and objections, if any.

(c) Depositions Without Consent of the Parties: (1)

In General: (A) *When Depositions May Be Taken:* After a notice of trial has been issued or after a case has been assigned to a Judge or Special Trial Judge of the Court, and within the time for completion of discovery under Rule 70(a)(2), any party may take a deposition for discovery purposes of a party, a nonparty witness, or an expert witness in the circumstances described in this paragraph.

(B) *Availability:* The taking of a deposition of a party, a nonparty witness, or an expert witness under this paragraph is an extraordinary method of discovery and may be used only where a party, a nonparty witness, or an expert witness can give testimony or possesses documents, electronically stored information, or things which are discoverable within the meaning of Rule 70(b) and where such testimony, documents, electronically stored information, or things practicably cannot be obtained through informal consultation or commu-

nication (Rule 70(a)(1)), interrogatories (Rule 71), a request for production of documents, electronically stored information, or things (Rule 72), or by a deposition taken with consent of the parties (Rule 74(b)). If such requirements are satisfied, then a deposition of a witness may be taken under this paragraph.

(2) *Nonparty Witnesses:* A party may take the deposition of a nonparty witness without leave of court and without the consent of all the parties as follows:

(A) *Notice:* A party desiring to take a deposition under this subparagraph shall give notice in writing to every other party to the case and to the nonparty witness to be deposed. The notice shall state that the deposition is to be taken under Rule 74(c)(2) and shall set forth the name of the party seeking the deposition; the name and address of the person to be deposed; the time and place proposed for the deposition; the officer before whom the deposition is to be taken; a statement describing any books, papers, documents, electronically stored information, or tangible things to be produced at the deposition; and a statement of the issues in controversy to which the expected testimony of the witness, or the document, electronically stored information, or thing relates, and the reasons for deposing the witness. With respect to the deposition of an organization described in Rule 81(c), the notice shall also set forth the information required under that Rule, and the organization shall make the designation authorized by that Rule.

(B) *Objections:* Within 15 days after service of the notice of deposition, a party or a nonparty witness shall serve on the party seeking the deposition any objections to the deposition. The burden shall be upon the party seeking the deposition to move for an order with respect to any such objections or any failure of the nonparty witness, and such party shall annex to any such motion the notice of deposition with proof of service thereof, together with a copy of any responses and objections. Prior to a motion for such an order, neither the notice nor the responses shall be filed with the Court.

(3) *Party Witnesses:* A party may take the deposition of another party without the consent of all the parties as follows:

(A) *Motion*: A party desiring to depose another party shall file a written motion which shall state that the deposition is to be taken under Rule 74(c)(3) and shall set forth the name of the person to be deposed, the time and place of the deposition, and the officer before whom the deposition is to be taken. With respect to the deposition of an organization described in Rule 81(c), the motion shall also set forth the information required under that Rule, and the organization shall make the designation authorized by that Rule.

(B) *Objection*: Upon the filing of a motion to take the deposition of a party, the Court shall issue an order directing each nonmoving party to file a written objection or response thereto.

(C) *Action by the Court Sua Sponte*: In the exercise of its discretion the Court may on its own motion order the taking of a deposition of a party witness and may in its order allocate the cost therefor as it deems appropriate.

(4) *Expert Witnesses*: A party may take the deposition of an expert witness without the consent of all the parties as follows:

(A) *Scope of Deposition*: The deposition of an expert witness under this subparagraph shall be limited to: (i) The knowledge, skill, experience, training, or education that qualifies the witness to testify as an expert in respect of the issue or issues in dispute, (ii) the opinion of the witness in respect of which the witness's expert testimony is relevant to the issue or issues in dispute, (iii) the facts or data that underlie that opinion, and (iv) the witness's analysis, showing how the witness proceeded from the facts or data to draw the conclusion that represents the opinion of the witness.

(B) *Procedure*: (i) *In General*: A party desiring to depose an expert witness under this subparagraph (4) shall file a written motion and shall set forth therein the matters specified below:

(a) The name and address of the witness to be examined;

(b) a statement describing any books, papers, documents, electronically stored information, or tan-

gible things to be produced at the deposition of the witness to be examined;

(c) a statement of issues in controversy to which the expected testimony of the expert witness, or the document, electronically stored information, or thing relates, and the reasons for deposing the witness;

(d) the time and place proposed for the deposition;

(e) the officer before whom the deposition is to be taken;

(f) any provision desired with respect to the payment of the costs, expenses, fees, and charges relating to the deposition (see paragraph (c)(4)(D)); and

(g) if the movant proposes to video record the deposition, then a statement to that effect and the name and address of the video recorder operator and the operator's employer. (The video recorder operator and the officer before whom the deposition is to be taken may be the same person.)

The movant shall also show that prior notice of the motion has been given to the expert witness whose deposition is sought and to each other party, or counsel for each other party, and shall state the position of each of these persons with respect to the motion, in accordance with Rule 50(a).

(ii) *Disposition of Motion:* Any objection or other response to the motion for order to depose an expert witness under this subparagraph shall be filed with the Court within 15 days after service of the motion. If the Court approves the taking of a deposition, then it will issue an order as described in paragraph (e)(4) of this Rule. If the deposition is to be video recorded, then the Court's order will so state.

(C) *Action by the Court Sua Sponte:* In the exercise of its discretion the Court may on its own motion order the taking of a deposition of an expert witness and may in its order allocate the cost therefor as it deems appropriate.

(D) *Expenses:* (i) *In General:* By stipulation among the parties and the expert witness to be deposed, or on order of the Court, provision may be made for any costs, expenses, fees, or charges relating to the deposition. If

there is not such a stipulation or order, then the costs, expenses, fees, and charges relating to the deposition shall be borne by the parties as set forth in paragraph (c)(4)(D)(ii).

(ii) *Allocation of Costs, Etc.*: The party taking the deposition shall pay the following costs, expenses, fees, and charges:

(a) A reasonable fee for the expert witness, with regard to the usual and customary charge of the witness, for the time spent in preparing for and attending the deposition;

(b) reasonable charges of the expert witness for models, samples, or other like matters that may be required in the deposition of the witness;

(c) such amounts as are allowable under Rule 148(a) for transportation and subsistence for the expert witness;

(d) any charges of the officer presiding at or recording the deposition (other than for copies of the deposition transcript);

(e) any expenses involved in providing a place for the deposition; and

(f) the cost for the original of the deposition transcript as well as for any copies thereof that the party taking the deposition might order.

The other parties and the expert witness shall pay the cost for any copies of the deposition transcript that they might order.

(iii) *Failure To Attend*: If the party authorized to take the deposition of the expert witness fails to attend or to proceed therewith, then the Court may order that party to pay the witness such fees, charges, and expenses that the witness would otherwise be entitled to under paragraph (c)(4)(D)(ii) and to pay any other party such expenses, including attorney's fees, that the Court deems reasonable under the circumstances.

(d) Use of Deposition of an Expert Witness for Other Than Discovery Purposes: (1) *Use as Expert Witness Report*: Upon written motion by the proponent of the expert witness and in appropriate cases, the Court may order that the deposition transcript serve as the expert witness re-

port required by Rule 143(g)(1). Unless the Court shall determine otherwise for good cause shown, the taking of a deposition of an expert witness will not serve to extend the date under Rule 143(g)(1) by which a party is required to furnish to each other party and to submit to the Court a copy of all expert witness reports prepared pursuant to that Rule.

(2) *Other Use:* Any other use of a deposition of an expert witness shall be governed by the provisions of Rule 81(i).

(e) **General Provisions:** Depositions taken under this Rule are subject to the following provisions. (1) *Transcript:* A transcript shall be made of every deposition upon oral examination taken under this Rule, but the transcript and exhibits introduced in connection with the deposition generally shall not be filed with the Court. See Rule 81(h)(3).

(2) *Depositions Upon Written Questions:* Depositions under this Rule may be taken upon written questions rather than upon oral examination. If the deposition is to be taken on written questions, a copy of the written questions shall be annexed to the notice of deposition or motion to take deposition. The use of such written questions is not favored, and the deposition should not be taken in this manner in the absence of a special reason. See Rule 84(a). There shall be an opportunity for cross-questions and redirect questions to the same extent and within the same time periods as provided in Rule 84(b) (starting with service of a notice of or motion to take deposition rather than service of an application). With respect to taking the deposition, the procedure of Rule 84(c) shall apply.

(3) *Hearing:* A hearing on a motion for an order regarding a deposition under this Rule will be held only if directed by the Court. A motion for an order regarding a deposition may be granted by the Court to the extent consistent with Rule 70(c)(1).

(4) *Orders:* If the Court approves the taking of a deposition under this Rule, then it will issue an order which includes in its terms the name of the person to be examined, the time and place of the deposition, and the officer before whom it is to be taken.

(5) *Continuances:* Unless the Court shall determine otherwise for good cause shown, the taking of a deposition under this Rule will not be regarded as sufficient ground

for granting a continuance from a date or place of trial theretofore set.

(f) Other Applicable Rules: Unless otherwise provided in this Rule, the depositions described in this Rule generally shall be governed by the provisions of the following Rules with respect to the matters to which they apply: Rule 81(c) (designation of person to testify), 81(e) (person before whom deposition taken), 81(f) (taking of deposition), 81(g) (expenses), 81(h) (execution, form, and return of deposition), 81(i) (use of deposition), and Rule 85 (objections, errors, and irregularities). For Rules concerned with the timing and frequency of depositions, supplementation of answers, protective orders, effect of evasive or incomplete answers or responses, and sanctions and enforcement action, see Title X. For provisions governing the issuance of subpoenas, see Rule 147(d).

Note

Paragraph (c)(1)(B) of Rule 74 is amended for clarity and to simplify the Rule. The amendment is effective July 15, 2019.

RULE 143. EVIDENCE

(a) General: Trials before the Court will be conducted in accordance with the Federal Rules of Evidence. See Code sec. 7453. Evidence that is relevant only to the issue of a party's entitlement to reasonable litigation or administrative costs shall not be introduced during the trial of the case (other than a case commenced under Title XXVI of these Rules, relating to actions for administrative costs). As to claims for reasonable litigation or administrative costs and their disposition, see Rules 231 and 232. As to evidence in an action for administrative costs, see Rule 274 (and that Rule's incorporation of the provisions of Rule 174(b)).

(b) Testimony: The testimony of a witness generally must be taken in open court except as otherwise provided by the Court or these Rules. For good cause in compelling circumstances and with appropriate safeguards, the Court may permit testimony in open court by contemporaneous transmission from a different location.

(c) Ex Parte Statements: Ex parte affidavits or declarations, statements in briefs, and unadmitted allegations in

pleadings do not constitute evidence. As to allegations in pleadings not denied, see Rules 36(c) and 37(c) and (d).

(d) Depositions: Testimony taken by deposition shall not be treated as evidence in a case until offered and received in evidence. Error in the transcript of a deposition may be corrected by agreement of the parties, or by the Court on proof it deems satisfactory to show an error exists and the correction to be made, subject to the requirements of Rules 81(h)(1) and 85(e). As to the use of a deposition, see Rule 81(i).

(e) Documentary Evidence: (1) *Copies:* A copy is admissible to the same extent as an original unless a genuine question is raised as to the authenticity of the original or in the circumstances it would be unfair to admit the copy in lieu of the original. Where the original is admitted in evidence, a clearly legible copy may be substituted later for the original or such part thereof as may be material or relevant, upon leave granted in the discretion of the Court.

(2) *Return of Exhibits:* Exhibits may be disposed of as the Court deems advisable. A party desiring the return at such party's expense of any exhibit belonging to such party, shall, within 90 days after the decision of the case by the Court has become final, make written application to the Clerk, suggesting a practical manner of delivery. If such application is not timely made, the exhibits in the case will be destroyed.

(f) Interpreters: The parties ordinarily will be expected to make their own arrangements for obtaining and compensating interpreters. However, the Court may appoint an interpreter of its own selection and may fix the interpreter's reasonable compensation, which compensation shall be paid by one or more of the parties or otherwise as the Court may direct.

(g) Expert Witness Reports: (1) Unless otherwise permitted by the Court upon timely request, any party who calls an expert witness shall cause that witness to prepare a written report for submission to the Court and to the opposing party if the witness is one retained or specially employed to provide expert testimony in the case or one whose duties as the party's employee regularly involve giving expert testimony. The report, prepared and signed by the witness, shall contain:

(A) a complete statement of all opinions the witness expresses and the basis and reasons for them;

(B) the facts or data considered by the witness in forming them;

(C) any exhibits used to summarize or support them;

(D) the witness's qualifications, including a list of all publications authored in the previous 10 years;

(E) a list of all other cases in which, during the previous 4 years, the witness testified as an expert at trial or by deposition; and

(F) a statement of the compensation to be paid for the study and testimony in the case.

(2) The report will be marked as an exhibit, identified by the witness, and received in evidence as the direct testimony of the expert witness, unless the Court determines that the witness is not qualified as an expert. Additional direct testimony with respect to the report may be allowed to clarify or emphasize matters in the report, to cover matters arising after the preparation of the report, or otherwise at the discretion of the Court. After the case is calendared for trial or assigned to a Judge or Special Trial Judge, each party who calls any expert witness shall serve on each other party, and shall submit to the Court, not later than 30 days before the call of the trial calendar on which the case shall appear, a copy of all expert witness reports prepared pursuant to this subparagraph. An expert witness's testimony will be excluded altogether for failure to comply with the provisions of this paragraph, unless the failure is shown to be due to good cause and unless the failure does not unduly prejudice the opposing party, such as by significantly impairing the opposing party's ability to cross-examine the expert witness or by denying the opposing party the reasonable opportunity to obtain evidence in rebuttal to the expert witness's testimony.

(3) The Court ordinarily will not grant a request to permit an expert witness to testify without a written report where the expert witness's testimony is based on third-party contacts, comparable sales, statistical data, or other detailed, technical information. The Court may grant such a request, for example, where the expert witness testifies only with respect to industry practice or only in rebuttal to another expert witness.

(4) For circumstances under which the transcript of the deposition of an expert witness may serve as the written report required by subparagraph (1), see Rule 74(d).

Note

Rule 143 is amended to reflect an amendment to Code section 7453. Section 425 of the Protecting Americans from Tax Hikes Act of 2015 (enacted in Division Q of the Consolidated Appropriations Act, 2016, Pub. L. No. 114–113, 129 Stat. 2422, 3125 (2015)), amended Code section 7453 by striking language directing the Court to follow the rules of evidence “applicable in trials without a jury in the United States District Court of the District of Columbia” and replacing it with a directive that the Court shall follow the Federal Rules of Evidence. The amendment applies to proceedings commenced after December 18, 2015, and to the extent that it is just and practicable, to all proceedings pending on that date.

RULE 230. GENERAL

(a) Applicability: The Rules of this Title XXIII set forth the special provisions which apply to claims for reasonable litigation and administrative costs authorized by Code section 7430. Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to such claims for reasonable litigation and administrative costs. See Title XXVI for Rules relating to separate actions for administrative costs, authorized by Code section 7430(f)(2).

(b) Definitions: As used in the Rules in this Title—

(1) “Reasonable litigation costs” include the items described in Code section 7430(c)(1).

(2) “Reasonable administrative costs” include the items described in Code section 7430(c)(2).

(3) “Court proceeding” means any action brought in this Court in connection with the determination, collection, or refund of tax, interest, or penalty.

(4) “Administrative proceeding” means any procedure or other action within the Internal Revenue Service in connection with the determination, collection, or refund of tax, interest, or penalty.

(5) In the case of a partnership action, the term “party” includes the partner who filed the petition, the tax matters partner, and each person who satisfies the requirements of Code section 6226(c) and (d) or 6228(a)(4). See Rule 247(a). The term “party” also includes the partnership representative. See Rule 255.1(b)(3).

(6) “Attorney’s fees” include fees for the services of an individual (whether or not an attorney) who is authorized to practice before the Court or before the Internal Revenue Service. For the procedure for admission to practice before the Court, see Rule 200.

Note

Paragraph (b)(5) of Rule 230 is amended to conform with the addition of Rules pertaining to BBA partnership actions under new Title XXIV.A. The amendment is effective July 15, 2019.

RULE 233. MISCELLANEOUS

For provisions prohibiting the inclusion of a claim for reasonable litigation and administrative costs in the petition, see Rule 34(b) (petition in a deficiency or liability action), Rule 211(b) (petition in a declaratory judgment action), Rules 241(c), 255.2(b), and 301(c) (petition in a partnership action), Rule 291(c) (petition in an employment status action), Rule 321(b) (petition in an action for determination of relief from joint and several liability on a joint return), and Rule 331(b) (petition in a lien or levy action). For provisions regarding discovery, see Rule 70(a)(2). For provisions prohibiting the introduction of evidence regarding a claim for reasonable litigation or administrative costs at the trial of the case, see Rule 143(a).

Note

Rule 233 is amended to conform with the addition of Rules pertaining to BBA partnership actions under new Title XXIV.A. The amendment is effective July 15, 2019.

TITLE XXIV**TEFRA PARTNERSHIP ACTIONS****RULE 240. GENERAL**

(a) Applicability: The Rules of this Title XXIV set forth the special provisions which apply to actions for readjustment of partnership items under Code section 6226 and actions for adjustment of partnership items under Code section 6228, as enacted by section 402(a) of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. No. 97-248, 96 Stat. 648. Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to such partnership actions.

(b) Definitions: As used in the Rules in this Title—

(1) The term “partnership” means a partnership as defined in Code section 6231(a)(1).

(2) A “partnership action” is either an “action for readjustment of partnership items” under Code section 6226 or an “action for adjustment of partnership items” under Code section 6228.

(3) The term “partnership item” means any item described in Code section 6231(a)(3).

(4) The term “tax matters partner” means the person who is the tax matters partner under Code section 6231(a)(7) and who under these Rules is responsible for keeping each partner fully informed of the partnership action. See Code secs. 6223(g), 6230(l).

(5) A “notice of final partnership administrative adjustment” is the notice described in Code section 6223(a)(2).

(6) The term “administrative adjustment request” means a request for an administrative adjustment of partnership items filed by the tax matters partner on behalf of the partnership under Code section 6227(c).

(7) The term “partner” means a person who was a partner as defined in Code section 6231(a)(2) at any time during any partnership taxable year at issue in a partnership action.

(8) The term “notice partner” means a person who is a notice partner under Code section 6231(a)(8).

(9) The term “5-percent group” means a 5-percent group as defined in Code section 6231(a)(11).

(c) Jurisdictional Requirements: The Court does not have jurisdiction of a partnership action under this Title unless the following conditions are satisfied:

(1) *Actions for Readjustment of Partnership Items:* (A) The Commissioner has issued a notice of final partnership administrative adjustment. See Code sec. 6226(a) and (b).

(B) A petition for readjustment of partnership items is filed with the Court by the tax matters partner within the period specified in Code section 6226(a), or by a partner other than the tax matters partner subject to the conditions and within the period specified in Code section 6226(b).

(2) *Actions for Adjustment of Partnership Items:* (A) The Commissioner has not allowed all or some of the adjustments requested in an administrative adjustment request. See Code sec. 6228(a).

(B) A petition for adjustment of partnership items is filed with the Court by the tax matters partner subject to the conditions and within the period specified in Code section 6228(a)(2) and (3).

(d) Form and Style of Papers: All papers filed in a partnership action shall be prepared in the form and style set forth in Rule 23, except that the caption shall state the name of the partnership and the full name and surname of any partner filing the petition and shall indicate whether such partner is the tax matters partner, as for example, “ABC Partnership, Mary Doe, Tax Matters Partner, Petitioner” or “ABC Partnership, Richard Roe, A Partner Other Than the Tax Matters Partner, Petitioner”.

Note

The title of Title XXIV and paragraph (a) of Rule 240 are amended to distinguish TEFRA partnership actions authorized under Code sections 6226 and 6228 as enacted under the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. No. 97–248, 96 Stat. 648, from BBA partnership actions authorized under Code sections 6221 through 6241 as enacted under section 1101(c) of the Bipartisan Budget Act of 2015, Pub. L. No. 114–74, 129 Stat. 584.

TITLE XXIV.A**PARTNERSHIP ACTIONS UNDER BBA SECTION 1101****RULE 255.1. GENERAL**

(a) Applicability: The Rules of this Title XXIV.A set forth the provisions that apply to a partnership proceeding commenced pursuant to section 6234(a)(1), as added to the Code by section 1101(c)(1) of the Bipartisan Budget Act of 2015 (BBA), Pub. L. No. 114–74, 129 Stat. 584. Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to the action.

(b) Definitions: As used in the Rules in this Title—

(1) The term “partnership” means a partnership as defined in Code section 6241(1).

(2) A “partnership action” is an action for readjustment of final partnership adjustments under Code section 6234(a)(1).

(3) The term “partnership representative” means the partner (or other person) designated by the partnership or selected by the Secretary pursuant to Code section 6223(a), or designated pursuant to Rule 255.6.

(4) A “notice of final partnership adjustment” is the notice described in Code section 6231(a)(3).

(c) Jurisdictional Requirements: The Court does not have jurisdiction of a partnership action under this Title unless the following conditions are satisfied:

(1) The Commissioner has mailed a notice of final partnership adjustment with respect to the partnership’s taxable year(s).

(2) The partnership representative files a petition for readjustment with respect to the year(s) within 90 days after the date on which the notice of final partnership adjustment is mailed.

(d) Form and Style of Papers: All papers filed in a partnership action shall be prepared in the form and style set forth in Rule 23, except that the caption shall state the name of the partnership and the name of the partnership representative.

Note

New Title XXIV.A (Rules 255.1 to 255.7) establishes procedures for partnership actions under Code sections 6221 through 6241, added by section 1101(c) of the Bipartisan Budget Act of 2015 (BBA), Pub. L. No. 114–74, 129 Stat. 584. BBA section 1101(g)(1) generally states that Code sections 6221 through 6241 shall apply to returns filed for partnership taxable years beginning after December 31, 2017. BBA section 1101(g)(4), however, allows a partnership to elect to apply Code sections 6221 through 6241 (except to the extent of the election in Code section 6221(b)) to a return filed for a partnership taxable year beginning after November 2, 2015, and before January 1, 2018.

Rule 255.1 sets forth general rules (including definitions) for a partnership action subject to BBA section 1101. Rule 255.1 generally tracks the structure of the provisions of Rule 240, which sets forth general rules (including definitions) for a TEFRA partnership action subject to the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. No. 97–248, sec. 402(a), 96 Stat. 648. Rule 255.1 is effective December 19, 2018.

RULE 255.2. COMMENCEMENT OF PARTNERSHIP ACTION

(a) Commencement of Action: A partnership action under this Title shall be commenced by filing a petition with the Court. See Rule 20, relating to commencement of case; the taxpayer identification number to be provided under paragraph (b) of that Rule shall be the partnership’s employer identification number. See also Rule 22, relating to the place and manner of filing the petition; Rule 32, relating to form of pleadings; and Rule 255.1(d), relating to the caption.

(b) Content of Petition: A petition filed pursuant to this Rule shall be entitled “Petition for Partnership Action Under BBA Section 1101” and shall contain the following:

- (1) The partnership representative’s name, State of legal residence (or in the case of a partnership representative other than an individual, the partnership representative’s principal place of business or principal office or agency), and mailing address, each as of the date that

the petition is filed, and a separate numbered paragraph stating that the partnership designated or that the Secretary selected the partnership representative as its partnership representative.

(2) The partnership's name and principal place of business as of the time the petition is filed.

(3) The city and State of the office of the Internal Revenue Service with which the partnership's return(s) for the year(s) in controversy was filed.

(4) The date of the notice of final partnership adjustment.

(5) The amount of the imputed underpayment, determined by the Commissioner, the nature of the tax, the year or years or other periods for which the determination was made; and, if different from the Commissioner's determination, the approximate amount of the imputed underpayment in controversy, including any proposed modification of the imputed underpayment that was not approved by the Commissioner.

(6) Clear and concise statements of each and every error that the petitioner alleges the Commissioner committed in the notice of final partnership adjustment and each and every proposed modification of the imputed underpayment to which the Commissioner did not consent. The assignments of error shall include issues in respect of which the Commissioner has the burden of proof. Any issue not raised in the assignments of error, including any amendment thereto, shall be deemed to be conceded. Each assignment of error shall be set forth in a separately lettered subparagraph.

(7) Clear and concise lettered statements of the facts on which the petitioner bases the assignments of error and the proposed modifications, except with respect to the assignments of error as to which the Commissioner has the burden of proof.

(8) A prayer setting forth the relief that the petitioner seeks.

(9) The signature, mailing address, telephone number and Tax Court bar number of the partnership's counsel; or if the partnership is self-represented, the signature, mailing address, and telephone number of the individual who filed the petition on behalf of the partnership, with a state-

ment of the individual's capacity to file the petition on behalf of the partnership.

(10) A copy of the notice of final partnership adjustment shall be appended to the petition, as shall any statement accompanying the notice as is material to the issues that the assignments of error raise. If the notice of final partnership adjustment or any accompanying statement incorporates by reference a prior notice or other material that the Internal Revenue Service furnished, the parts thereof that are material to the assignments of error shall also be appended to the petition.

A claim for reasonable litigation or administrative costs shall not be included in the petition in a partnership action under this Title XXIV.A. For the requirements as to claims for reasonable litigation or administrative costs, see Rule 231.

(c) Joinder of Parties: (1) *Permissive Joinder:* A separate petition shall be filed with respect to each notice of final partnership adjustment issued to separate partnerships. A single petition for readjustment, however, may be filed seeking readjustments of partnership items with respect to more than one notice of final partnership adjustment if the notices pertain to the same partnership.

(2) *Severance or Other Orders:* With respect to a case based upon multiple notices of final partnership adjustment, the Court may order a severance and a separate case to be maintained with respect to one or more of the notices whenever it appears to the Court that proceeding separately furthers convenience, or avoids prejudice, or when separate trials will be conducive to expedition or economy.

(d) Filing Fee: The fee for filing a petition for a partnership action is \$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 the payment.

Note

Rule 255.2 sets forth the requirements for the commencement of a BBA partnership action, including the requirements as to the contents of the petition. Rule 255.2 is effective December 19, 2018.

RULE 255.3. REQUEST FOR PLACE OF TRIAL

At the time of filing a petition in a partnership action, a request for place of trial shall be filed in accordance with Rule 140.

Note

Rule 255.3 provides for the filing of a designation of place of trial in a BBA partnership action in accordance with Rule 140. Rule 255.3 is effective December 19, 2018.

RULE 255.4. OTHER PLEADINGS

(a) **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.

(b) **Reply:** For provisions relating to the filing of a reply, see Rule 37.

Note

Rule 255.4 incorporates in BBA partnership actions the provisions of Rules 36 and 37 regarding the filing of the answer and reply, respectively. Rule 255.4 is effective December 19, 2018.

RULE 255.5. JOINDER OF ISSUE IN PARTNERSHIP ACTION

A partnership action shall be deemed at issue as provided by Rule 38.

Note

Rule 255.5 incorporates in BBA partnership actions the provisions of Rule 38 regarding joinder of issue. Rule 255.5 is effective December 19, 2018.

RULE 255.6. IDENTIFICATION AND REMOVAL OF PARTNERSHIP REPRESENTATIVE

(a) **At the Commencement of a Case:** If, at the time of commencement of a partnership action under this Title

XXIV.A, the partnership representative is not identified in the petition, then the Court will take such action as may be necessary to establish the identity of the partnership representative.

(b) After the Commencement of a Case: After notice and opportunity to be heard, (1) the Court may for cause remove a partnership representative for purposes of the partnership action, and (2) if a partnership representative's status is terminated for any reason, including removal by the Court, the partnership shall then designate a successor partnership representative in accordance with the requirements of section 6223 within such period as the Court may direct.

Note

Rule 255.6 sets forth provisions for the identification and removal of the partnership representative before and after the commencement of a BBA partnership action. Rule 255.6 is effective December 19, 2018.

RULE 255.7. DECISIONS

A decision that the Court enters in a partnership action shall be binding on the partnership and on all of its partners.

Note

Rule 255.7 provides that the Court's decision in a BBA partnership action is binding on the partnership and all of its partners. Rule 255.7 is effective December 19, 2018.

RULE 280. GENERAL

(a) Applicability: The Rules of this Title XXVII set forth the provisions which apply to actions for review of the Commissioner's failure to abate interest under Code section 6404. Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to such actions for review.

(b) Jurisdiction: The Court shall have jurisdiction of an action for review of the Commissioner's failure to abate interest under this Title when the following conditions are satisfied:

(1) The Commissioner has mailed a notice of final determination not to abate interest under Code section 6404 or has been requested to make a determination and failed to do so within 180 days after the claim to abate interest was filed with the Internal Revenue Service.

(2) A petition for review of the Commissioner's failure to abate interest is filed with the Court within the period specified in Code section 6404(h) by a taxpayer who meets the requirements of Code section 7430(c)(4)(A)(ii).

Note

Paragraph (b) of Rule 280 is amended to reflect an amendment to Code section 6404(h). Section 421 of the Protecting Americans From Tax Hikes Act of 2015 (enacted in Division Q of the Consolidated Appropriations Act, 2016, Pub. L. No. 114–113, 129 Stat. 2422, 3123 (2015)), amended Code section 6404(h) to provide that a taxpayer may petition the Court for an abatement of interest if the taxpayer files a claim for interest abatement with the Internal Revenue Service and the Commissioner fails to issue a final determination on the claim within 180 days after the claim was filed. The amendment is effective November 30, 2018, and is applicable to claims for abatement of interest filed with the Internal Revenue Service after December 18, 2015. *Id.*

RULE 281. COMMENCEMENT OF ACTION FOR REVIEW OF FAILURE TO ABATE INTEREST

(a) Commencement of Action: An action for review of the Commissioner's failure to abate interest under Code section 6404 shall be commenced by filing a petition with the Court. See Rule 20, relating to commencement of case; Rule 22, relating to the place and manner of filing the petition; and Rule 32, regarding the form of pleadings.

(b) Content of Petition: A petition filed pursuant to this Rule shall be entitled "Petition for Review of Failure To Abate Interest Under Code Section 6404" and shall contain the following:

(1) In the case of a petitioner who is an individual, the petitioner's name and State of legal residence; in the case of a petitioner other than an individual, the petitioner's name and principal place of business or principal office or

agency; and, in all cases, the petitioner's mailing address. The mailing address, State of legal residence, and principal place of business, or principal office or agency, shall be stated as of the date that the petition is filed.

(2) The date upon which the claim for abatement of interest, if any, was mailed to the Internal Revenue Service, and the office to which it was mailed. A copy of each such claim for abatement of interest shall be appended to the petition.

(3) The year or years or other periods to which the failure to abate interest relates.

(4) Where the Commissioner has issued a notice of final determination not to abate interest—

(A) The date of the notice of the Commissioner's determination;

(B) A copy of the notice of determination;

(C) In a separate numbered paragraph, a clear and concise assignment of each error, set forth in separate lettered subparagraphs, which the petitioner alleges the Commissioner committed in the determination; and

(D) In a separate numbered paragraph, a clear and concise statement of facts, set forth in separate lettered subparagraphs, upon which the petitioner relies to support the assignments of error and the claim for interest abatement.

(5) Where the Commissioner has failed to issue a notice of final determination not to abate interest, separate numbered paragraphs containing—

(A) A statement that the requested determination is of the type described in Code section 6404(h)(1)(A)(ii);

(B) A statement that the Commissioner has not made a determination as to the petitioner's claim for abatement of interest; and

(C) In a separate numbered paragraph, a clear and concise statement of facts, set forth in separate lettered subparagraphs, upon which the petitioner relies to support the claim for an abatement of interest.

(6) An appropriate prayer for relief.

(7) A statement that the petitioner meets the requirements of Code section 7430(c)(4)(A)(ii).

(8) The signature, mailing address, and telephone number of each petitioner or each petitioner's counsel, as well as counsel's Tax Court bar number.

(c) Small Tax Case Under Code Section 7463(f)(3): For provisions regarding the content of a petition in a small tax case under Code section 7463(f)(3), see Rules 170 through 174.

(d) Filing Fee: The fee for filing a petition for review of failure to abate interest 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 that the petitioner is unable to make such payment.

Note

Paragraph (b) of Rule 281 is amended to reflect an amendment to Code section 6404(h). Section 421 of the Protecting Americans From Tax Hikes Act of 2015 (PATH Act) (enacted in Division Q of the Consolidated Appropriations Act, 2016, Pub. L. No. 114–113, 129 Stat. 2422, 3123 (2015)), amended Code section 6404(h) to provide that a taxpayer may petition the Court for an abatement of interest if the taxpayer files a claim for interest abatement with the Internal Revenue Service and the Commissioner fails to issue a final determination on the claim within 180 days after the claim was filed. Paragraph (b) of Rule 281 is amended to add provisions governing the filing of a petition when the Commissioner fails to issue a final determination. The amendment is effective November 30, 2018, and is applicable to claims for abatement of interest filed with the Internal Revenue Service after December 18, 2015. *Id.*

Rule 281 is further amended to reflect an amendment to Code section 7463(f). PATH Act section 422 amended Code section 7463(f) to permit a taxpayer to elect “small” tax case status if the amount of the abatement of interest sought does not exceed \$50,000. *Id.* New paragraph (c) is added to Rule 281 and former paragraph (c) is redesignated paragraph (d). The amendment is effective November 30, 2018, and applies to cases pending as of December 18, 2015, and to cases commenced after that date. *Id.*

RULE 310. GENERAL

(a) Applicability: The Rules of this Title XXX set forth the provisions which apply to actions for declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return pursuant to Code section 6234, as enacted by section 1231 of the Taxpayer Relief Act of 1997, Pub. L. No. 105–34, 111 Stat. 788. Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to such actions for declaratory judgment.

(b) Definitions: As used in the Rules in this Title—

(1) An “oversheltered return action” means an action for declaratory judgment provided for in Code section 6234 relating to the treatment of items other than partnership items with respect to an oversheltered return.

(2) The term “partnership item” means any item described in Code section 6231(a)(3).

(3) An “oversheltered return” means an income tax return which—

(A) shows no taxable income for the taxable year, and

(B) shows a net loss from partnership items. See Code sec. 6234(b).

(4) “Declaratory judgment” is the decision of the Court in an oversheltered return action.

(c) Jurisdiction: The Court shall have jurisdiction of an action for declaratory judgment under this Title when the following conditions are satisfied:

(1) The Commissioner has issued a notice of adjustment. See Code sec. 6234(a)(3).

(2) A petition for declaratory judgment is filed with the Court within the period specified in Code section 6234(c). See Code sec. 7502.

Note

Paragraph (a) of Rule 310 is amended to distinguish a declaratory judgment action authorized under Code section 6234 as enacted under the Taxpayer Relief Act of 1997, Pub. L. No. 105–34, 111 Stat. 788, from a partnership action authorized under Code section 6234 as enacted by section 1101(c) of the Bipartisan Budget Act of 2015, Pub. L. No.

114–74, 129 Stat. 584. The amendment is effective July 15, 2019.

TITLE XXXIV

CERTIFICATION AND FAILURE TO REVERSE CERTIFICATION ACTION WITH RESPECT TO PASSPORTS

RULE 350. GENERAL

(a) Applicability: The Rules of this Title XXXIV set forth the provisions that apply to a certification or a failure to reverse a certification action under Code section 7345(e). Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to the action.

(b) Jurisdiction: The Court shall have jurisdiction of an action to determine whether the certification was erroneous or whether the Commissioner failed to reverse the certification under Code section 7345(e) when the conditions of that section are satisfied.

Note

New Title XXXIV (Rules 350 to 354) establishes procedures for passport certification actions under Code section 7345, added by section 32101(a) of the Fixing America’s Surface Transportation Act, Pub. L. No. 114–94, 129 Stat. 1312, 1729. Section 7345(e)(1) permits a taxpayer to bring a civil action in the Tax Court to determine whether the Commissioner erroneously issued a certification described in section 7345, or failed to reverse such a certification where reversal is required by law.

Rule 350 sets forth general rules (including definitions) for a passport action. Rule 350 is effective November 30, 2018, and is applicable to passport certification actions commenced with respect to notices of certification issued under Code section 7345(d) after December 4, 2015.

RULE 351. COMMENCEMENT OF CERTIFICATION ACTION

(a) Commencement of Action: A certification action under Code section 7345(e) shall be commenced by filing a petition with the Court. See Rule 20, relating to commencement of case; Rule 22, relating to the place and manner of filing the petition; and Rule 32, regarding the form of pleadings.

(b) Content of Petition: A petition filed pursuant to this Rule shall be entitled “Petition for Certification or Failure to Reverse Certification Action Under Code Section 7345(e)” and shall contain the following:

(1) The petitioner’s name, State of legal residence, and mailing address, stated as of the date that the petition is filed.

(2) The date of the notification of the certification under Code section 7345(d).

(3) Lettered statements explaining why the petitioner disagrees with the certification or the failure to reverse the certification.

(4) Lettered statements setting forth the facts upon which the petitioner relies to support the petitioner’s position.

(5) A prayer setting forth the relief sought by the petitioner.

(6) The signature, mailing address, and telephone number of the petitioner or each petitioner’s counsel, as well as counsel’s Tax Court bar number.

(7) As an attachment, a copy of the notification of the certification under Code section 7345(d).

(c) Filing Fee: The fee for filing a petition for a certification or a failure to reverse a certification action under Code section 7345(e) is \$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 the payment.

Note

Rule 351 sets forth the requirements for the commencement of a passport action, including the requirements as to

the contents of the petition. Rule 351 is effective November 30, 2018.

RULE 352. REQUEST FOR PLACE OF TRIAL

At the time of filing a petition for a certification or a failure to reverse a certification action under Code section 7345(e), a request for place of trial shall be filed in accordance with Rule 140.

Note

Rule 352 provides for the filing of a designation of place of trial in a passport action in accordance with Rule 140. Rule 352 is effective November 30, 2018.

RULE 353. OTHER PLEADINGS

(a) **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.

(b) **Reply:** For provisions relating to the filing of a reply, see Rule 37.

Note

Rule 353 incorporates in a passport action the provisions of Rules 36 and 37 regarding the filing of the answer and reply, respectively. Rule 353 is effective November 30, 2018.

RULE 354. JOINDER OF ISSUE IN CERTIFICATION ACTION

A certification or a failure to reverse a certification action under Code section 7345(e) shall be deemed at issue as provided by Rule 38.

Note

Rule 354 incorporates the provisions of Rule 38 regarding joinder of issue in a passport action. Rule 354 is effective November 30, 2018.

FORM 1

PETITION (Sample Format)*

(See Rules 30 through 34.)

www.ustaxcourt.gov

UNITED STATES TAX COURT

..... Petitioner(s) v. COMMISSIONER OF INTERNAL REVENUE, Respondent	}	Docket No.
---	---	------------

PETITION

Petitioner hereby petitions for a redetermination of the deficiency (or liability) set forth by the Commissioner of Internal Revenue in the Commissioner's notice of deficiency (or liability) dated, and as the basis for petitioner's case alleges as follows:

1. Petitioner is [set forth whether an individual, corporation, etc., as provided in Rule 60] with mailing address now at

.....
Street (or P.O. Box) City State ZIP Code
and with the State of legal residence (or principal office) now in (if different from the mailing address)

.....
The return for the period here involved was filed with the Office of the Internal Revenue Service at
City State

2. The notice of deficiency (or liability) was mailed to petitioner on, and was issued by the Office of the Internal Revenue Service at
City State

A copy of the notice of deficiency (or liability), including so much of the statement and schedules accompanying the notice as is material, should be redacted as provided by Rule 27 and attached to the petition as Exhibit A. Petitioner must submit with the petition a Form 4, Statement of Taxpayer Identification Number.

3. The deficiencies (or liabilities) as determined by the Commissioner are in income (estate, gift, or certain excise) taxes for the calendar (or fiscal) year, in the amount of \$, of which \$ is in dispute.

4. The determination of the tax set forth in the said notice of deficiency (or liability) is based upon the following errors: [Here set forth specifically in lettered subparagraphs the assignments of error in a concise manner. Do not plead facts, which properly belong in the succeeding paragraph.]

5. The facts upon which petitioner relies, as the basis of petitioner's case, are as follows: [Here set forth allegations of fact, but not the evidence, sufficient to inform the Court and the Commissioner of the positions taken and the bases therefor. Set forth the allegations in orderly and logical sequence, with subparagraphs lettered,

*Form 1 provides a sample format that is especially appropriate for use by counsel in complex deficiency and liability cases. See Rule 34(a)(1), (b)(1). To adapt Form 1 for use in the following types of actions, see also the applicable Rules, as indicated: Declaratory judgment actions (Rule 211); disclosure actions (Rule 221); partnership actions (Rules 241, 255.2, 301); interest abatement actions (Rule 281); employment status actions (Rule 291); actions for determination of relief from joint and several liability (Rule 321); lien and levy actions (Rule 331); and whistleblower actions (Rule 341). See Form 2 for a fillable form that may be useful for self-represented petitioners and may also be used by counsel in simple cases with limited issues. See Form 3 for a fillable form that may be used for administrative costs actions.

so as to enable the Commissioner to admit or deny each allegation. See Rules 31(a), 34(b)(5).]

WHEREFORE, petitioner prays that [here set forth the relief desired].

(Signed)
Petitioner or Counsel

.....
Present Address—City, State, ZIP Code

Dated:

.....
(Area code) Telephone No.

.....
E-mail Address

.....
Counsel's Tax Court Bar No.

Note

Form 1 is amended to reflect the addition of Rules related to BBA partnership actions and to provide a space for petitioner or petitioner's counsel to enter an E-mail address.

FORM 2

PETITION (Simplified Form) UNITED STATES TAX COURT *www.ustaxcourt.gov*

(FIRST) (MIDDLE) (LAST)

.....
(PLEASE TYPE OR PRINT) Petitioner(s)

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent

} Docket No.

PETITION

1. Please check the appropriate box(es) to show which IRS ACTION(S) you dispute:

- | | |
|---|--|
| <input type="checkbox"/> Notice of Deficiency
<input type="checkbox"/> Notice of Determination Concerning Collection Action | <input type="checkbox"/> Notice of Determination Concerning Relief From Joint and Several Liability Under Section 6015 (or Failure of IRS to Make Determination Within 6 Months After Election or Request for Relief)* |
| <input type="checkbox"/> 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)* | <input type="checkbox"/> Notice of Certification of Your Seriously Delinquent Federal Tax Debt to the Department of State |
| <input type="checkbox"/> Notice of Determination of Worker Classification | <input type="checkbox"/> Notice of Determination Under Section 7623 Concerning Whistleblower Action* |

*For additional information, please see "Taxpayer Information: Starting a Case" at *www.ustaxcourt.gov* (accessible by hyperlink from asterisks above, or in the Court's information booklet).

2. If applicable, provide the date(s) the IRS issued the NOTICE(S) checked above and the city and State of the IRS office(s) issuing the NOTICE(S):

.....

3. Provide the year(s) or period(s) for which the NOTICE(S) was/were issued:

.....

4. SELECT ONE OF THE FOLLOWING (unless your case is a whistleblower or a certification action):

- If you want your case conducted under small tax case procedures, check here: ☐ (CHECK
 If you want your case conducted under regular tax case procedures, check here: ☐ ONE BOX)

NOTE: A decision in a "small tax case" cannot be appealed to a Court of Appeals by the taxpayer or the IRS. If you do not check either box, the Court will file your case as a regular tax case.

5. Explain why you disagree with the IRS determination in this case (please list each point separately):

.....

.....

 6. State the facts upon which you rely (please list each point separately):

You may use additional pages to explain why you disagree with the IRS determination or to state additional facts. Please do not submit tax forms, receipts, or other types of evidence with this petition.

ENCLOSURES:

Please check the appropriate boxes to show that you have enclosed the following items with this petition:

- ☐ A copy of the NOTICE(S) the IRS issued to you
☐ Statement of Taxpayer Identification Number (Form 4)
 (See PRIVACY NOTICE below.)
☐ The Request for Place of Trial (Form 5) ☐ The filing fee

PRIVACY NOTICE: Form 4 (Statement of Taxpayer Identification Number) will *not* be part of the Court's public files. All other documents filed with the Court, including this Petition and any IRS Notice that you enclose with this Petition, will become part of the Court's public files. To protect your privacy, you are *strongly* encouraged to omit or remove from this Petition, from any enclosed IRS Notice, and from any other document (other than Form 4) your taxpayer identification number (e.g., your Social Security number) and certain other confidential information as specified in the Tax Court's "Notice Regarding Privacy and Public Access to Case Files", available at www.ustaxcourt.gov.

.....
 Signature of Petitioner Date (Area Code) Telephone No.

.....
 Mailing Address City, State, ZIP Code

State of legal residence (if different from mailing address):

E-mail address (if any):

.....
 Signature of Additional Petitioner (e.g., Spouse) Date (Area Code) Telephone No.

.....
 Mailing Address City, State, ZIP Code

State of legal residence (if different from mailing address):

E-mail address (if any):

.....
 Signature, Name, Address, Telephone No., and Tax Court Bar No. of Counsel, if retained by Petitioner(s)

SAMPLE

Information About Filing a Case in the United States Tax Court

Attached are the forms to use in filing your case in the United States Tax Court. It is very important that you take time to carefully read the information on this page and that you properly complete and submit these forms to the United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217, or file the forms electronically pursuant to the Court's eFiling provisions.

Small Tax Case or Regular Tax Case

If you seek review of an action (other than a whistleblower or a certification action) listed in paragraph 1 of the petition form (Form 2), you may file your petition as a "small tax case" if your dispute meets certain dollar limits (described below). "Small tax cases" are handled under simpler, less formal procedures than regular cases. However, the Tax Court's decision in a small tax case *cannot be appealed* to a Court of Appeals by the IRS or by the taxpayer(s). You can choose to have your case conducted as either a small tax case or a regular case by checking the appropriate box in paragraph 4 of the petition form (Form 2). If you check neither box, the Court will file your case as a regular case.

Dollar Limits: Dollar limits for a small tax case vary slightly depending on the type of IRS action you seek to have the Tax Court review:

(1) If you seek review of a Notice of Deficiency, the amount of the deficiency (including any additions to tax or penalties) that you dispute cannot exceed \$50,000 for any year.

(2) If you seek review of a Notice of Determination Concerning Collection Action, the total amount of unpaid tax cannot exceed \$50,000 for all years combined.

(3) If you seek review of a Notice of Determination Concerning Relief From Joint and Several Liability Under Section 6015 (or if the IRS failed to send you any Notice of Determination with respect to a request for spousal relief that you submitted to the IRS at least 6 months ago), the amount of spousal relief sought cannot exceed \$50,000 for all years combined.

(4) If you seek review of a Notice of Determination of Worker Classification, the amount in dispute cannot exceed \$50,000 for any calendar quarter.

(5) If you seek review of a Notice of Final Determination for [Full/Partial] Disallowance of Interest Abatement Claim (or if the IRS failed to send you a Notice of Final Determination with respect to a claim for interest abatement that you filed with the IRS at least 180 days before), the amount of the abatement cannot exceed \$50,000.

Enclosures

To help ensure that your case is properly processed, please enclose the following items when you mail your petition to the Tax Court:

1. A copy of the Notice of Deficiency, Notice of Determination, or Final Determination the IRS sent you;
2. Your Statement of Taxpayer Identification Number (Form 4);
3. The Request for Place of Trial (Form 5); and
4. The \$60 filing fee, payable by check, money order, or other draft, to the "Clerk, United States Tax Court"; or, if applicable, the fee waiver form.

For further important information, see the Court's Web site at www.ustaxcourt.gov or the "Information for Persons Representing Themselves Before the U.S. Tax Court" booklet available from the Tax Court.

Note

Form 2 is amended to reflect amendments to Rules 280 and 281 related to action to review interest abatement request, to reflect the addition of Rules related to passport certification actions, and to provide a space for petitioner or petitioner's counsel to enter an E-mail address.

FORM 7**ENTRY OF APPEARANCE**

(See Rule 24.)

*www.ustaxcourt.gov***UNITED STATES TAX COURT**

.....	}	Docket No.
Petitioner(s)		
v.		
COMMISSIONER OF INTERNAL REVENUE, Respondent		

ENTRY OF APPEARANCE

The undersigned, being duly admitted to practice before the United States Tax Court, hereby enters an appearance for in the above-entitled case.
(party/parties)

Dated: Signature

..... Printed Name

..... Office Address

..... City State/ZIP Code

..... (Area Code) Telephone No.

..... Tax Court Bar No.

..... E-mail Address

**A SEPARATE ENTRY OF APPEARANCE MUST BE FILED
FOR EACH DOCKET NUMBER.**

Note

Form 7 is amended to provide space for counsel to enter an E-mail address.

FORM 8**SUBSTITUTION OF COUNSEL**

(See Rule 24.)

*www.ustaxcourt.gov***UNITED STATES TAX COURT**

.....	}	Docket No.
Petitioner(s)		
v.		
COMMISSIONER OF INTERNAL REVENUE, Respondent		

SUBSTITUTION OF COUNSEL

The undersigned, being duly admitted to practice before the United States Tax Court, hereby enters an appearance in the
(party/parties)
 above-entitled case.

Dated:

.....
Signature.....
Printed Name.....
Office Address.....
City State/ZIP Code.....
(Area code) Telephone No......
Tax Court Bar No......
E-mail Address

The undersigned hereby withdraws as counsel for in the above-entitled case. Notice of the substitution of the above-named counsel has been given to petitioner(s) and/or counsel for petitioner(s) and to each of the other parties to the case or their counsel, and no party objects to the substitution and withdrawal.

Dated:

.....
Signature.....
Printed Name***Note***

Form 8 is amended to provide space for counsel to enter an E-mail address.

FORM 10**NOTICE OF CHANGE OF ADDRESS**

(See Rule 21(b)(4).)

*www.ustaxcourt.gov***UNITED STATES TAX COURT**

.....	}	Docket No.
Petitioner(s)		
v.		
COMMISSIONER OF INTERNAL REVENUE, Respondent		

NOTICE OF CHANGE OF ADDRESS *

Please change address of on the records of the Court.

Signature: _____

Printed Name: _____

Tax Court Bar No. (if applicable): _____

Old Address:	_____

Telephone:	_____

New Address:	_____

Telephone:	_____

E-mail Address: _____

Date: _____

*See Rule 200(e), which requires each person admitted to practice before the Tax Court promptly to notify the Admissions Clerk of any change in office address for mailing purposes. Filing Form 10 in a pending case satisfies this requirement. If a practitioner has not entered an appearance in a pending case, the practitioner can satisfy the Rule 200(e) notification requirement by mailing Form 10 (omitting any caption and docket number) or other written communication to the Admissions Clerk, or by electronically updating the practitioner's registration information by clicking the "Update Info" hyperlink through "Practitioner Access" on the Court's Internet website at www.taxcourt.gov.

Note

Form 10 is amended to provide a space for petitioner or petitioner's counsel to enter an E-mail address.

FORM 14**SUBPOENA**

(See Rule 147)

*www.ustaxcourt.gov***UNITED STATES TAX COURT**

.....
 Petitioner(s)
 v.
 COMMISSIONER OF INTERNAL REVENUE,
 Respondent

} Docket No.

SUBPOENA

To

YOU ARE HEREBY COMMANDED to appear before the United States Tax Court

(or the name and official title of a person authorized to take depositions)

at on the day of, at

Time

Date

Month

Year

Place

then and there to testify on behalf of
 Petitioner or Respondent

in the above-entitled case, and to bring with you

Use reverse if necessary

and not to depart without leave of the Court.

Date:

.....
 Counsel for (Petitioner)(Respondent)/s/ Stephanie A. Servoss
 Clerk of the Court**Return on Service**

The above-named witness was summoned on at by

Date

Time

delivering a copy of this subpoena to (him)(her), and, if a witness for the petitioner,
 by tendering fees and mileage to (him)(her) pursuant to Rule 148 of the Rules of
 Practice and Procedure of the Tax Court.

Dated..... Signed

Subscribed and sworn to before me this day of....., 20.....

.....[Seal]
 Name Title

Note

Form 14 is amended to include the name of the current Clerk of the Court.