

RULE 231. CLAIMS FOR LITIGATION AND ADMINISTRATIVE COSTS

(a) Time and Manner of Claim:

- (1) *Agreed Cases:* If the parties have reached a settlement disposing of all issues in the case including litigation and administrative costs, an award of reasonable litigation and administrative costs, if any, must be included in the stipulated decision submitted by the parties for entry by the Court.
- (2) *Unagreed Cases:* If a party has substantially prevailed, or is treated as the prevailing party in the case of a qualified offer made as described in Code section 7430(g), and wishes to claim reasonable litigation or administrative costs, and there is no agreement as to that party's entitlement to those costs, a claim must be made by motion filed--
 - (A) within 30 days after the service of a written opinion determining the issues in the case;
 - (B) within 30 days after the service of the pages of the transcript that contain findings of fact or opinion stated orally pursuant to Rule 152 (or a written summary thereof); or
 - (C) after the parties have settled all issues in the case other than litigation and administrative costs. See paragraphs (b)(3) and (c) of this Rule regarding the filing of a stipulation of settlement with the motion in such cases.

(b) Content of Motion: A motion for an award of reasonable litigation or administrative costs must be in writing and contain the following:

- (1) A statement that the moving party is a party to a Court proceeding that was commenced after February 28, 1983;
- (2) if the claim includes a claim for administrative costs, a statement that the administrative proceeding was commenced after November 10, 1988;
- (3) a statement sufficient to demonstrate that the moving party has substantially prevailed with respect to either the amount in controversy or the most significant issue or set of issues presented, or is treated as the prevailing party in the case of a

qualified offer made as described in Code section 7430(g), either in the Court proceeding or, if the claim includes a claim for administrative costs, in the administrative proceeding, including a stipulation in the form prescribed by paragraph (c) of this Rule as to any settled issues;

- (4) a statement that the moving party meets the net worth requirements, if applicable, of section 2412(d)(2)(B) of title 28, United States Code (as in effect on October 22, 1986), which statement must be supported by an affidavit or a declaration executed by the moving party and not by counsel for the moving party;
- (5) a statement that the moving party has exhausted the administrative remedies available within the Internal Revenue Service;
- (6) a statement that the moving party has not unreasonably protracted the Court proceeding and, if the claim includes a claim for administrative costs, the administrative proceeding;
- (7) a statement of the specific litigation and administrative costs for which the moving party claims an award, supported by an affidavit or a declaration in the form prescribed in paragraph (d) of this Rule;
- (8) if the moving party requests a hearing on the motion, a statement of the reasons why the motion cannot be disposed of by the Court without a hearing (see Rule 232(a)(2) regarding the circumstances in which the Court will direct a hearing); and
- (9) an appropriate prayer for relief.

(c) Stipulation as to Settled Issues: If some or all of the issues in a case (other than litigation and administrative costs) have been settled by the parties, a motion for an award of reasonable litigation or administrative costs must be accompanied by a stipulation, signed by the parties or by their counsel, setting forth the terms of the settlement as to each such issue (including the amount of tax involved). A stipulation of settlement is binding on the parties unless the Court orders otherwise or the parties agree otherwise.

- (d) **Affidavit or Declaration in Support of Costs Claimed:** A motion for an award of reasonable litigation or administrative costs must be accompanied by a detailed affidavit or declaration by the moving party or counsel for the moving party setting forth distinctly the nature and amount of each item of costs for which an award is claimed.
- (e) **Qualified Offer:** If a qualified offer was made by the moving party as described in Code section 7430(g), a motion for award of reasonable litigation or administrative costs must be accompanied by a copy of the offer.