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UNITED STATES TAX COURT
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TAX SECTION

State Bar of Texas

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February 8, 2016

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RE: Comments on Proposed Amendments to United States Tax Court Rules of Practice and Procedure

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Dear Ms. Servoss:

On behalf of the Tax Section of the State Bar of Texas, I am pleased to submit the enclosed response to the request of the United States Tax Court for comments regarding the proposed amendments to the Court's Rules of Practice and Procedure which were announced on January 11, 2016 (the "Proposed Amendments").

THE COMMENTS ENCLOSED WITH THIS LETTER ARE BEING PRESENTED ONLY ON BEHALF OF THE TAX SECTION OF THE STATE BAR OF TEXAS. THE COMMENTS SHOULD NOT BE CONSTRUED AS REPRESENTING THE POSITION OF THE BOARD OF DIRECTORS, THE EXECUTIVE COMMITTEE OR THE GENERAL MEMBERSHIP OF THE STATE BAR OF TEXAS. THE TAX SECTION, WHICH HAS SUBMITTED THESE COMMENTS, IS A VOLUNTARY SECTION OF MEMBERS COMPOSED OF LAWYERS PRACTICING IN A SPECIFIED AREA OF LAW.

THE COMMENTS ARE SUBMITTED AS A RESULT OF THE APPROVAL OF THE COMMITTEE ON GOVERNMENT SUBMISSIONS OF THE TAX SECTION AND PURSUANT TO THE

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PROCEDURES ADOPTED BY THE COUNCIL OF THE TAX SECTION, WHICH IS THE GOVERNING BODY OF THAT SECTION. NO APPROVAL OR DISAPPROVAL OF THE GENERAL MEMBERSHIP OF THIS SECTION HAS BEEN OBTAINED AND THE COMMENTS REPRESENT THE VIEWS OF THE MEMBERS OF THE TAX SECTION WHO PREPARED THEM.

We commend the Court for the time and thought that has been put into preparing the Proposed Amendments, and we appreciate being extended the opportunity to participate in this process.

Respectfully submitted,



Alyson Outenreath, Chair
State Bar of Texas, Tax Section

cc: The Honorable William J. Wilkins
Chief Counsel
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

COMMENTS ON PROPOSED AMENDMENTS TO UNITED STATES TAX COURT'S
RULES OF PRACTICE AND PROCEDURE ANNOUNCED JANUARY 11, 2016

These comments on the Proposed Amendments (“Comments”) are submitted on behalf of the Tax Section of the State Bar of Texas. The principal drafter of these Comments was Richard L. Hunn, who is Chair of the Tax Controversy Committee of the Tax Section of the State Bar of Texas. The Committee on Government Submissions (“COGS”) of the Tax Section of the State Bar of Texas has approved these Comments. Robert Probasco, Co-Chair of COGS, reviewed these Comments. Mary A. McNulty also reviewed the Comments and made substantive suggestions on behalf of COGS.

Although members of the Tax Section who participated in preparing these Comments have clients who would be affected by the principles addressed by these Comments or have advised clients on the application of such principles, no such member (or the firm or organization to which such member belongs) has been engaged by a client to make a government submission with respect to, or otherwise to influence the development or outcome of, the specific subject matter of these Comments.

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Date: February 8, 2016

These Comments are provided in response to the Court's request for comments regarding the Proposed Amendments to its Rules of Practice and Procedure (the "Rules"). The Tax Section commends the Court for its efforts to improve and modernize its Rules and associated procedures and for the opportunity to provide comments regarding the Proposed Amendments.

The Court noted in its January 11, 2016 press release announcing the Proposed Amendments that the goal is to "pave the way for the electronic filing of petitions and other papers that are not filed electronically at the present time." The Tax Section believes this is a worthy goal that will benefit taxpayers, counsel and the Court.

The Tax Section has only one subject for comment: electronic payment of fees in conjunction with electronic filings. We have two suggestions in that regard.

First, we suggest that the Court consider amending its Rules to allow for electronic payment of fees associated with electronic filings, such as the fee for filing a petition or a notice of appeal. Such an amendment to the Court's Rules could be accomplished by revising the first two sentences of Rule 11 to read as follows:

Except as otherwise specified in procedures established by the Court, all payments to the Court for fees or charges of the Court shall 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. The Court may permit or require that specified fees or charges be paid electronically and/or by credit card pursuant to procedures established by the Court.

Second, we suggest that the Court consider revising its procedures to allow for electronic payment of fees contemporaneously with an electronic filing. As is indicated on its website and on pay.gov, the Court does have procedures in place to allow for electronic payment of certain fees (for example, photocopy charges) by credit card through pay.gov. According to the Court's website, those procedures do not allow for electronic payment of fees contemporaneously with an electronic filing. (However, we note that pay.gov does have a form titled "U.S. Tax Court Fees – Petitions," which is confusing to taxpayers.) We suggest that those procedures be modified to allow for electronic payment of fees contemporaneously with an electronic filing such as a petition or a notice of appeal.

We respectfully suggest that the United States Court of Federal Claims' procedures may provide a useful guide to this Court about how best to revise or implement its own procedures. In 2015, the Court of Federal Claims amended its rules to allow for electronic filing of a complaint. The Court of Federal Claims modified its procedures on its case management/electronic case filing system ("CM/ECF") to integrate electronic payment of the filing fee with electronic filing of the complaint.

We appreciate the opportunity to comment on the Proposed Amendments and to be a part of the Court's efforts to improve and modernize its Rules and associated procedures.