

UNITED STATES TAX COURT
WASHINGTON, DC 20217

ROGER D. MURPHEY, JR. & MARLA E.)	
MURPHEY DAVIS,)	
)	
Petitioner(s),)	
)	
v.)	Docket No. 15231-14S.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	

ORDER

By Notice served on January 13, 2015, this case is presently calendared for trial at the session of the Court scheduled in Jackson, Mississippi, on June 15, 2015. On June 11, 2015, the Court held a conference call with the parties and was informed by the parties that petitioner Roger D. Murphey passed away. The Court directed respondent to file a motion for continuance. On June 11, 2015, respondent filed a Motion for Continuance.

In general, pursuant to Rule 63(a), when a petitioner dies, “the Court, on motion of a party or the decedent's successor or representative or on its own initiative, may order substitution of the proper parties.” State law generally determines who has the capacity to be substituted as a party for a decedent. Rule 60(c); Fehrs v. Commissioner, 65 T.C. 346, 349 (1975). Thus, the appointment of a personal representative, executor, or administrator by the appropriate State court having jurisdiction over the estate of the decedent generally is necessary to establish the capacity of a person to litigate on behalf of the estate. Rule 60(c). The Court’s jurisdiction over a case continues unimpaired by the death of a petitioner, and even if there has been no administration of that deceased petitioner’s estate, this Court may formulate an appropriate procedure to bring such a case to a close. See Nordstrom v. Commissioner, 50 T.C. 30, 32 (1968).

Upon due consideration and for cause, it is

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ORDERED that respondent's Motion for Continuance filed June 11, 2015, is granted, and this case is stricken for trial from the June 15, 2015, Jackson, Mississippi, session of the Court and continued. It is further

ORDERED that jurisdiction of this case is retained by this Division of the Court. It is further

ORDERED that on or before July 13, 2015, the parties shall file a joint status report (or if that is not possible, then separate reports) stating the then current status of the case. The status report shall also include after appropriate investigation, (1) the parties are in a position to confirm whether an estate with respect to petitioner Roger D. Murphey has been, or will be, opened, and if so, any details of the same, (2) whether there has been an appointment of a representative on behalf of decedent, and if so the name and address of such individual, and (3) the names and addresses of the heirs at law of Mr. Murphey, and (4) provide a copy of Mr. Murphey's death certificate.

(Signed) Joseph W. Nega
Judge

Dated: Washington, D.C.
June 12, 2015