



**UNITED STATES TAX COURT**  
Washington, D.C. 20217

August 6, 2020

**PRESS RELEASE**

To accommodate remote operations during the COVID-19 pandemic, Chief Judge Maurice B. Foley announced that the Court is making the following adjustments to Court procedures:

The Court will accept electronically filed stipulated decisions bearing digital image signatures. The [Practitioners' Guide to Electronic Case Access and Filing](#) and the [Petitioners' Guide to Electronic Case Access and Filing](#) have been revised to reflect this adjustment.

The Court has provided additional guidance on procedures related to the submission of documentary evidence. A copy of [Documentary Evidence for Remote Proceedings](#) is attached and has been posted on the Court's website.

The Court has provided additional guidance on procedures related to subpoenas. A copy of [Subpoenas for Remote Proceedings](#) is attached and has been posted on the Court's website.

The Court has updated Administrative Order 2020-03 to clarify that limited entries of appearance may be filed in cases that were on canceled trial sessions. The revised [Administrative Order](#) is attached and has been posted on the Court's website.

These procedures will remain in effect until further notice. If you have any questions, contact the Public Affairs Office at (202) 521-3355.



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### **DOCUMENTARY EVIDENCE FOR REMOTE PROCEEDINGS**

Documentary evidence that is provided during a U.S. Tax Court proceeding is referred to as an “exhibit.”

#### **Stipulation of Facts**

To narrow the issues for trial, the Court requires petitioners and IRS representatives to meet before trial and agree (stipulate) to facts and documents not in dispute. The parties must prepare a Stipulation of Facts with all stipulated (agreed) documents attached as exhibits, numbered sequentially, starting with 1-J (indicating joint submission by petitioner(s) and respondent). The Stipulation of Facts must be filed no later than 14 days before the first day of the trial session and should be submitted electronically (e-Filed).

Some of the things that the parties should be able to agree to are:

1. a copy of the relevant tax return(s);
2. a copy of the relevant IRS notice(s);
3. copies of agreements or contracts (if any) relating to the items in dispute;  
and
4. copies of receipts, proof of payments, or invoices (if any) relating to the items in dispute.

#### **Proposed Trial Exhibits**

Parties must mark disputed documents or materials that are expected to be presented at trial (except impeachment documents or materials) with an exhibit number. These disputed documents must be filed, preferably electronically, as Proposed Trial Exhibits. The Court may refuse to receive in evidence any document or material that is not filed as a Proposed Trial Exhibit no later than 14 days before the first day of the trial session.

Proposed Trial Exhibits should be sequentially numbered, and include a “P” for petitioner(s)’ proposed exhibits and “R” for respondent’s proposed exhibits. The parties can file these Proposed Trial Exhibits as one document or as separate documents. They should coordinate sequential numbering, if possible, following the last numbered joint exhibit (e.g., 24-J, 25-P, 26-P, 27-R, 28-R, etc.).

Alternatively, if the parties cannot coordinate numbering, petitioner(s) should

number Proposed Trial Exhibits sequentially starting with 500-P and respondent should number Proposed Trial Exhibits starting with 1,000-R.

### **Exhibits During Hearing or Trial**

During a hearing or trial, the Judge may permit submission of additional exhibits not previously submitted, including exhibits used for the purpose of impeachment or to refresh the memory of a witness. The Judge will provide direction about how to submit the exhibit electronically during the proceeding. If you are registered for eAccess, you should have your log-in information available so that you are prepared to eFile the document if the Judge directs you to do so. The Judge may also ask for you to submit the document electronically through email or another electronic transmission method, and may ask for you to share your screen to display the document during the proceeding.

### **Format and File Size**

- Documents should be submitted in PDF format.
- Each document should have a file size no larger than 50 MB.
- If the document exceeds 500 pages, file multiple documents (i.e., Proposed Trial Exhibits Part I, Proposed Trial Exhibits Part II, etc.).
- Pages within each exhibit should include the exhibit number and should be uniquely numbered for the Court and parties to identify specific pages within documents easily.

*Effective August 6, 2020*



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### SUBPOENAS FOR REMOTE PROCEEDINGS

#### Subpoena for a Witness to Appear at Trial

For remote trial sessions, a Tax Court litigant serving a subpoena on a third party to appear at trial as a witness must list the trial session's Zoomgov information as the location for the witness to appear remotely. If the Court provides revised Zoomgov information for the trial, the Tax Court litigant must provide the updated information for the witness to appear remotely.

#### Subpoena for Production of Documents from a Third Party

- If a Tax Court litigant needs to obtain documents from a third party (e.g., an individual or a company representative) for use in a case set for trial, the litigant should, **no later than 45 days before the trial session**, file a Motion for Document Subpoena Hearing. The filing party should indicate whether there is any objection to the motion.
- The judge may conduct a conference call or video conference with the litigants to discuss the responsiveness of the third party.
- If the motion is granted, the judge will issue an order setting the case for a remote hearing and issue a notice of remote proceeding. The hearing date will be **approximately two weeks before the first day of the trial session**.
- After the order is issued, the litigant should immediately serve the subpoena for documents on the third party, listing the hearing date, the Zoomgov information for the hearing, and the requestor's address.
- If the case is already set for hearing on a date before the first day of the trial session, the litigant does not need to file a Motion for Document Subpoena Hearing and may issue subpoenas for documents following the procedures outlined here. Litigants should issue subpoenas early in the process to provide the third party an appropriate opportunity to comply, and to permit the litigants to obtain the information in time to adhere to the Court's Standing Pretrial Order deadlines.
- If, before the hearing date, the third party voluntarily complies with the subpoena by delivering the documents to the requestor litigant in an agreed upon manner, the litigant should file a status report informing the judge. The judge will issue an order canceling the hearing.
- The Tax Court litigants and any third party representatives should appear at the hearing remotely using the Zoomgov information contained in the notice that is issued with the hearing scheduling order.
- If the third party elects to present the relevant documents electronically on the day of the hearing, the documents must be saved in PDF format, with a maximum file size for each document of 50 MB. When the third party appears at the Zoomgov hearing, the trial clerk will coordinate electronic delivery of the documents.
- If the third party wants to present the relevant documents on the day of the hearing in a manner other than described above, this will be addressed at the scheduled hearing.
- Any objection or motion to quash subpoena may be addressed by the judge at the hearing and the judge may schedule a further hearing to address the relevant issues.
- Failure of the third party, without adequate excuse, to obey a subpoena may be deemed a contempt of court.

*Effective August 6, 2020*



**UNITED STATES TAX COURT**  
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May 29, 2020  
Revised June 19, 2020

**Administrative Order No. 2020-03**<sup>1</sup>

Subject: Limited Entry of Appearance Procedures, Effective June 1, 2020

I. Background

The mission of the United States Tax Court is to provide a national forum for the expeditious resolution of disputes between taxpayers and the Internal Revenue Service; for careful consideration of the merits of each case; and to ensure a uniform interpretation of the Internal Revenue Code.

A petitioner's counsel enters an appearance by subscribing the Petition (or other initial pleading) or by filing an Entry of Appearance or Substitution of Counsel. Rule 24, Tax Court Rules of Practice and Procedure. The counsel's representation is effective until resolution of the case or the Court's granting counsel's Motion to Withdraw as Counsel in accordance with Rule 24(c), Tax Court Rules of Practice and Procedure. The Rule specifically provides that the Court may, in its discretion, deny such Motion to Withdraw as Counsel.

Limited representation is permitted by Rule 1.2(c), Model Rules of Professional Conduct of the American Bar Association (ABA). Rule 201(a), Tax Court Rules of Practice and Procedure, provides that practitioners before the Court shall carry on their practice in accordance with the letter and spirit of the Model Rules. Limited representation constitutes an attorney-client relationship in which, by advance agreement of counsel and petitioner, the legal services provided by counsel to petitioner are limited in scope and duration to less than full representation.

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<sup>1</sup> Administrative Order 2020-03, issued May 29, 2020, superseded Administrative Order 2019-01, issued May 10, 2019. In 2019, the Court adopted procedures to permit admitted practitioners in good standing to enter a limited appearance, effective at the beginning of the 2019 Fall Term. On May 29, 2020, the Court adopted revised Limited Entry of Appearance (LEA) procedures to facilitate remote proceedings, effective June 1, 2020. On June 19, 2020, the Court adopted further revisions to the LEA procedures. This revised Administrative Order reflects the further revised procedures.

## II. Limited Entry of Appearance Procedures

In accordance with Rule 201(a), Tax Court Rules of Practice and Procedure, and Rule 1.2(c), ABA Model Rules of Professional Conduct, practitioners admitted to practice and in good standing with the Court may, subject to the provisions contained herein, file a [Limited Entry of Appearance](#) in the form attached to this Administrative Order. The form is also available on the Court's website.

A practitioner admitted to practice, in good standing, and with informed consent by petitioner(s) may limit an appearance to a specific date or activity listed on the Limited Entry of Appearance form. The Limited Entry of Appearance form must (1) be executed by the practitioner, (2) be consented to by petitioner(s), and (3) be filed electronically (unless counsel is otherwise exempt from eFiling).<sup>2</sup>

**A Limited Entry of Appearance may not be filed in a case before the Court's issuance of the Notice Setting Case for Trial or after the adjournment of the Trial Session on which the case is set for trial. A Limited Entry of Appearance may, however, be filed with respect to cases for those trial sessions that were canceled due to COVID-19.**

A practitioner's limited appearance will end after the filing of the required [Notice of Completion](#) in the form attached to this Administrative Order. The form is also available on the Court's website. The Notice of Completion must be served on all parties.

A practitioner may not, without Court approval, terminate a limited appearance in a case at a date earlier than that indicated in a previously filed Limited Entry of Appearance. To seek early termination of a limited appearance, a practitioner must file a Motion to Withdraw as Counsel. The Judge retains the same power that he/she would have with a standard entry of appearance in deciding whether to (a) grant a Motion to Withdraw as Counsel from a limited appearance and/or (b) to terminate a practitioner's appearance earlier than that described in the Limited Entry of Appearance.

Service of notices or documents on a practitioner who has filed a Limited Entry of Appearance (1) is required only during the time the Limited Entry of

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<sup>2</sup> If counsel is exempt from eFiling, the Limited Entry of Appearance form must be accompanied by a certificate of service when filed with the Court.

Appearance is in effect; (2) must also be made on the petitioner(s); and (3) does not extend the time of the practitioner's appearance if made outside the time period set forth in the Limited Entry of Appearance.

Maurice B. Foley  
Chief Judge