



UNITED STATES TAX COURT
Washington, D.C.

December 10, 2020

PRESS RELEASE

Chief Judge Maurice B. Foley announced today that the Court has updated its guidance on procedures related to subpoenas for remote proceedings. A copy of the updated guidance is attached and has been posted to the Court's website at https://ustaxcourt.gov/resources/zoomgov/subpoenas_for_remote_proceedings.pdf.

If you have any questions, contact the Public Affairs Office at (202) 521-3355.



UNITED STATES TAX COURT
Washington, D.C. 20217

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.

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 requirements of Rule 50(a) of the Tax Court Rules of Practice and Procedure are satisfied if the moving party consults with the other parties concerning the date(s) proposed for the Document Subpoena Hearing and indicates whether there is any objection to the proposed date(s).
- 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; revised December 10, 2020