

## RULES OF PRACTICE AND PROCEDURE

### UNITED STATES TAX COURT

#### NOTICE

The enclosed pages represent final amendments to the Tax Court Rules of Practice and Procedure adopted by the Court. The effective dates of the amended Rules, including Title XXXIV (comprising Rules 350 through 354), are stated in footnotes to the Rules. For the convenience of the Bar and the general public, the Tax Court is making the amended Rules and new Rules available in the following format prior to their formal publication in the Reports of the Courts by the U.S. Government Printing Office. The amendments are to existing Rules as follows:

Rule 3.	Definitions
Rule 11.	Payments to the Court
Rule 13.	Jurisdiction
Rule 20.	Commencement of Case
Rule 22.	Filing
Rule 23.	Form and Style of Papers
Rule 25.	Computation of Time
Rule 34.	Petition
Rule 143.	Evidence
Rule 280.	General
Rule 281.	Commencement of Action for Review of Failure to Abate Interest

The Court adopted new Title XXXIV (comprising Rules 350 through 354) as follows:

Title XXXIV. Certification and Failure to Reverse Certification  
Action with Respect to Passports

Rule 350. General

Rule 351. Commencement of Certification Action

Rule 352. Request for Place of Trial

Rule 353. Other Pleadings

Rule 354. Joinder of Issue in Certification Action

Form 2. Petition (Simplified Format)

The following pages should not be substituted for the present pages of the Tax Court Rules of Practice and Procedure, effective July 6, 2012, but should be retained as a supplement to those Rules until further notice.

### RULE 3. DEFINITIONS

**(a) Division:** The Chief Judge may from time to time divide the Court into Divisions of one or more Judges and, in case of a Division of more than one Judge, designate the chief thereof.

**(b) Clerk:** Reference to the Clerk in these Rules means the Clerk of the United States Tax Court.

**(c) Commissioner:** Reference to the Commissioner in these Rules means the Commissioner of Internal Revenue.

**(d) Special Trial Judge:** The term Special Trial Judge as used in these Rules refers to a judicial officer appointed pursuant to Code section 7443A(a). See Rule 180.

**(e) Time:** As provided in these Rules and in orders and notices of the Court, time means standard time in the location mentioned except when advanced time is substituted therefor by law. For computation of time, see Rule 25.

**(f) Business Hours:** As to the Court's business hours, see Rule 10(d).

**(g) Filing:** For requirements as to filing with the Court, see Rule 22.

**(h) Code:** Any reference or citation to the Code relates to the Internal Revenue Code of 1986, as in effect for the relevant period or the relevant time.

**<sup>1</sup>(i) Paper:** Unless the context otherwise indicates, the term "paper" means a pleading, motion, brief, entry of appearance, or any other document that these Rules permit to be filed.

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<sup>1</sup> The amendment is effective November 30, 2018.

**RULE 11. PAYMENTS TO THE COURT<sup>1</sup>**

All payments to the Court for fees or charges of the Court may 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. Alternatively, in accordance with procedures that the Court establishes, payments to the Court for fees or charges may be made electronically through Pay.gov.

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<sup>1</sup> The amendment is effective November 30, 2018.

## RULE 13. JURISDICTION

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← Superseded. See  
Notice of amendments  
dated 7/15/19.

<sup>1</sup>**(a) Notice of Deficiency or of Transferee or Fiduciary Liability**  
**Required:** Except in actions for declaratory judgment, for disclosure, for readjustment or adjustment of partnership items, for administrative costs, for review of failure to abate interest, for redetermination of employment status, for determination of relief from joint and several liability, for lien and levy, for review of whistleblower awards, or for certification actions with respect to passports (see Titles XXI, XXII, XXIV, and XXVI through XXXIV), the jurisdiction of the Court depends: (1) In a case commenced in the Court by a taxpayer, upon the issuance by the Commissioner of a notice of deficiency in income, gift, or estate tax or, in the taxes under Code Chapter 41, 42, 43, or 44 (relating to the excise taxes on certain organizations and persons dealing with them), or in the tax under Code Chapter 45 (relating to the windfall profit tax), or in any other taxes which are the subject of the issuance of a notice of deficiency by the Commissioner; and (2) in a case commenced in the Court by a transferee or fiduciary, upon the issuance by the Commissioner of a notice of liability to the transferee or fiduciary. See Code secs. 6212, 6213, 6901.

<sup>2</sup>**(b) Declaratory Judgment, Disclosure, Partnership, Administrative Costs, Review of Failure To Abate Interest, Redetermination of Employment Status, Determination of Relief From Joint and Several Liability, Lien and Levy, Whistleblower Action, or Certification Action With Respect to Passports:** For the jurisdictional requirements in an action for declaratory judgment, for disclosure, for readjustment or adjustment of partnership items, for administrative costs, for review of failure to abate interest, for redetermination of employment status, for determination of relief from joint and several liability, for lien and levy, for review of whistleblower awards, or for certification actions with respect to passports, see Rules 210(c), 220(c), 240(c), 270(c), 280(b), 290(b), 300(c), 310(c), 320(b), 330(b), 340(b), and 350(b), respectively.

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<sup>1</sup> The amendment is effective as to passport certification actions commenced with respect to notices of certification issued under Code section 7345(d) after December 4, 2015.

<sup>2</sup> The amendment is effective as to passport certification actions commenced with respect to notices of certification issued under Code section 7345(d) after December 4, 2015.

**(c) Timely Petition Required:** In all cases, the jurisdiction of the Court also depends on the timely filing of a petition. See Code sections 6213 and 7502; with respect to administrative costs actions, see Code section 7430(f); with respect to declaratory judgment actions, see Code sections 6234, 7428, 7476, 7477, 7478, and 7479; with respect to determination of relief from joint and liability actions, see Code section 6015(e); with respect to disclosure actions, see Code section 6110; with respect to lien and levy actions, see Code sections 6320 and 6330; with respect to partnership actions, see Code sections 6226, 6228, and 6247; with respect to redetermination of employment status actions, see Code section 7436; with respect to review of failure to abate interest actions, see Code section 6404(h); and with respect to whistleblower actions, see Code section 7623(b)(4).

**(d) Contempt of Court:** Contempt of Court may be punished by fine or imprisonment within the scope of Code section 7456(c).

<sup>1</sup>**(e) Bankruptcy and Receivership:** With respect to the filing of a petition or the continuation of proceedings in this Court after the filing of a bankruptcy petition, see 11 U.S.C. section 362(a)(8) and Code sections 6015(e)(6), 6213(f)(1), 6320(c), and 6330(d)(2). With respect to the filing of a petition in this Court after the appointment of a receiver in a receivership proceeding, see Code section 6871(c)(2).

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<sup>1</sup>The amendment is effective March 28, 2016, and is applicable to petitions filed under section 6015(e), 6320(c), or 6330(d)(2) after December 18, 2015.

## RULE 20. COMMENCEMENT OF CASE

<sup>1</sup>(a) **General:** A case is commenced in the Court by filing a petition with the Court. See Rule 13.

(b) **Statement of Taxpayer Identification Number:** The petitioner shall submit with the petition a statement of the petitioner's taxpayer identification number (e.g., Social Security number or employer identification number), or lack thereof. The statement shall be substantially in accordance with Form 4 shown in Appendix I.

(c) **Disclosure Statement:** A nongovernmental corporation, large partnership, or limited liability company, or a tax matters partner or partner other than the tax matters partner of a nongovernmental partnership filing a petition with the Court shall file with the petition a separate disclosure statement. In the case of a nongovernmental corporation, the disclosure statement shall identify any parent corporation and any publicly held entity owning 10 percent or more of petitioner's stock or state that there is no such entity. In the case of a nongovernmental large partnership or limited liability company, or a tax matters partner or partner other than a tax matters partner of a nongovernmental partnership, the disclosure statement shall identify any publicly held entity owning an interest in the large partnership, the limited liability company, or the partnership, or state that there is no such entity. A petitioner shall promptly file a supplemental statement if there is any change in the information required under this rule. For the form of such disclosure statement, see Form 6, Appendix I. For the definition of a large partnership, see Rule 300(b)(1). For the definitions of a partnership and a tax matters partner, see Rule 240(b)(1), (4). A partner other than a tax matters partner is a notice partner or a 5-percent group as defined in Rule 240(b)(8) and (9).

(d) **Filing Fee:** At the time of filing a petition, a fee of \$60 shall be paid. The payment of any fee under this paragraph may be waived if the petitioner establishes to the satisfaction of the Court by an affidavit or a declaration containing specific financial information the inability to make such payment.

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<sup>1</sup> The amendment is effective November 30, 2018.

**RULE 22. FILING<sup>1</sup>**

**(a) General Rule:** Except for a paper filed electronically in accordance with electronic filing procedures established by the Court, a paper must be filed with the Clerk in Washington, D.C., during business hours.

**(b) Exceptions:** A Judge or Special Trial Judge presiding at a trial session of the Court may permit or require a paper pertaining thereto to be filed at that session. The Court also may direct that a paper be filed in accordance with another procedure other than the general rule.

**(c) Timely Mailing:** For the circumstances under which a timely mailed paper will be considered timely filed, see Code section 7502.

**(d) Timely Electronic Filing:** A paper will be considered timely filed if it is electronically filed at or before 11:59 p.m., eastern time, on the last day of the applicable period for filing.

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<sup>1</sup> The amendments are effective November 30, 2018.



## RULE 23. FORM AND STYLE OF PAPERS

**<sup>1</sup>(a) Caption, Date, and Signature Required:** Any paper filed with the Court shall have a caption, shall be dated, and shall be signed as follows:

(1) *Caption:* A proper caption shall be placed on all papers filed with the Court, and the requirements provided in Rule 32(a) shall be satisfied with respect to all such papers. All prefixes and titles, such as “Mr.,” “Ms.,” or “Dr.,” shall be omitted from the caption. The full name and surname of each individual petitioner shall be set forth in the caption. The name of an estate or trust or other person for whom a fiduciary acts shall precede the fiduciary’s name and title, as for example “Estate of Mary Doe, Deceased, Richard Roe, Executor”.

(2) *Date:* The date of signature shall be placed on all papers filed with the Court.

<sup>2</sup>(3) *Signature:* An electronically filed paper shall be signed in accordance with electronic filing procedures established by the Court. Any other paper to be filed with the Court shall bear the original signature of the party’s counsel, or of the party personally if the party is self-represented, except as otherwise provided by these Rules. An individual rather than a firm name shall be used, except that the signature of a petitioner corporation or unincorporated association shall be in the name of the corporation or association by one of its active and authorized officers or members, as for example “Mary Doe, Inc., by Richard Roe, President”. The name, mailing address, email address (if any), and telephone number of the party or the party’s counsel, as well as counsel’s Tax Court bar number, shall be typed or printed immediately beneath the signature. The mailing address of a signatory shall include a firm name if it is an essential part of the accurate mailing address.

**(b) Number Filed:** For each document filed in paper form, there shall be filed the signed original and one conformed copy, except as otherwise provided in these Rules. Where filing is in more than one case (as a motion to consolidate, or in cases already consolidated), the number filed shall include one additional copy for each docket number in excess of

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<sup>1</sup> The amendment is effective November 30, 2018.

<sup>2</sup> The amendment is effective November 30, 2018.

one. If service of a paper is to be made by the Clerk, copies of any attachments to the original of such paper shall be attached to each copy to be served by the Clerk. As to stipulations, see Rule 91(b).

**(c) Legible Papers Required:** Papers filed with the Court may be prepared by any process, but only if all papers, including copies, filed with the Court are clear and legible.

**(d) Size and Style:** Typewritten or printed papers shall be typed or printed only on one side, on opaque, unglazed paper, 8 1/2 inches wide by 11 inches long. All such papers shall have margins on both sides of each page that are no less than 1 inch wide, and margins on the top and bottom of each page that are no less than 3/4 inch wide. Text and footnotes shall appear in consistent typeface no smaller than 12 characters per inch produced by a typewriting element, 12-point type produced by a nonproportional print font (e.g., Courier), or 14-point type produced by a proportional print font (e.g., Times New Roman), with double spacing between each line of text and single spacing between each line of indented quotations and footnotes. Quotations in excess of five lines shall be set off from the surrounding text and indented. Double-spaced lines shall be no more than three lines to the vertical inch, and single-spaced lines shall be no more than six lines to the vertical inch.

**(e) Binding and Covers:** All papers shall be bound together on the upper left-hand side only and shall have no backs or covers.

**(f) Citations:** All citations of case names shall be underscored when typewritten, and shall be in italics when printed.

**(g) Acceptance by the Clerk:** Except as otherwise directed by the Court, the Clerk must not refuse to file a paper solely because it is not in the form prescribed by these Rules.

## RULE 25. COMPUTATION OF TIME

<sup>1</sup>(a) **Computation:** (1) *General:* In computing any period of time prescribed or allowed by these Rules or by direction of the Court or by any applicable statute which does not provide otherwise, the day of the act, event, or default from which a designated period of time begins to run shall not be included, and (except as provided in subparagraph (2)) the last day of the period so computed shall be included. If service is made by mail or electronically, then a period of time computed with respect to the service shall begin on the day after the date of mailing or electronic service.

(2) *Saturdays, Sundays, and Holidays:* Saturdays, Sundays, and all legal holidays shall be counted, except that, (A) if the period prescribed or allowed is less than 7 days, then intermediate Saturdays, Sundays, and legal holidays in the District of Columbia shall be excluded in the computation; (B) if the last day of the period so computed is a Saturday, Sunday, or a legal holiday in the District of Columbia, then that day shall not be included and the period shall run until the end of the next day which is not a Saturday, Sunday, or such a legal holiday; and (C) if any act is required to be taken or completed no later than (or at least) a specified number of days before a date certain, then the earliest day of the period so specified shall not be included if it is a Saturday, Sunday, or a legal holiday in the District of Columbia, and the earliest such day shall be the next preceding day which is not a Saturday, Sunday, or such a legal holiday. When such a legal holiday falls on a Sunday, the next day shall be considered a holiday; and, when such a legal holiday falls on a Saturday, the preceding day shall be considered a holiday.

(3) *Cross-References:* For computation of the period within which to file a petition with the Court to redetermine a deficiency or liability, see Code section 6213; for the period within which to file a petition in an action for determination of relief from joint and several liability, see Code section 6015(e); for the period within which to file a petition in a disclosure action, see Code section 6110; for the period within which to file a petition in a declaratory judgment action, see Code sections 6234, 7428, 7476, 7477, 7478, and 7479; for the period within which to file a petition in a partnership action, see Code sections 6226, 6228, and 6247; for the period within which to file a petition for a lien or levy action, see

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<sup>1</sup> The amendment is effective November 30, 2018.

Code sections 6320 and 6330; for the period within which to file a petition in a review of failure to abate interest action, see Code section 6404(h); for the period within which to file a petition in an administrative costs action, see Code section 7430(f); for the period within which to file a petition in a redetermination of employment status action, see Code section 7436; and for the period within which to file a petition in a whistleblower action, see Code section 7623(b). See also Code sec. 7502.

**(b) District of Columbia Legal Holidays:** The legal holidays within the District of Columbia, in addition to any other day appointed as a holiday by the President or the Congress of the United States, are as follows:

New Year's Day--January 1  
Birthday of Martin Luther King, Jr.--Third Monday in January  
Inauguration Day--Every fourth year  
Washington's Birthday--Third Monday in February  
District of Columbia Emancipation Day--April 16  
Memorial Day--Last Monday in May  
Independence Day--July 4  
Labor Day--First Monday in September  
Columbus Day--Second Monday in October  
Veterans Day--November 11  
Thanksgiving Day--Fourth Thursday in November  
Christmas Day--December 25

**(c) Enlargement or Reduction of Time:** Unless precluded by statute, the Court in its discretion may make longer or shorter any period provided by these Rules. As to continuances, see Rule 133. Where a motion is made concerning jurisdiction or the sufficiency of a pleading, the time for filing a response to that pleading shall begin to run from the date of service of the order disposing of the motion by the Court, unless the Court shall direct otherwise. Where the dates for filing briefs are fixed, an extension of time for filing a brief or the granting of leave to file a brief after the due date shall correspondingly extend the time for filing any other brief due at the same time and for filing succeeding briefs, unless the Court shall order otherwise. The period fixed by statute, within which to file a petition with the Court, cannot be extended by the Court.

**(d) Miscellaneous:** With respect to the computation of time, see also Rule 3(e) (definition), Rule 10(d) (business hours of the Court), Rule 13(c) (filing of petition), and Rule 133 (continuances).

## RULE 34. PETITION

<sup>1</sup>(a) **General:** (1) *Deficiency or Liability Action:* The petition with respect to a notice of deficiency or a notice of liability shall be substantially in accordance with Form 1 shown in Appendix I, and shall comply with the requirements of these Rules relating to pleadings. Ordinarily, a separate petition shall be filed with respect to each notice of deficiency or each notice of liability. However, a single petition may be filed seeking a redetermination with respect to all notices of deficiency or liability directed to one person alone or to such person and one or more other persons or to a husband and a wife individually, except that the Court may order a severance and a separate case to be maintained with respect to one or more of such notices. Where the notice of deficiency or liability is directed to more than one person, each such person desiring to contest it shall file a petition, either separately or jointly with any such other person, and each such person must satisfy all the requirements of this Rule in order for the petition to be treated as filed by or for such person. The petition shall be complete, so as to enable ascertainment of the issues intended to be presented. A petition may be filed electronically under the electronic filing procedures established by the Court, or a petition may be filed by properly mailing or hand delivering it to the Court. No paper will be recognized as a petition if it is submitted to the Court in any other way. The address to be used to mail or hand deliver a petition is set forth in Rule 10(e). Petitions may be hand delivered to the Court only during business hours, see Rule 10(d). Failure of the petition to satisfy applicable requirements may be ground for dismissal of the case. As to the joinder of parties, see Rule 61; and as to the effect of misjoinder of parties, see Rule 62. For the circumstances under which a timely mailed petition will be treated as having been timely filed, see Code section 7502.

<sup>2</sup>(2) *Other Actions:* For the requirements relating to the petitions in other actions, see the following Rules: Declaratory judgment actions, Rules 211(b), 311(b); disclosure actions, Rule 221(b); partnership actions, Rules 241(b), 301(b); administrative

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<sup>1</sup> The amendment is effective November 30, 2018.

<sup>2</sup>The amendment is effective as to passport certification actions commenced with respect to notices of certification issued under Code section 7345(d) after December 4, 2015.

costs actions, Rule 271(b); abatement of interest actions, Rule 281(b); redetermination of employment status actions, Rule 291(b); determination of relief from joint and several liability on a joint return actions, Rule 321(b); lien and levy actions, Rule 331(b); whistleblower actions, Rule 341(b), and certification actions with respect to passports, Rule 350(b). As to joinder of parties in declaratory judgment actions, in disclosure actions, and in partnership actions, see Rules 215, 226, and 241(h) and 301(f), respectively.

**(b) Content of Petition in Deficiency or Liability Action:** The petition in a deficiency or liability action shall contain (see Form 1, Appendix I):

(1) In the case of a petitioner who is an individual, the petitioner's name and State of legal residence; in the case of a petitioner other than an individual, the petitioner's name and principal place of business or principal office or agency; and, in all cases, the petitioner's mailing address and the office of the Internal Revenue Service with which the tax return for the period in controversy was filed. The mailing address, State of legal residence, principal place of business, or principal office or agency shall be stated as of the date of filing the petition. In the event of a variance between the name set forth in the notice of deficiency or liability and the correct name, a statement of the reasons for such variance shall be set forth in the petition.

(2) The date of the notice of deficiency or liability, or other proper allegations showing jurisdiction in the Court, and the City and State of the office of the Internal Revenue Service which issued the notice.

(3) The amount of the deficiency or liability, as the case may be, determined by the Commissioner, the nature of the tax, the year or years or other periods for which the determination was made; and, if different from the Commissioner's determination, the approximate amount of taxes in controversy.

(4) Clear and concise assignments of each and every error which the petitioner alleges to have been committed by the Commissioner in the determination of the deficiency or liability. The assignments of error shall include issues in respect of which the burden of proof is on the Commissioner. Any issue not raised in the assignments of error shall be deemed to be conceded. Each assignment of error shall be separately lettered.

(5) Clear and concise lettered statements of the facts on which petitioner bases the assignments of error, except with respect to those assignments of error as to which the burden of proof is on the Commissioner.

(6) A prayer setting forth relief sought by the petitioner.

(7) The signature, mailing address, and telephone number of each petitioner or each petitioner's counsel, as well as counsel's Tax Court bar number.

(8) A copy of the notice of deficiency or liability, as the case may be, which shall be appended to the petition, and with which there shall be included so much of any statement accompanying the notice as is material to the issues raised by the assignments of error. If the notice of deficiency or liability or accompanying statement incorporates by reference any prior notices, or other material furnished by the Internal Revenue Service, such parts thereof as are material to the issues raised by the assignments of error likewise shall be appended to the petition.

A claim for reasonable litigation or administrative costs shall not be included in the petition in a deficiency or liability action. For the requirements as to claims for reasonable litigation or administrative costs, see Rule 231.

<sup>1</sup>**(c) Content of Petition in Other Actions:** For the requirements as to the content of the petition in a small tax case, see Rule 173(a). For the requirements as to the content of the petition in other actions, see Rule 211(c), (d), (e), (f), and (g), Rule 221(c), (d), and (e), Rule 241(c), (d), and (e), Rule 271(b), Rule 281(b), Rule 291(b), Rule 301(b), Rule 311(b), Rule 321(b), Rule 331(b), Rule 341(b), and Rule 351(b).

**(d) Use of Form 2 Petition:** The use of a properly completed Form 2 petition satisfies the requirements of this Rule.

**(e) Original Required:** Notwithstanding Rule 23(b), only the signed original of each petition is required to be filed.

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<sup>1</sup> The amendment is effective as to passport certification actions commenced with respect to notices of certification issued under Code section 7345(d) after December 4, 2015.

**RULE 143. EVIDENCE**

<sup>1</sup>**(a) General:** Trials before the Court will be conducted in accordance with the Federal Rules of Evidence. See Code sec. 7453. Evidence that is relevant only to the issue of a party's entitlement to reasonable litigation or administrative costs shall not be introduced during the trial of the case (other than a case commenced under Title XXVI of these Rules, relating to actions for administrative costs). As to claims for reasonable litigation or administrative costs and their disposition, see Rules 231 and 232. As to evidence in an action for administrative costs, see Rule 274 (and that Rule's incorporation of the provisions of Rule 174(b)).

**(b) Testimony:** The testimony of a witness generally must be taken in open court except as otherwise provided by the Court or these Rules. For good cause in compelling circumstances and with appropriate safeguards, the Court may permit testimony in open court by contemporaneous transmission from a different location.

**(c) Ex Parte Statements:** Ex parte affidavits or declarations, statements in briefs, and unadmitted allegations in pleadings do not constitute evidence. As to allegations in pleadings not denied, see Rules 36(c) and 37(c) and (d).

**(d) Depositions:** Testimony taken by deposition shall not be treated as evidence in a case until offered and received in evidence. Error in the transcript of a deposition may be corrected by agreement of the parties, or by the Court on proof it deems satisfactory to show an error exists and the correction to be made, subject to the requirements of Rules 81(h)(1) and 85(e). As to the use of a deposition, see Rule 81(i).

**(e) Documentary Evidence:** (1) *Copies:* A copy is admissible to the same extent as an original unless a genuine question is raised as to the authenticity of the original or in the circumstances it would be unfair to admit the copy in lieu of the original. Where the original is admitted in evidence, a clearly legible copy may be substituted later for the original or such part thereof as may be material or relevant, upon leave granted in the discretion of the Court.

(2) *Return of Exhibits:* Exhibits may be disposed of as the Court deems advisable. A party desiring the return at such party's expense of any exhibit belonging to such party, shall, within 90 days

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<sup>1</sup> The amendment is effective March 28, 2016, and is applicable to proceedings commenced after December 18, 2015, and to the extent that is just and practicable, to all proceedings pending on that date.



after the decision of the case by the Court has become final, make written application to the Clerk, suggesting a practical manner of delivery. If such application is not timely made, the exhibits in the case will be destroyed.

**(f) Interpreters:** The parties ordinarily will be expected to make their own arrangements for obtaining and compensating interpreters. However, the Court may appoint an interpreter of its own selection and may fix the interpreter's reasonable compensation, which compensation shall be paid by one or more of the parties or otherwise as the Court may direct.

**(g) Expert Witness Reports:** (1) Unless otherwise permitted by the Court upon timely request, any party who calls an expert witness shall cause that witness to prepare a written report for submission to the Court and to the opposing party if the witness is one retained or specially employed to provide expert testimony in the case or one whose duties as the party's employee regularly involve giving expert testimony. The report, prepared and signed by the witness, shall contain:

(A) a complete statement of all opinions the witness expresses and the basis and reasons for them;

(B) the facts or data considered by the witness in forming them;

(C) any exhibits used to summarize or support them;

(D) the witness's qualifications, including a list of all publications authored in the previous 10 years;

(E) a list of all other cases in which, during the previous 4 years, the witness testified as an expert at trial or by deposition; and

(F) a statement of the compensation to be paid for the study and testimony in the case.

(2) The report will be marked as an exhibit, identified by the witness, and received in evidence as the direct testimony of the expert witness, unless the Court determines that the witness is not qualified as an expert. Additional direct testimony with respect to the report may be allowed to clarify or emphasize matters in the report, to cover matters arising after the preparation of the report, or otherwise at the discretion of the Court. After the case is calendared for trial or assigned to a Judge or Special Trial Judge, each party who calls any expert witness shall serve on each other party, and shall submit to the Court, not later than 30 days before the call of the trial calendar on which the case shall appear, a copy of all expert witness reports prepared pursuant to this subparagraph. An expert

witness's testimony will be excluded altogether for failure to comply with the provisions of this paragraph, unless the failure is shown to be due to good cause and unless the failure does not unduly prejudice the opposing party, such as by significantly impairing the opposing party's ability to cross-examine the expert witness or by denying the opposing party the reasonable opportunity to obtain evidence in rebuttal to the expert witness's testimony.

(3) The Court ordinarily will not grant a request to permit an expert witness to testify without a written report where the expert witness's testimony is based on third-party contacts, comparable sales, statistical data, or other detailed, technical information. The Court may grant such a request, for example, where the expert witness testifies only with respect to industry practice or only in rebuttal to another expert witness.

(4) For circumstances under which the transcript of the deposition of an expert witness may serve as the written report required by subparagraph (1), see Rule 74(d).

**RULE 280. GENERAL**

**(a) Applicability:** The Rules of this Title XXVII set forth the provisions which apply to actions for review of the Commissioner's failure to abate interest under Code section 6404. Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to such actions for review.

<sup>1</sup>**(b) Jurisdiction:** The Court shall have jurisdiction of an action for review of the Commissioner's failure to abate interest under this Title when the following conditions are satisfied:

(1) The Commissioner has mailed a notice of final determination not to abate interest under Code section 6404 or has been requested to make a determination and failed to do so within 180 days after the claim to abate interest was filed with the Internal Revenue Service.

(2) A petition for review of the Commissioner's failure to abate interest is filed with the Court within the period specified in Code section 6404(h) by a taxpayer who meets the requirements of Code section 7430(c)(4)(A)(ii).

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<sup>1</sup> The amendment is applicable to claims for abatement of interest filed with the Internal Revenue Service after December 18, 2015.

**RULE 281. COMMENCEMENT OF ACTION FOR REVIEW OF  
FAILURE TO ABATE INTEREST**

**(a) Commencement of Action:** An action for review of the Commissioner's failure to abate interest under Code section 6404 shall be commenced by filing a petition with the Court. See Rule 20, relating to commencement of case; Rule 22 relating to the place and manner of filing the petition; and Rule 32, regarding the form of pleadings.

**<sup>1</sup>(b) Content of Petition:** A petition filed pursuant to this Rule shall be entitled "Petition for Review of Failure To Abate Interest Under Code Section 6404" and shall contain the following:

(1) In the case of a petitioner who is an individual, the petitioner's name and State of legal residence; in the case of a petitioner other than an individual, the petitioner's name and principal place of business or principal office or agency; and, in all cases, the petitioner's mailing address. The mailing address, State of legal residence, and principal place of business, or principal office or agency, shall be stated as of the date that the petition is filed.

(2) The date upon which the claim for abatement of interest, if any, was mailed to the Internal Revenue Service, and the office to which it was mailed. A copy of each such claim for abatement of interest shall be appended to the petition.

(3) The year or years or other periods to which the failure to abate interest relates.

(4) Where the Commissioner has issued a notice of final determination not to abate interest--

(a) The date of the notice of the Commissioner's determination;

(b) A copy of the notice of determination;

(c) In a separate numbered paragraph, a clear and concise assignment of each error, set forth in separate lettered subparagraphs, which the petitioner alleges the Commissioner committed in the determination; and

(d) In a separate numbered paragraph, a clear and concise statement of facts, set forth in separate lettered

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<sup>1</sup> The amendment is applicable to cases pending as of December 18, 2015, and to cases commenced after that date.

subparagraphs, upon which the petitioner relies to support the assignments of error and the claim for interest abatement.

(5) Where the Commissioner has failed to issue a notice of final determination not to abate interest, separate numbered paragraphs containing--

(a) A statement that the requested determination is of the type described in Code section 6404(h)(1)(A)(ii);

(b) A statement that the Commissioner has not made a determination as to the petitioner's claim for abatement of interest; and

(c) In a separate numbered paragraph, a clear and concise statement of facts, set forth in separate lettered subparagraphs, upon which the petitioner relies to support the claim for an abatement of interest.

(6) An appropriate prayer for relief;

(7) A statement that the petitioner meets the requirements of Code section 7430(c)(4)(A)(ii); and

(8) the signature, mailing address, and telephone number of each petitioner or each petitioner's counsel, as well as counsel's Tax Court bar number.

<sup>1</sup>**(c) Small Tax Case Under Code Section 7463(f)(3):** For provisions regarding the content of a petition in a small tax case under Code section 7463(f)(3), see Rules 170 through 174.

**(d) Filing Fee:** The fee for filing a petition for review of failure to abate interest shall be \$60, payable at the time of filing. The payment of any fee under this paragraph may be waived if the petitioner establishes to the satisfaction of the Court by an affidavit or a declaration containing specific financial information that the petitioner is unable to make such payment.

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<sup>1</sup>The amendment adding new paragraph (c) (and redesignating former paragraph (c) as paragraph (d)) applies to cases pending as of December 18, 2015, and to cases commenced after that date.

**TITLE XXXIV**

**CERTIFICATION AND FAILURE TO REVERSE CERTIFICATION  
ACTION WITH RESPECT TO PASSPORTS**

**RULE 350. GENERAL<sup>1</sup>**

**(a) Applicability:** The Rules of this Title XXXIV set forth the provisions that apply to a certification or a failure to reverse a certification action under Code section 7345(e). Except as otherwise provided in this Title, the other Rules of Practice and Procedure of the Court, to the extent pertinent, are applicable to the action.

**(b) Jurisdiction:** The Court shall have jurisdiction of an action to determine whether the certification was erroneous or whether the Commissioner failed to reverse the certification under Code section 7345(e) when the conditions of that section are satisfied.

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<sup>1</sup> New Rule 350 is effective as to passport certification actions commenced with respect to notices of certification issued under Code section 7345(d) after December 4, 2015.

**RULE 351. COMMENCEMENT OF CERTIFICATION ACTION<sup>1</sup>**

**(a) Commencement of Action:** A certification action under Code section 7345(e) shall be commenced by filing a petition with the Court. See Rule 20, relating to commencement of case; Rule 22, relating to the place and manner of filing the petition; and Rule 32, regarding the form of pleadings.

**(b) Content of Petition:** A petition filed pursuant to this Rule shall be entitled “Petition for Certification or Failure to Reverse Certification Action Under Code Section 7345(e)” and shall contain the following:

(1) The petitioner’s name, State of legal residence, and mailing address, stated as of the date that the petition is filed.

(2) The date of the notification of the certification under Code section 7345(d).

(3) Lettered statements explaining why the petitioner disagrees with the certification or the failure to reverse the certification.

(4) Lettered statements setting forth the facts upon which the petitioner relies to support the petitioner’s position.

(5) A prayer setting forth the relief sought by the petitioner.

(6) The signature, mailing address, and telephone number of the petitioner or each petitioner’s counsel, as well as counsel’s Tax Court bar number.

(7) As an attachment, a copy of the notification of the certification under Code section 7345(d).

**(c) Filing Fee:** The fee for filing a petition for a certification or a failure to reverse a certification action under Code section 7345(e) is \$60, payable at the time of filing. The payment of any fee under this paragraph may be waived if the petitioner establishes to the satisfaction of the Court by an affidavit or a declaration containing specific financial information the inability to make the payment.

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<sup>1</sup> New Rule 351 is effective as to passport certification actions commenced with respect to notices of certification issued under Code section 7345(d) after December 4, 2015.

**RULE 352. REQUEST FOR PLACE OF TRIAL<sup>1</sup>**

At the time of filing a petition for a certification or a failure to reverse a certification action under Code section 7345(e), a request for place of trial shall be filed in accordance with Rule 140.

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<sup>1</sup> New Rule 352 is effective as to passport certification actions commenced with respect to notices of certification issued under Code section 7345(d) after December 4, 2015.



**RULE 353. OTHER PLEADINGS<sup>1</sup>**

**(a) Answer:** The Commissioner shall file an answer or shall move with respect to the petition within the periods specified in and in accordance with the provisions of Rule 36.

**(b) Reply:** For provisions relating to the filing of a reply, see Rule 37.

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<sup>1</sup> New Rule 353 is effective as to passport certification actions commenced with respect to notices of certification issued under Code section 7345(d) after December 4, 2015.

**RULE 354. JOINDER OF ISSUE IN CERTIFICATION ACTION<sup>1</sup>**

A certification or a failure to reverse a certification action under Code section 7345(e) shall be deemed at issue as provided by Rule 38.

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<sup>1</sup> New Rule 354 is effective as to passport certification actions commenced with respect to notices of certification issued under Code section 7345(d) after December 4, 2015.

FORM 2 PETITION (Simplified Form) (Revised Nov. 2016)

UNITED STATES TAX COURT

(FIRST) (MIDDLE) (LAST)

\_\_\_\_\_  
(PLEASE TYPE OR PRINT) Petitioner(s)

v.

COMMISSIONER OF INTERNAL REVENUE,  
Respondent



Docket No.

PETITION

1. Please check the appropriate box(es) to show which IRS ACTION(s) you dispute:

- Notice of Deficiency
- Notice of Determination Concerning Relief From Joint and Several Liability Under Section 6015 (or Failure of IRS to Make Determination Within 6 Months After Election or Request for Relief)\*
- Notice of Determination Concerning Collection Action
- Notice of Certification of Your Seriously Delinquent Federal Tax Debt to the Department of State
- Notice of Final Determination for [Full/Partial] Disallowance of Interest Abatement Claim (or Failure of IRS to Make Final Determination Within 180 Days After Claim for Abatement)\*
- Notice of Determination Under Section 7623 Concerning Whistleblower Action\*
- Notice of Determination of Worker Classification\*

\*For additional information, please see "Taxpayer Information: Starting a Case" at [www.ustaxcourt.gov](http://www.ustaxcourt.gov) (accessible by hyperlink from asterisks above, or in the Court's information booklet).

2. If applicable, provide the date(s) the IRS issued the NOTICE(S) checked above and the city and State of the IRS office(s) issuing the NOTICE(S) \_\_\_\_\_

3. Provide the year(s) or period(s) for which the NOTICE(S) was/were issued: \_\_\_\_\_

4. SELECT ONE OF THE FOLLOWING (unless your case is a whistleblower or a certification action):

If you want your case conducted under small tax case procedures, check here:  **(CHECK ONE BOX)**  
If you want your case conducted under regular tax case procedures, check here:  **(CHECK ONE BOX)**

NOTE: A decision in a "small tax case" cannot be appealed to a Court of Appeals by the taxpayer or the IRS. If you do not check either box, the Court will file your case as a regular tax case.

5. Explain why you disagree with the IRS determination in this case (please list each point separately):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. State the facts upon which you rely (please list each point separately):

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You may use additional pages to explain why you disagree with the IRS determination or to state additional facts. Please do not submit tax forms, receipts, or other types of evidence with this petition.

ENCLOSURES:

Please check the appropriate boxes to show that you have enclosed the following items with this petition:

- A copy of any NOTICE(S) the IRS issued to you
- Statement of Taxpayer Identification Number (Form 4) (See PRIVACY NOTICE below)
- The Request for Place of Trial (Form 5)       The filing fee

PRIVACY NOTICE: Form 4 (Statement of Taxpayer Identification Number) will not be part of the Court's public files. All other documents filed with the Court, including this Petition and any IRS Notice that you enclose with this Petition, will become part of the Court's public files. To protect your privacy, you are strongly encouraged to omit or remove from this Petition, from any enclosed IRS Notice, and from any other document (other than Form 4) your taxpayer identification number (e.g., your Social Security number) and certain other confidential information as specified in the Tax Court's "Notice Regarding Privacy and Public Access to Case Files", available at [www.ustaxcourt.gov](http://www.ustaxcourt.gov).

\_\_\_\_\_  
Signature of Petitioner      Date      (Area Code) Telephone No.

\_\_\_\_\_  
Mailing Address      City, State, ZIP Code

State of legal residence (if different from the mailing address): \_\_\_\_ E-mail address (if any): \_\_\_\_\_

\_\_\_\_\_  
Signature of Additional Petitioner (e.g., spouse)      Date      (Area Code) Telephone No.

\_\_\_\_\_  
Mailing Address      City, State, ZIP Code

State of legal residence (if different from the mailing address): \_\_\_\_ E-mail address (if any): \_\_\_\_\_

\_\_\_\_\_  
Signature, Name, Address, Telephone No., and Tax Court Bar No. of Counsel, if retained by Petitioner(s)

SAMPLE

Information About Filing a Case in the United States Tax Court

Attached are the forms to use in filing your case in the United States Tax Court. It is very important that you take time to carefully read the information on this page and that you properly complete and submit these forms to the United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217, or file the forms electronically pursuant to the Court's eFiling provisions.

Small Tax Case or Regular Tax Case

If you seek review of an action (other than a whistleblower or a certification action) listed in paragraph 1 of the petition form (Form 2), you may file your petition as a "small tax case" if your dispute meets certain dollar limits (described below). "Small tax cases" are handled under simpler, less formal procedures than regular cases. However, the Tax Court's decision in a small tax case cannot be appealed to a Court of Appeals by the IRS or by the taxpayer(s). You can choose to have your case conducted as either a small tax case or a regular case by checking the appropriate box in paragraph 4 of the petition form (Form 2). If you check neither box, the Court will file your case as a regular case.

Dollar Limits: Dollar limits for a small tax case vary slightly depending on the type of IRS action you seek to have the Tax Court review:

(1) If you seek review of a Notice of Deficiency, the amount of the deficiency (including any additions to tax or penalties) that you dispute cannot exceed \$50,000 for any year.

(2) If you seek review of a Notice of Determination Concerning Collection Action, the total amount of unpaid tax cannot exceed \$50,000 for all years combined.

(3) If you seek review of a Notice of Determination Concerning Relief From Joint and Several Liability Under Section 6015 (or if the IRS failed to send you any Notice of Determination with respect to a request for spousal relief that you submitted to the IRS at least 6 months ago), the amount of spousal relief sought cannot exceed \$50,000 for all years combined.

(4) If you seek review of a Notice of Determination of Worker Classification, the amount in dispute cannot exceed \$50,000 for any calendar quarter.

(5) If you seek review of a Notice of Final Determination for [Full/Partial] Disallowance of Interest Abatement Claim (or if the IRS failed to send you a Notice of Final Determination with respect to a claim for interest abatement that you filed with the IRS at least 180 days before), the amount of the abatement cannot exceed \$50,000.

Enclosures

To help ensure that your case is properly processed, please enclose the following items when you mail your petition to the Tax Court:

1. A copy of any Notice of Deficiency, Notice of Determination, or Final Determination the IRS sent you;
2. Your Statement of Taxpayer Identification Number (Form 4);
3. The Request for Place of Trial (Form 5); and
4. The \$60 filing fee, payable by check, money order, or other draft, to the "Clerk, United States Tax Court"; or, if applicable, the fee waiver form.

For further important information, see the Court's Web site at [www.ustaxcourt.gov](http://www.ustaxcourt.gov) or the "Information for Persons Representing Themselves Before the U.S. Tax Court" booklet available from the Tax Court.