

**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.

(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.

~~(2) The date of the notice of final determination not to abate interest and the city and State of the office of the Internal Revenue Service which issued the notice.~~

(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 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.

~~(4) Clear and concise lettered statements of the facts on which the petitioner relies to establish that the Commissioner's final determination not to abate interest was an abuse of discretion.~~

~~(5) A statement that the petitioner meets the requirements of Code section 7430(c)(4)(A)(ii).~~

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

~~(7) As an attachment, a copy of the notice of final determination denying (in whole or in part) the requested abatement.~~

(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 175.

(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.

Explanation

Rule 281 is amended on an interim basis to reflect amendments to Code sections 6404(h) and 7463(f), relating to interest abatement. Section 421 of the Protecting Americans from Tax Hikes Act of 2015 (PATH Act), Pub. L. 114-113, ___ Stat. ___, amended Code section 6404(h) to provide that a taxpayer may petition the Court for an abatement of interest if the taxpayer files a claim for interest abatement with the Internal Revenue Service and the Commissioner fails to issue a final determination on the claim within 180 days after the claim was filed. This amendment is applicable to claims for abatement of interest filed with the Internal Revenue Service after Dec. 18, 2015. PATH Act section 422 amended Code section 7463(f) to permit a taxpayer to elect “small” tax case status if the amount of the abatement sought does not exceed \$50,000. This amendment applies to cases pending as of Dec. 18, 2015, and to cases commenced after that date.