

# Indiana Rules of Court Tax Court Rules

*Effective July 1, 1986  
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## TABLE OF CONTENTS

Rule 1. Scope of the Rules.....	1
Rule 2. Forms of Action.....	1
Rule 3. Commencement of an Action.....	1
Rule 4. Jurisdiction over Respondents and Service of Process.....	3
Rule 5. Time.....	4
Rule 6. Joinder and Intervention .....	4
Rule 7. Failure to Make or Cooperate in Discovery .....	4
Rule 8. Hearings.....	5
Rule 9. Subpoena.....	5
Rule 10. Findings by the Tax Court.....	5
Rule 11. Court and Clerk.....	5
Rule 12. Hearings and Motions .....	6
Rule 13. Venue.....	6
Rule 14. Books and Records Kept by the Clerk and Entries.....	6
Rule 15. Special Judge--Selection.....	7
Rule 16. Small Tax Cases .....	7
Rule 17. Judgment .....	7
Rule 18. Mediation.....	8
Rule 19. Special Rules .....	8
Rule 20. Effective Date.....	8
Rule 21. Title .....	8
Rule 22. Word Limits for Briefs, Memoranda, and Petitions for Rehearing .....	8
Rule 23. Electronic Filing and Electronic Service.....	9

### **Rule 1. Scope of the Rules**

These rules govern the procedure and practice in all actions jurisdictionally cognizable in the Indiana Tax Court. They shall be construed to secure the just, speedy and inexpensive determination of every action. Except to the extent these rules are clearly inconsistent with the Indiana Rules of Trial Procedure (“Trial Rules”), those Trial Rules shall apply to actions in the Tax Court, but nothing herein or in the Trial Rules shall be deemed to extend the jurisdiction of the Tax Court with respect to persons, actions, or claims over which it does not otherwise have authority. In the case of an appeal from a determination of a probate court, the Indiana Rules of Appellate Procedure shall apply.

### **Rule 2. Forms of Action**

In the Indiana Tax Court, the forms of civil action include:

- (A) an original tax appeal arising under the tax laws of the State of Indiana by which an initial judicial appeal of a final determination of the Department of State Revenue, the Indiana Board of Tax Review, or the Department of Local Government Finance is sought, and
- (B) any other action for which jurisdiction in the Tax Court is conferred by statute.

### **Rule 3. Commencement of an Action**

- (A) **Appeals from Final Determinations of the Department of State Revenue.** An original tax appeal from a final determination of the Department of State Revenue is commenced by conventionally filing a petition in the Tax Court.
- (B) **Appeals from Final Determinations of the Indiana Board of Tax Review.** An original tax appeal from a final determination of the Indiana Board of Tax Review is commenced by conventionally filing a petition in the Tax Court and filing a written notice of appeal with the Indiana Board of Tax Review.
- (C) **Appeals from Final Determinations of the Department of Local Government Finance.** An original tax appeal from a final determination of the Department of Local Government Finance is commenced by conventionally filing a petition in the Tax Court.

- (D) **Copies of Petitions.** Copies of the petition required under Section B of this Rule shall be served upon those persons designated by any applicable statute. A petitioner complies with this Rule by serving a copy of the petition in the manner provided by Trial Rules 4.1 through 4.11 as applicable. Copies of the petition shall be served upon public officers only in their official capacities.
- (E) **Filing the Record of Judicial Review.** In original tax appeals filed under Sections (B) or (C) of this Rule, the petitioner shall request the Indiana Board of Tax Review or the Department of Local Government Finance to prepare a certified copy of the agency record by including the request in the petition. The petitioner shall conventionally file a certified copy of the record with the Tax Court within thirty (30) days after receiving notification from the Indiana Board of Tax Review or the Department of Local Government Finance that the record has been prepared.
- (F) **Enjoining the Collection of a Tax.** In certain circumstances, the collection of a listed tax, interest, and penalties is limited by statute. Nonetheless, if the petitioner seeks to enjoin the collection of a tax pending the original tax appeal, there must be included with the original tax appeal a petition to enjoin the collection of the tax, which petition must include a summary of the issues that the petitioner will raise in the original tax appeal, and the equitable considerations for which the Tax Court should order the collection of the tax to be enjoined.
- (G) **Confidentiality of Court Records on Appeal.**
- (1) Court Records are accessible to the public, except as provided in Administrative Rule 9(G).
  - (2) Procedures for Excluding Court Records from Public Access on Appeal. Any Court Record excluded from Public Access on appeal must be filed in accordance with the following procedures:
    - (a) Notice to maintain exclusion from Public Access.
      - (i) In cases where the Court Record is excluded from Public Access pursuant to Administrative Rule 9(G)(2), 9(G)(3), or 9(G)(4), the party or person submitting the confidential record must provide the separate written notice required by Administrative Rule 9(G)(5)(a) identifying the specific 9(G)(2) or 9(G)(3) ground(s) upon which exclusion is based. (See Form # App.R. 11-5)
      - (ii) In cases where all Court Records are excluded from Public Access in accordance with Administrative Rule 9(G)(1), no notice of exclusion from Public Access is required.
    - (b) Public Access and Non-Public Access Versions. Where only a portion of the Court Record has been excluded from Public Access pursuant to Administrative Rule 9(G)(2) or 9(G)(3), the following requirements apply:
      - (i) Public Access Version.
        - a. If a filing contains confidential Court Records to be excluded from Public Access, the confidential Court Record shall be omitted or redacted from this version.
        - b. The omission or redaction shall be indicated at the place it occurs in the Public Access version. If multiple pages are omitted, a separate place keeper insert must be inserted for each omitted page to keep PDF page numbering consistent throughout.
        - c. If the entire document is to be excluded from Public Access, the Administrative Rule 9(G)(5)(a) Notice filed with the document will serve as the Public Access Version.
      - (ii) Non-Public Access Version.
        - a. If the omitted or redacted Court Record is not necessary to the disposition of the case on appeal, the excluded Court Record need not be filed or tendered in any form and only the Public Access version is required. The Administrative Rule 9(G)(5)(a) Notice should indicate this fact. (See Form # App.R. 11-6)
        - b. If the omitted or redacted Court Record is necessary to the disposition of the case, the excluded Court Record must be separately filed or tendered as follows.
          1. The first page of the Non-Public Access Version should be conspicuously marked "Not for Public Access" or "Confidential," with the caption and number of the case clearly designated.
          2. The separately filed Non-Public Access version shall consist of a complete, consecutively paginated replication including both the Public Access material and the Non-Public Access material.
          3. Use of green paper is abolished for E-Filing. Pages in the Non-Public Access version containing Court Records that are excluded from Public Access shall instead be

identified with a header, label, or stamp that states, "CONFIDENTIAL PER A.R. 9(G)" or "EXCLUDED FROM PUBLIC ACCESS PER A.R. 9(G)."

(iii) The requirements in Tax Court Rule 3(G)(2)(b) do not apply to cases in which all Court Records are excluded from Public Access pursuant to Administrative Rule 9(G)(1).

(3) E-Filing document security codes settings.

- (a) Where only a portion of the Court Record has been excluded from Public Access pursuant to administrative Rule 9(G)(2) or 9(G)(3), the E-Filing document security codes setting for the Public Access Version shall be "Public Document."
- (b) Where only a portion of the Court Record has been excluded from Public Access pursuant to Administrative Rule 9(G)(2) or 9(G)(3), the E-Filing document security codes setting for the Non-Public Access Version shall be "Confidential document under Admin. Rule 9."
- (c) In cases in which all Court Records are excluded from Public Access pursuant to Administrative Rule 9(G)(1), the E-Filing document security codes setting shall be "Confidential document under Admin. Rule 9."

(H) **Attorney Information.** Any attorney that enters an appearance and initiates an original tax appeal on behalf of the named petitioner under this rule, or who enters an appearance as amicus curiae or as an intervenor on behalf of the named petitioner, shall provide the following:

- (1) Certification that the contact information listed on the Indiana Supreme Court Roll of Attorneys for each attorney is current and accurate as of the appearance is filed (Attorneys can review and update their Roll of Attorneys contact information on the Clerk of Courts Portal);
- (2) Acknowledgment that all orders, opinions, and notices in the matter will be sent to the email address(es) specified by the attorney on the Roll of Attorneys regardless of the contact information provided on the notice of appearance; and
- (3) Acknowledgment that each attorney listed on the notice of appearance is solely responsible for keeping his/her Roll of Attorneys contact information accurate per Ind. Admis. Disc. R. 2(A).

#### **Rule 4. Jurisdiction over Respondents and Service of Process**

(A) **Appeals from Final Determinations of the Department of State Revenue and the Department of Local Government Finance.**

- (1) Notwithstanding anything to the contrary herein, the Tax Court acquires jurisdiction over the Department of State Revenue or the Department of Local Government Finance upon the filing of a petition with the clerk of the Tax Court seeking to set aside a final determination of either of such state agencies, as the case may be. The clerk of the Tax Court shall promptly transmit copies of a petition filed in the Tax Court to the Attorney General and to the state agency named as the respondent in such petition and shall state in accompanying transmittal letters: (1) the date on which the petition was filed; (2) the date on which the petition is being mailed to the Attorney General and the respondent state agency; and (3) the time within which these rules require a responsive pleading. Nothing in this rule shall relieve a party from complying with statutory requirements for bringing an original tax appeal.
- (2) In original tax appeals of final determinations of the Department of State Revenue or the Department of Local Government Finance, it shall not be necessary to serve summons on the Attorney General, the Department of State Revenue, or the Department of Local Government Finance. Service of summons in accordance with the Trial Rules shall be required for the Tax Court to acquire jurisdiction over any other persons; such service shall be made as provided in Trial Rule 4.11.

(B) **Appeals from Final Determinations of the Indiana Board of Tax Review.**

- (1) In original tax appeals of final determinations of the Indiana Board of Tax Review, the Tax Court acquires jurisdiction over a party or person who under these rules commences or joins in the original tax appeal, is served with summons or enters an appearance, or who is subjected to the power of the Tax Court under any other law.
- (2) In original tax appeals initiated by taxpayers, the named respondent shall be the person or persons designated by statute as parties to judicial review of final determinations of the Indiana Board of Tax Review.
- (3) In original tax appeals initiated by a government official or entity, the named respondent shall be the taxpayer who was a party to the proceeding before the Indiana Board of Tax Review.

- (4) Service of summons shall be required only with respect to the named respondent and any other person whom the petitioner seeks to join as a party. If the Department of Local Government Finance is a named respondent, service of summons shall be made upon the Commissioner of the Department of Local Government Finance. Service of summons shall be made in accordance with the Trial Rules.
- (C) **Public Officers in Their Official Capacities.** Public officers shall only be made parties to original tax appeals in their official capacities.
- (D) **Substitution of Parties.**
- (1) When a public officer who is made a party to an original tax appeal in his or her official capacity dies, resigns, or otherwise no longer holds the public office, the officer's successor is automatically substituted as a party.
  - (2) A party shall provide notice to the Tax Court of the succession in office of any party. The failure of any party to file a notice shall not affect the party's substantive rights.
  - (3) The death or incompetence of any party on appeal shall not cause the original tax appeal to abate. Successor parties may be substituted for the deceased or incompetent parties.
- (E) **Responding Party Attorney Information.** Any attorney that enters an appearance on behalf of the named respondent under this rule, or who enters an appearance as amicus curiae or as an intervenor on behalf of the named respondent, shall provide the following:
- (1) Certification that the contact information listed on the Indiana Supreme Court Roll of Attorneys for each attorney is current and accurate as of the date the appearance is filed (Attorneys can review and update their Roll of Attorneys contact information on the Clerk of Courts Portal);
  - (2) Acknowledgment that all orders, opinions, and notices in the matter will be sent to the email address(es) specified by the attorney on the Roll of Attorneys regardless of the contact information provided on the notice of appearance; and
  - (3) Acknowledgment that each attorney listed on the notice of appearance is solely responsible for keeping his/her Roll of Attorneys contact information accurate per Ind. Admis. Disc. R. 2(A).

#### **Rule 5. Time**

**Time for Response to Petition.** In a case in which the clerk of the Tax Court has served a petition in an original tax appeal without service of summons, the period for filing a response to such petition by the State Agency so served shall be thirty (30) days after the mailing of the clerk's transmittal letter. In a case governed by Rule 4(B), the period for filing a response to a petition shall be thirty (30) days after the service of the petition and summons on a named respondent. The Court shall automatically grant an initial motion for an enlargement of time for an additional thirty (30) days to respond to a petition. An initial motion filed pursuant to this Rule shall state the date when the original response is due and the date to which the time is enlarged, and the initial motion must be filed on or before the original due date for this Rule to apply. All subsequent motions for enlargement of time will be granted only for good cause shown.

#### **Rule 6. Joinder and Intervention**

- (A) **Joinder of Taxpayer in Tax Court Appeals by Government Organization or Representative.** In an original tax appeal in the Tax Court brought by a governmental organization or official representative, any person or persons whose liability for, or right to a refund of, taxes would be directly affected by the outcome of such appeal may intervene in the action pursuant to Trial Rule 24 if not already named as a respondent or joined under Trial Rule 20.
- (B) **Right of Intervention.** The Department of Local Government Finance shall have the right to intervene in original tax appeals of final determinations of the Indiana Board of Tax Review when the interpretation of its rules is at issue. This right of intervention shall not extend to settlement of the litigation between the original parties to the tax appeal unless the Department of Local Government Finance was a party to the action before the Indiana Board of Tax Review.

#### **Rule 7. Failure to Make or Cooperate in Discovery**

- (A) **Appropriate Court.** An application for an order to a party to compel discovery may be made to the Tax Court, or alternatively, on matters relating to a deposition or an order under Trial Rule 34, to a court in the county where the deposition is being taken or where compliance is to be made. Application for an order to compel discovery directed to a deponent who is not a party shall be made to a court in the county where the deposition is being taken or to the Tax Court.
- (B) **Sanctions.** If a deponent fails to be sworn or to answer a question after being directed to do so by the court in the county in which the deposition is being taken or by the Tax Court, the failure may be considered a contempt of that court.

## **Rule 8. Hearings**

- (A) **Location of Hearings.** All hearings, including but not limited to evidentiary hearings, trials, oral arguments, and hearings on motions, shall be conducted in Allen County, Jefferson County, Lake County, Marion County, St. Joseph County, Vanderburgh County, or Vigo County. A taxpayer who appeals to the Tax Court shall, at the time the appeal is filed, file an election as to the county in which the hearings in the appeal shall be conducted. If the taxpayer is an appellee in an appeal to the Tax Court, the taxpayer shall file such an election within thirty (30) days after receiving notice of the appeal. If no such election is timely filed, hearings shall be conducted in Marion County unless otherwise ordered by the Court.
- (B) **No Jury Trials.** All appeals shall be tried to the Tax Court without a jury.

## **Rule 9. Subpoena**

- (A) **Subpoena for Taking Depositions--Place of Examination.** Proof of service of a notice to take a deposition as provided in Trial Rules 30(B) and 31(A) constitutes a sufficient authorization for the issuance by the clerk of the Tax Court or by the clerk of court for the county in which the deposition is to be taken of subpoenas for the persons named or described therein. The subpoenas may command the persons to whom it is directed to produce designated books, papers, documents, or tangible things which constitute or contain matters within the scope of the examination permitted by Trial Rule 26(B), but in that event the subpoena will be subject to the provisions of Trial Rules 26(C) and 45(B).
- (B) **Subpoena for a Hearing or Trial.** At the request of any party, subpoenas for attendance at a hearing or trial shall be issued by the clerk of the Tax Court when requested, or, in the case of a subpoena for the taking of a deposition, by the clerk of the Tax Court or by the clerk of the court in the county in which the deposition is being taken. A subpoena may be served at any place within the state; and when permitted by the laws of the United States, this or another state or foreign country, the Court, upon proper application and cause shown, may authorize the service of a subpoena outside the state in accordance with and as permitted by such law.
- (C) **Contempt.** Failure by any person without adequate excuse to obey a subpoena served upon him may be deemed in contempt of the Tax Court or the court from which the subpoena was issued, or of the court of the county where the witness was required thereunder to appear or act. The attendance of all witnesses when duly subpoenaed and to whom fees have been paid or tendered as required by law may be enforced by attachment.

## **Rule 10. Findings by the Tax Court**

The Tax Court shall determine the facts and judgment shall be entered thereon pursuant to Trial Rule 58. The Court shall render its decisions in writing. The Tax Court shall make special findings of fact without request:

- (1) in granting or refusing preliminary injunctions, including injunctions against collection of any tax;
- (2) in making any final decision after trial; and
- (3) in any other case provided by these rules or by statute.

The Supreme Court shall not set aside the findings or judgment of the Tax Court unless clearly erroneous, and due regard shall be given to the opportunity of the Tax Court to judge the credibility of the witnesses. The findings of a master shall be considered as findings of the Tax Court to the extent that the Tax Court adopts them. If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact and conclusions appear therein. Findings of fact are unnecessary on decisions of motions under Trial Rules 12 or 56 or any other motion except as provided in Trial Rules 41(B) (dismissal) and 59(J) (motion to correct errors).

## **Rule 11. Court and Clerk**

- (A) **Tax Court Always Open.** The Tax Court shall be deemed always open for the purpose of filing any pleadings or other proper documents, of issuing and returning any process contemplated by these rules, and of making and directing all interlocutory motions, orders, and rules. Terms of court shall not be recognized.
- (B) **Evidentiary Hearings--Orders in Chambers.** All evidentiary hearings in connection with an original tax appeal shall be conducted in open court in a regular court or hearing room in the county designated for such hearing by the taxpayer party thereto. In the absence of such designation, such hearings shall be conducted in Marion County. All other acts or proceedings may be done or conducted by the judge of the Tax Court in chambers without the attendance of the clerk or other Court officials and at any other place within the State.
- (C) **Clerk, Clerk's Office, and Orders by Clerk.** The clerk of the Court is the clerk of the Supreme Court, Court of Appeals, and Tax Court, and the address of the clerk's office is State House, Room 216, Indianapolis, Indiana 46204. Except as may be otherwise provided by law, the clerk's office with the clerk or a deputy in attendance shall be open during business hours on all days except Saturdays, Sundays, and legal holidays. All motions and applications for issuing process, for entering defaults or judgments by default, and for other proceedings which

do not require allowance or order of the Court are grantable of course by the clerk; but the clerk's action may be suspended or altered or rescinded by the Court upon cause shown.

- (D) **Notice of Orders or Judgments.** The clerk shall give notice of rulings, orders, or judgments and with the effect as provided in Appellate Rule 26.

**Rule 12. Hearings and Motions**

- (A) **Proceedings.** The Tax Court shall periodically establish times and places, at intervals sufficiently frequent for the prompt dispatch of business at each of the counties designated for the hearings in original tax appeals, at which motions requiring notice and hearing may be heard and disposed of; but the judge at any time or place and on such notice, if any, as the judge considers reasonable may make order for the advancement, conduct, and hearing of actions. To expedite its business, the Court may direct the submission and determination of motions without oral hearing upon brief written statements or reasons in support and opposition, or direct and permit hearings by telephone conference call with all attorneys or other similar means of communications.
- (B) **Motion, Response, and Reply**
- (1) Every motion shall be accompanied by a proposed form of order, and except for motions for continuance, shall include a memorandum of law or a statement of points and authorities, explaining how relevant authorities support the contentions of the moving party.
  - (2) In matters other than motions for summary judgment (governed by Trial Rule 56), an opposing party may file a memorandum of law or a statement of authority in response to the matters raised in any motion not later than ten (10) days from the date of service of the motion, or within such shorter or longer time as the Court may allow.
  - (3) A reply memorandum, if any, shall be filed within seven (7) days of the service of the responding memorandum, or within such shorter or longer time as the Court may allow.
- (C) **Oral Hearings.** Oral hearings shall be conducted on motions in the discretion of the Court if requested by either party, or when ordered by the Court. In the motion or response, a party requesting oral hearing shall specify the amount of time required for hearing, whether appearance by telecommunications is requested, the names and telephone numbers of all parties served with the motion or response, and whether official court reporting services are requested for the hearing.
- (D) **Hearing on Petition to Enjoin.** When a petition to enjoin the collection of a tax pending the original tax appeal is filed pursuant to IC 33-26-6-2(b), a hearing will be held as promptly as possible upon request of either party.

**Rule 13. Venue**

The Tax Court has exclusive statewide jurisdiction over all original tax appeals and jurisdiction conferred by statute over any other matters. Venue of all these matters shall lie only in the Tax Court.

**Rule 14. Books and Records Kept by the Clerk and Entries**

- (A) **Pleadings and Papers--Where Filed and Entered.** All pleadings, documents, and rulings, including final judgments and appealable orders, shall be filed electronically through the IEFs unless specifically exempted from E-Filing by the Tax Court or pursuant to the Supreme Court's "Order Initiating E-Filing In the Indiana Tax Court" posted at <http://courts.in.gov/efile>. The clerk of the Tax Court shall keep them under a consecutive file number assigned by the clerk to each case.
- (B) **Docket Book.** The clerk of the Tax Court shall keep a docket book of such form that the file number of each case or proceeding shall be noted on the folio of the docket whereon the first entry of the action is made. All filed documents, all process issued and returns made thereon, all appearances, orders, verdicts, judgments, enforcement proceedings, execution, and returns thereon shall be entered chronologically in the docket on the folio assigned to the action and shall be marked with its file number and the date of filing. Such entries shall be brief but shall show the nature of each document filed or writ issued and the bare substance of each order or judgment of the Tax Court and of the returns showing execution of process. Each entry shall show the date the filing, return, or entry was made, including the date of judgment or order was entered.
- (C) **Indexes.** The clerk under the direction of the Tax Court judge shall keep suitable indexes of the docket maintained by him.
- (D) **Calendars.** There shall be prepared under the direction of the Tax Court calendars of all actions ready for trial.
- (E) **Order Book.** The clerk of the Tax Court shall maintain an order book in such form as the Tax Court may prescribe or may have prescribed by local or other rule. Every ruling, order, or judgment of the Tax Court should be entered or filed in such book verbatim for each day and the Tax Court judge shall sign the book as to such day's entries. The order book may include such other matters as the Tax Court may direct and shall include such matters as may be required by local or other rule.

- (F) **Replacing Lost Conventionally-Filed Documents.** If an original pleading or document conventionally filed with the clerk is lost, or is withheld by any person, the Tax Court may authorize a copy thereof to be filed and used instead of the original.
- (G) **Method of Keeping Records.** Under the direction of the Supreme Court or the Tax Court, the clerk of the Tax Court may, notwithstanding the foregoing sections, keep records in any suitable media, including without limitation, electromagnetic, photographic, electric, electronic, electrostatic, and paper media or combinations thereof.

**Rule 15. Special Judge--Selection**

If the judge of the Tax Court is disqualified from hearing a case or is incapable of exercising judicial duties with respect to a case, the Chief Justice of the State of Indiana shall appoint a special judge to sit in place of the disqualified or absent judge.

**Rule 16. Small Tax Cases**

- (A) **General.** This Rule sets forth the special provisions which are to be applied in the Indiana Tax Court to small tax cases as required by IC 33-26-5-1. Except as otherwise provided in this Rule, the Indiana Rules for Small Claims are also applicable to such cases. To the extent not inconsistent therewith, the Indiana Tax Court Rules will apply. The term “small tax case” means a case which involves a claim for refund from the Department of State Revenue that does not exceed \$5,000 for any year or an appeal of a final determination by the Indiana Board of Tax Review that does not exceed a disputed amount of \$45,000 in assessed value.
- (B) **Notice of Claim.** The notice of claim to be used under Small Claims Rule 2 shall contain:
  - (1) the name of the Tax Court;
  - (2) the name, address, and telephone number of claimant;
  - (3) a designation of the type of tax the claim involves;
  - (4) a statement of the taxable period involved;
  - (5) a brief statement of the nature of the claim;
  - (6) a statement of the amount of tax at issue; and
  - (7) any additional information which may facilitate proper service or processing of the claim.
- (C) **Manner of Service.** For the purpose of service, the notice of claim shall also be considered to be the summons. The notice of claim shall be served upon the Attorney General by registered or certified mail, return receipt requested.
- (D) **Appearances for Governmental Defendant.** The Attorney General shall be deemed to have entered an appearance for and on behalf of the governmental defendant or defendants.
- (E) **Appearances by Attorneys.** Any attorney that enters an appearance for any party under this rule shall provide the following:
  - (1) Certification that the contact information listed on the Indiana Supreme Court Roll of Attorneys for each attorney is current and accurate as of the date the appearance is filed (Attorneys can review and update their Roll of Attorneys contact information on the Clerk of Courts Portal;
  - (2) Acknowledgment that all orders, opinions, and notices in the matter will be sent to the email address(es) specified by the attorney on the Roll of Attorneys regardless of the contact information provided on the notice of appearance; and
  - (3) Acknowledgment that each attorney listed on the notice of appearance is solely responsible for keeping his/her Roll of Attorneys contact information accurate per Ind. Admis. Disc. R. 2(A).

**Rule 17. Judgment**

All judgments shall be incorporated in written decisions by the Tax Court and the Court shall issue decisions promptly after taking issues under advisement. Decisions specifically designated “For Publication,” shall be published in the official reporter and shall be citable. Other cases specifically designated as “Memorandum Decisions” are not published in the official reporter and shall not be regarded as precedent nor cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case. Within thirty (30) days of the entry of a Memorandum Decision, a party or other person may make a motion to publish the decision in the official reporter. The motion must specify the reasons why publication is proper. Judgment shall be subject to review as prescribed by relevant Indiana rules and statutes.

## **Rule 18. Mediation**

- (A) **Purpose.** The purpose of a mediation of any matter before the Tax Court is set forth in Rule 2.1 of the Indiana Rules for Alternative Dispute Resolution, which is hereby incorporated by reference.
- (B) **Mediation Order.** At any time, the Tax Court may on its own motion or upon motion of any party refer an original tax appeal to mediation. Any original tax appeal referred to mediation shall be subject to this Rule unless the parties by agreement elect to be subject to the Indiana Rules for Alternative Dispute Resolution without regard to this Rule. At all times during the course of any mediation the appeal remains within the jurisdiction of the Tax Court.
- (C) **Case Selection/Objection to Mediation Order.** After a case has been referred for mediation, a party may file an objection within fifteen (15) days after the order of referral is entered. The party must specify the grounds for objection. The Tax Court shall promptly consider the objection and any response and determine whether the litigation should then be mediated or not. In this decision, the Tax Court shall consider the willingness of the parties to mutually resolve their dispute, the ability of the parties to participate in the mediation process, the need for discovery and the extent to which it has been conducted, and any other factors which affect the potential for fair resolution of the dispute through the mediation process. If a case is ordered for mediation, the case shall remain on the court docket and the trial calendar.
- (D) **Selection of Mediator/Costs of Mediation.** Within fifteen (15) days of an order referring a case to mediation, or fifteen (15) days of a decision of the Tax Court under Rule 18(C) if a timely objection is filed under that subsection, the parties may choose a mediator from the pool of senior judges who have been certified by the Indiana Judicial Nominating Commission. In the event a mediator is not selected by agreement, the Tax Court will designate three (3) senior judges who have been certified by the Indiana Judicial Nominating Commission who are willing to mediate cases before the Tax Court. Alternately, each side shall strike the name of one mediator. The side initiating the lawsuit will strike first. The mediator remaining after the striking process will be deemed the selected mediator. The senior judge serving as the mediator shall be paid by the Division of State Court Administration pursuant to Supreme Court Administrative Rule 5. The senior judge serving as the mediator need not be a registered mediator as provided in Indiana Rules for Alternative Dispute Resolution, Rule 2. Mediation shall occur at no cost to the parties.
- (E) **Mediation Procedure, Rules of Evidence, Discovery, Sanctions, Confidentiality.** The mediation shall be conducted pursuant to the procedures, rules of evidence, discovery, sanctions, and confidentiality provisions set forth in Rules 2.7, 2.8, 2.9, 2.10, and 2.11 of the Indiana Rules for Alternative Dispute Resolution which are hereby incorporated by reference; provided, however, that the provision of Rule 2.7 (B)(2) requiring attorneys or representatives of a party with settlement authority to be present at each mediation shall not apply.
- (F) **Termination of Mediation.** The mediation shall terminate as provided in Rule 2.7(D) of the Indiana Rules for Alternative Dispute Resolution as incorporated by reference in (E) above provided that the Tax Court may, at any time, upon good cause shown and upon a hearing on the issue, terminate the mediation.

## **Rule 19. Special Rules**

The judge of the Tax Court may from time to time make and amend rules governing practice before it not inconsistent with these rules. In all cases not provided for by rule, the Tax Court may regulate its practice in any manner not inconsistent with these rules. Any special rules shall be furnished to the clerk and to the Office of the Administrator of State Courts.

## **Rule 20. Effective Date**

These rules shall be effective as of July 1, 1986, and they shall govern all proceedings in the Tax Court, whether originally commenced in the Tax Court or in another court.

## **Rule 21. Title**

These rules may be known as the Indiana Tax Court Rules.

## **Rule 22. Word Limits for Briefs, Memoranda, and Petitions for Rehearing**

- (A) **Word Limits.** Except as provided in Rule 22(B) no briefs, memoranda, Petitions for Rehearing, or responses thereto submitted in the Indiana Tax Court shall exceed 14,000 words (including footnotes), with the exception of a reply brief which shall not exceed 7,000 words (including footnotes). Pages containing table of contents, table of authorities, signature block, and affidavits, exhibits, and attachments will not be included in the word count.
- (B) **Oversized Submission.** A motion requesting leave to file an oversized submission shall be filed at least fifteen (15) days before a brief, memorandum, or Petition for Rehearing is due; at least five (5) days before a response to a motion is due; and at least three (3) days before a reply is due. The motion shall state the total number of words requested.

- (C) **Word Count Certificate.** The attorney or unrepresented party must file a word count certificate. The following are acceptable word count certifications: “I verify that this document contains no more than (applicable limit) words,” and “I verify that this document contains (actual number) of words.” The certification shall appear at the end of the document before the certificate of service. The attorney or the unrepresented party certifying a word count may rely on the word count of the word processing system used to prepare the document.

**Rule 23. Electronic Filing and Electronic Service**

**(A) Definitions.**

- (1) *Case Management System (“CMS”).* Case Management System is the system of networked software and hardware used by any Indiana court that may receive, organize, store, retrieve, transmit, and display all relevant documents in any case before it.
- (2) *Conventional Filing.* Conventional Filing is the physical non-electronic presentation of documents to a clerk or court.
- (3) *Electronic Filing (“E-Filing”).* E-Filing is a method of filing documents with the clerk of any Indiana court by electronic transmission utilizing the Indiana E-Filing System. E-Filing does not include transmission by facsimile or by email.
- (4) *E-Filing Manager (“EFM”).* E-Filing Manager is the centralized entity approved by the Supreme Court that receives and transmits all E-Filing submissions between E-Filing Service Provider(s) and the appropriate CMS.
- (5) *E-Filing Service Provider (“EFSP”).* E-Filing Service Provider is the organization and software selected by a User and approved by the Supreme Court to receive and transmit all E-Filing submissions between the User and the Indiana E-Filing System.
- (6) *Electronic Service (“E-Service”).* E-Service is a method of serving documents by electronic transmission on any User in a case via the Indiana E-Filing System.
- (7) *Indiana E-Filing System (“IEFS”).* Indiana E-Filing System is the system of networked hardware, software, and service providers approved by the Supreme Court for the filing and service of documents via the Internet, into the CMS(s) used by Indiana courts.
- (8) *Notice of Electronic Filing (“NEF”).* Notice of Electronic Filing is the notice generated automatically when a document is submitted and transmitted through the IEFS, which sets forth the time of transmission, the name of the court, User, party, attorney, or administrative agency transmitting the document, the title of the document, the type of document, and the name of the court, attorney, party, or other person meant to receive the Notice. The time noted in a NEF will be the time at the location of the court where the case is pending. A NEF will appear immediately on the User’s screen upon submission of the document for E-Filing.
- (9) *Public Access Terminal.* A Public Access Terminal is a publicly accessible computer provided by a clerk or court that allows a member of the public to access the IEFS and public court records.
- (10) *User Agreement.* A User Agreement is an agreement in a form approved by the Division of State Court Administration that establishes obligations and responsibilities of the User within the IEFS.
- (11) *User.* User is a Filing User or Registered User.
  - (a) *Filing User.* Filing Users include court and clerk staff, unrepresented litigants, attorneys, or an agent whom an attorney has expressly designated to make a filing on the attorney’s behalf and who has an IEFS user ID, password, and limited authority to file documents electronically.
  - (b) *Registered User.* A Registered User is a person or entity with a user ID and password assigned by the IEFS or its designee who is authorized to use the IEFS for the electronic filing or service of documents.
- (12) *Service Contacts.* A Service Contact is a person for whom an email address and other identifying information has been entered into the IEFS by a Registered User.
  - (a) *Firm Service Contact.* A Firm Service Contact is a Service Contact associated in the IEFS with an attorney, organization, or law firm.
  - (b) *Public Service Contact.* A Public Service Contact is a Service Contact who is listed on the Public Service List for purposes of E-Service. A Registered User may add a Service Contact to the Public Service List only if authorized by the Service Contact.
  - (c) *Public Service List.* The Public Service List is a directory of Public Service Contacts who are available for E-Service.

- (B) **User Agreement Required.** Every User must execute a User Agreement with one or more EFSPs before that User may utilize the IEFS.

(C) **[Reserved]**

(D) **Electronic Filing of Documents.**

- (1) Unless otherwise permitted by these rules, all documents submitted for filing in the Tax Court by an attorney must be filed electronically using the IEFS. The E-Filing of documents shall be controlled by the case number in the IEFS designated by the User.

- (2) Attorneys who wish to be exempted from the requirement that they file electronically may file a motion for electronic filing exemption. The motion must be filed in each pending case to which these rules are applicable. The motion will be granted only upon a showing of good cause.
- (E) **Proof of Filing.** Users should print or otherwise save each NEF as proof of E-Filing. Confirmation of E-Filing may also be made by referring to the Chronological Case Summary of the Tax Court's CMS.
- (F) **Conventionally Filed Documents.** Conventionally filed documents must be entered into the CMS by the Clerk of the Tax Court. If the original documents cannot be converted into a legible electronic document, then the originals must be placed into the case file and that action must be noted in the Chronological Case Summary. The filer must also conventionally serve these documents in accordance with all applicable Tax Court Rules and file a certificate of service.
- (G) **Service of Pleading and Other Papers:**
- (1) *Service on Public Service Contact.* Registered Users must serve all documents in a case upon every other party who is a Public Service Contact through E-Service using the IEFS. E-Service has the same legal effect as service of an original paper document. E-Service of a document through the IEFS is deemed complete upon transmission, as confirmed by the NEF associated with the document. Exempt parties must serve all documents in a case as provided by all applicable Tax Court Rules.
  - (2) *Service on Others.* Service of documents on attorneys of record who are not Registered Users or on unrepresented parties who are not Public Service Contacts must be as provided by all applicable Tax Court Rules.
- (H) **Format Requirements.**
- (1) Documents filed electronically must conform with Tax Court Rule 22 and the requirements of the IEFS.
  - (2) All documents must be submitted in the manner required by the EFSP. The IEFS may be accessed via any Internet connection available to the Registered User and at Public Access Terminals located in the office of the Tax Court Clerk or the office of a county clerk.
- (I) **Signature.**
- (1) All documents electronically filed that require a signature must include a person's signature using one of the following methods:
    - (a) a graphic image of a handwritten signature, including an actual signature on a scanned document; or
    - (b) the indicator "/s/" followed by the person's name.
  - (2) A document that is signed and E-Filed is subject to the terms and provisions of either Trial Rule 11(A) or Appellate Rule 23(E), as applicable. A Registered User may include the Signature of other attorneys in documents E-Filed with the Court but in doing so represents to the Tax Court that any such Signature is authorized.
- (J) **Time and Effect.** Subject to payment of all applicable fees, a document is considered E-Filed on the date and time reflected in the NEF associated with the document. E-Filing must be completed before midnight to be considered filed that day, and compliance with filing deadlines is determined in accordance with the time zone in Indianapolis, the location of the Tax Court. E-Filing under these rules shall be available 24 hours a day, except for times of required maintenance.
- (K) **Official Court Record.** The electronic version of a document filed with or generated by the Tax Court under this rule is an official court record.
- (L) **[Reserved]**
- (M) **[Reserved]**
- (N) **Inability to E-File.**
- (1) IEFS Failures.
    - (a) The rights of the parties shall not be affected by an IEFS failure.
    - (b) When E-Filing is prevented by an IEFS failure, a User or party may revert to conventional filing.
    - (c) With the exception of deadlines that by law cannot be extended, when E-Filing is prevented by an IEFS failure, the time allowed for the filing of any document otherwise due at the time of the IEFS failure must be extended by one day for each day on which such failure occurs, unless otherwise ordered by the Tax Court.
    - (d) Upon motion and a showing of an IEFS failure, the Tax Court must enter an order permitting the document to be considered timely filed and may modify responsive deadlines accordingly.
  - (2) Other Failures Not Caused by the User Who Was Adversely Affected. When E-Filing is prevented by any other circumstance not caused by the User who was adversely affected, the User may bring such circumstances to the attention of the Tax Court and request relief as provided in either Trial Rule 6(B) or Appellate Rule 35, as applicable, or the User may revert to conventional filing.
- (O) **Appearance Form in E-Filed Cases.** In all E-Filed cases, the parties shall file a notice of appearance that includes all of the information set forth in the sample notice of appearance form found at the end of the Tax Court Rules. A notice of appearance filed by an attorney shall also contain:
- (1) Certification that the contact information listed on the Indiana Supreme Court Roll of Attorneys for each attorney is current and accurate as of the date the appearance is filed;

- (2) Acknowledgment that all orders, opinions, and notices in the matter will be sent to the attorney at the email address(es) on the Roll of Attorneys regardless of other contact information supplied by the attorney;  
and
- (3) Acknowledgment that each attorney listed on the appearance is solely responsible for keeping his/her Roll of Attorneys contact information accurate per Ind. Admis. Disc. R. 2(A).



