

CHAPTER 8610
MINNESOTA TAX COURT
TAX COURT RULES OF PROCEDURE

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8610.0010 REPRESENTATION.

The following persons may practice before the tax court in a regular division matter:

- A. a lawyer licensed to practice law in Minnesota;
- B. a lawyer licensed to practice law in a jurisdiction other than Minnesota who complies with part 8610.0020;
- C. an individual, when representing the individual or a partnership in which the individual is a general partner; and
- D. the sole shareholder of a corporation or sole member of a limited liability company, when representing the corporation or limited liability company. Except as provided in this item, a lawyer must represent a corporation or limited liability company.

Statutory Authority: *MS s 271.06*

History: *21 SR 805*

8610.0020 PRACTICE BEFORE TAX COURT BY NONRESIDENT LAWYERS.

Subpart 1. **Affidavit required.** A lawyer licensed to practice in the trial courts of a jurisdiction other than Minnesota may, in the discretion of the tax court, appear before the tax court if:

- A. the nonresident lawyer files an affidavit with the tax court and serves the affidavit on opposing counsel at the time an appeal is filed under Minnesota Statutes, chapter 271, or at the time a petition is filed under Minnesota Statutes, chapter 278;
- B. the affidavit establishes that the nonresident lawyer is familiar with and prepared and willing to follow Minnesota's:
 - (1) Rules of Civil Procedure;
 - (2) Rules of Evidence;
 - (3) Rules of Professional Conduct;
 - (4) Rules on Lawyers Professional Responsibility; and
 - (5) Tax Court Rules of Procedure; and
- C. the nonresident lawyer includes with the affidavit a certificate of good standing from the jurisdiction issuing the nonresident lawyer's license to practice law.

Subp. 2. **Motion to oppose; denial of privilege.** No later than 30 days before the first scheduled hearing on the matter, opposing counsel may move the tax court for a hearing to oppose the practice of the nonresident lawyer before the tax court. The opposing counsel has the burden of establishing cause to deny the nonresident lawyer the privilege of practicing before the tax court. This hearing may be conducted by telephone. Failure of opposing counsel to respond within the specified time period waives opposing counsel's right to contest the nonresident lawyer's practice before the tax court. The tax court may, for cause, deny the nonresident lawyer the privilege of practicing before the tax court.

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Subp. 3. **Subject to discipline; jurisdiction of courts.** A lawyer appearing pursuant to this part is subject to the disciplinary rules and regulations governing Minnesota lawyers and is subject to the jurisdiction of the Minnesota courts.

Statutory Authority: *MS s 271.06*

History: *21 SR 805*

8610.0030 EXTENSION OF TIME TO APPEAL FROM AN ORDER OF COMMISSIONER OF REVENUE.

A request for an extension of time to appeal from an order of the commissioner of revenue should be made to the tax court either by telephone or by mail to the main office of the tax court in St. Paul, Minnesota.

If the request for an extension of time is received within 60 days of the making and filing of the order, the tax court will extend the time to appeal for an additional 30 days. If the request for an extension is made more than 60 days after the making and filing of the order, the tax court may, for cause shown, extend the time for appeal to a date not more than 90 days from the date of the making and filing of the order of the commissioner. A request for an extension made more than 60 days after the making and filing of the order must explain why the extension was not requested within the original 60-day period.

Statutory Authority: *MS s 271.06*

History: *21 SR 805*

8610.0040 FORM FOR APPEAL FROM ORDER OF COMMISSIONER.

Subpart 1. **Caption.** A notice of appeal from an order of the commissioner of revenue and all other papers filed with the tax court in its St. Paul office or in district court must contain a caption in the following form:

STATE OF MINNESOTA
TAX COURT

_____ In The Matter of the Appeal from
Appellant, the Commissioner's Order dated _____ relating to
vs. _____ (type of) tax of _____ for the
Commissioner of Revenue, year ending _____
Appellee.

Subp. 2. **Notice of appeal.** A notice of appeal must refer to the order appealed from, state specifically the points of law and fact questioned by the appellant, and provide an address where service of notice and other papers in the matter may be made upon the appellant.

Subp. 3. **Parties.** In all appeals under this part the appellee is the commissioner of revenue, who shall be designated by the official title without naming the individual holding the office. If a change occurs in the individual holding the office while an appeal is pending, the appeal does not abate and no substitution of parties is necessary.

The appellant is the taxpayer or the person or agency authorized by Minnesota Statutes, chapter 271, to appeal from an order of the commissioner.

Subp. 4. **Small claims.** If the appellant elects to file the appeal in the small claims division, the appeal must contain the following statement:

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THE APPELLANT(S) IS (ARE) AWARE OF THE FACT THAT NO APPEAL MAY BE HAD FROM A SMALL CLAIMS DECISION AND AGREE(S) THAT THE DECISION OF THE TAX COURT SHALL BE CONCLUSIVE.

Statutory Authority: MS s 271.06

History: 21 SR 805

8610.0050 FORM FOR PETITION RELATING TO PROPERTY TAXES.

Subpart 1. Caption. A petition and all other papers in matters arising under Minnesota property tax laws must contain a caption in the following form:

STATE OF MINNESOTA COURT
(DISTRICT OR TAX)
JUDICIAL DISTRICT
COUNTY OF _____ DIVISION
(REGULAR or SMALL CLAIMS)

_____,
Petitioner(s),

vs.

County of _____,
Respondent. Court File No. _____

Subp. 2. Petition relating to real property tax. A petition under this part must be in substantially the following form:

1. Petitioner(s) has/have an interest pursuant to Minnesota Statutes, section 278.01, in that tract of land situated in the city/township of _____, county of _____, State of Minnesota, described as follows:

[insert here official description of land]

2. The assessment date at issue is January 2, ..., for taxes payable in year

3. Petitioner(s) claim(s) that

[insert here claim and relief requested]

[Examples of claims include the estimated market value is greater than the property's actual market value as of the assessment date at issue; the subject property is unequally assessed when compared with other property; the classification of the property is incorrect; the subject property is exempt from taxation; and other claims over which the court has jurisdiction.]

WHEREFORE, petitioner(s) pray(s) for a determination of the claim before the tax court.

Subp. 3. Small claims. If the petitioner elects to file the petition in the small claims division, it must contain the following statement:

THE PETITIONER(S) IS (ARE) AWARE OF THE FACT THAT NO APPEAL MAY BE HAD FROM A SMALL CLAIMS DECISION AND AGREE(S) THAT THE DECISION OF THE TAX COURT SHALL BE CONCLUSIVE.

Statutory Authority: MS s 271.06

History: 21 SR 805

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8610.0060 CONTINUANCES.

The tax court reserves the right to order continuances or postponements on its own motion.

Statutory Authority: *MS s 271.06*

History: *21 SR 805*

8610.0070 MOTION PRACTICE.

Subpart 1. **Scope and application.** Except as otherwise provided in Minnesota Statutes, chapters 271 and 278, this part governs pretrial motion practice before the tax court, other than motions to continue or motions to consolidate.

Subp. 2. **Definitions.** Motions are either dispositive or nondispositive, as defined in items A and B.

A. "Dispositive motions" are motions that seek to dispose of all or part of the claims or parties, except motions for default judgment. They include motions to dismiss a party or claim, motions for summary judgment, and motions under Minnesota Rules of Civil Procedure 12.02 (a)-(f).

B. "Non-dispositive motions" are all other motions, including, but not limited to, discovery, third party practice, temporary relief, intervention, and amendment of pleadings.

Subp. 3. **Time.** The time limits in this part are to provide the tax court adequate opportunity to prepare for and promptly rule on matters, and the tax court may modify the time limits. The time allowed for summary judgment motions, however, may not be less than the time established by Minnesota Rules of Civil Procedure 56.03. If this part requires documents to be filed with the tax court administrator within a prescribed period of time before a specific event, filing may be accomplished by mail, subject to the following:

A. three days must be added to the prescribed period; and

B. filing may not be considered timely unless the documents are deposited in the mail within the prescribed period.

Minnesota Rules of Civil Procedure, 5.02 and 6.05, apply regarding service of documents by mail.

Subp. 4. **Obtaining hearing date; notice to parties.** A hearing date and time must be obtained from the tax court administrator. A party obtaining a date and time for a hearing on a motion or for any other calendar setting, shall promptly give notice advising all other parties who have appeared in the action so that cross motions may, insofar as possible, be heard on a single hearing date. The notice to the other parties must contain a statement describing the nature of the motion and the relief sought.

Subp. 5. **Dispositive motions.**

A. No dispositive motion may be heard until the moving party serves a copy of the following documents on opposing counsel or party if that party is pro se and files the original with the tax court administrator at least 28 days prior to the hearing:

- (1) notice of motion and motion;
- (2) proposed order;
- (3) any affidavits and exhibits to be submitted in conjunction with the motion;

and

- (4) memorandum of law.

B. The party responding to the motion shall serve a copy of the following documents on opposing counsel or party if that party is pro se and shall file the originals with the tax court administrator at least nine days prior to the hearing:

- (1) memorandum of law; and
- (2) any supplementary affidavits and exhibits to be submitted in conjunction with the response.

C. The moving party may submit a reply memorandum, limited to new legal or factual matters raised by an opposing party's response to a motion, by serving a copy on opposing counsel or party if that party is pro se and filing the original with the tax court administrator at least three days before the hearing.

D. For summary judgment motions, the memorandum of law must include:

(1) A statement by the moving party of the issues involved that are the grounds for the motion for summary judgment.

(2) A statement identifying all documents, such as depositions or excerpts of depositions, pleadings, exhibits, admissions, interrogatory answers, and affidavits, which comprise the record on which the motion is made. Opposing parties shall identify in their responding memorandum of law any additional documents on which they rely.

(3) A recital by the moving party of the material facts that are not in genuine dispute, with a specific citation to that part of the record supporting each fact, such as deposition page and line or page and paragraph of an exhibit. A party opposing the motion shall make a similar recital of any material facts claimed to be in dispute.

(4) The party's argument and authorities. Subitem (3) is excluded from the page limitations of subpart 7.

Subp. 6. Nondispositive motions.

A. No nondispositive motion may be heard until the moving party serves a copy of the following documents on opposing counsel or party if that party is pro se and files the original with the tax court administrator at least 14 days prior to the hearing:

- (1) notice of motion and motion;
- (2) proposed order;
- (3) any affidavits and exhibits to be submitted in conjunction with the motion;

and

- (4) any memorandum of law.

B. The party responding to the nondispositive motion shall serve a copy of the following documents on opposing counsel or party if that party is pro se and shall file the original with the tax court administrator at least seven days prior to the hearing:

- (1) a memorandum of law; and
- (2) any relevant affidavits and exhibits to be submitted in conjunction with the response.

C. The moving party may submit a reply memorandum, limited to new legal or factual matters raised by an opposing party's response to a motion, by serving a copy on opposing counsel or party if that party is pro se and filing the original with the tax court administrator at least three days before the hearing.

Subp. 7. Page limits. No memorandum of law submitted in connection with either a dispositive or nondispositive motion may exceed 35 pages, exclusive of the recital of facts required for each motion, except with permission of the tax court. For motions involving discovery requests, the moving party's memorandum must set forth only the particular discovery requests and the response or objection to them which are the subject of the motion, and a concise recitation of why the response or objection is improper. If a reply memorandum of law is filed, the cumulative total of the original memorandum and the reply memorandum must not exceed 35 pages, except with permission of the tax court.

Subp. 8. Failure to comply. If the moving papers are not properly served and filed, the hearing may be canceled by the tax court. If responsive papers are not properly served and filed in a nondispositive motion, the tax court may consider the motion unopposed and may grant the relief requested without a hearing. For a dispositive motion, the tax court, in its discretion, may refuse to permit oral argument by the party not filing the required documents, may allow reasonable attorney's fees, or may take other appropriate action.

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Subp. 9. **Relaxation of time limits.** If irreparable harm will result without immediate action by the court, or if the interests of justice otherwise require, the tax court may waive or modify the time limits established by this part.

Subp. 10. **Witnesses.** No testimony will be taken at motion hearings except under unusual circumstances. A party seeking to present witnesses at a motion hearing must obtain prior consent of the tax court and must notify the adverse party in the motion papers of the names and addresses of the witnesses that party intends to call at the hearing.

Subp. 11. **Telephone hearings.** If a motion is authorized by the tax court to be heard by telephone conference call, the moving party shall either initiate the conference call or comply with the court's instructions on initiation of the conference call. Dispositive motions must be recorded. Nondispositive motions may be recorded at the request of either party or on motion of the tax court. "Recorded" for this purpose means by tape recording or by a court reporter, as determined by the tax court.

Statutory Authority: *MS s 271.06*

History: *21 SR 805*

8610.0100 STIPULATION OF FACTS.

The parties may stipulate in writing to any or all questions of fact involved in the appeal or petition. An original and one copy of the stipulation must be filed with the tax court.

Statutory Authority: *MS s 271.06*

History: *21 SR 805*

8610.0110 SUBMISSION WITHOUT HEARING.

If all parties to an appeal or petition by written stipulation waive their right to a public hearing, the parties may submit the matter to the tax court on written stipulation of facts and briefs. After the submission the court may, in its discretion, require appearance for the taking of further testimony or for oral argument. If an appearance is required, notice must be given by mail to all parties at least ten days before the hearing.

Statutory Authority: *MS s 271.06*

History: *21 SR 805*

8610.0120 HEARINGS.

Subpart 1. **Open to public.** Hearings before the tax court are open to the public. All findings and decisions of the tax court, after they have been filed with the court administrator, are a matter of public record.

Subp. 2. **Additional hearings.** If, after the holding of any hearings in any matter, the tax court finds the rights of the parties will be better served by the holding of a further hearing in the matter, the court may order a further hearing and provide notice to all parties to the proceeding.

Statutory Authority: *MS s 271.06*

History: *21 SR 805*

8610.0130 DOCUMENTARY EVIDENCE.

If originals of books, documents, records, or other papers have been received in evidence, a copy of them, or of so many of them as may be material or relevant, may in the discretion of the court be substituted. Copies of documents will be admitted as evidence under the Rules of Evidence.

Originals of books, documents, records, diagrams, or other exhibits introduced in evidence before the court may be withdrawn from the custody of the court in the manner and upon the terms the court in its discretion prescribes.

An original and one copy of all exhibits must be furnished to the court, and a copy must be furnished to opposing counsel or the opposing party if the party is pro se.

Statutory Authority: *MS s 271.06*

History: *21 SR 805*

8610.0140 AMICUS CURIAE BRIEFS.

A person interested in or affected by a matter pending before the tax court may petition the court for leave to file a brief amicus curiae. The tax court in its discretion may grant or deny the petition.

Statutory Authority: *MS s 271.06*

History: *21 SR 805*

8610.0150 REQUEST FOR COSTS AND DISBURSEMENTS.

No later than 90 days after the date of a final order of the tax court, a party may file a motion that costs and disbursements be granted to the prevailing party in the case of a commissioner of revenue matter under Minnesota Statutes, chapter 271, or be included in the judgment in the case of a real estate tax appeal under Minnesota Statutes, chapter 278. The moving party must file an affidavit with the tax court outlining the basis for granting costs and itemizing the items and amounts to be granted. The moving party shall serve a copy of the affidavit on the other party to the action and file proof of service with the tax court. Within ten days of being served, the other party must notify the moving party and the tax court of any objection to the request for costs and disbursements and the basis of the objection. The objection to an award must clearly state the basis of the objection and copies of the objection must be served on the moving party and proof of service filed with the tax court. The tax court may order a hearing within 20 days of receiving an objection to determine whether costs and disbursements will be awarded. The hearing may be conducted by telephone. Failure to respond within the ten-day period waives the other party's right to contest awarding costs.

Statutory Authority: *MS s 271.06*

History: *21 SR 805*