

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*

Published Electronically: *May 13, 1997*

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 or remote technology. 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.

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; 48 SR 411*

Published Electronically: *November 1, 2023*

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, by email, 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; 48 SR 411*

Published Electronically: *November 1, 2023*

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:

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*

Published Electronically: *May 13, 1997*

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*

Published Electronically: *May 13, 1997*

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*

Published Electronically: *May 13, 1997*

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. "Nondispositive 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.

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 and remote hearings.** If a motion is authorized by the tax court to be heard by remote technology or telephone conference call, the parties must comply with the court's instructions for joining a remote or telephonic proceeding. Dispositive motion hearings must be transcribed. Nondispositive motion hearings may be transcribed at the request of either party or the tax court.

Statutory Authority: *MS s 271.06*

History: *21 SR 805; 48 SR 411; 48 SR 459*

Published Electronically: *November 17, 2023*

8610.0080 MOTIONS TO RECONSIDER.

Motions to reconsider are prohibited except by express permission of the tax court, which will be granted only upon a showing of compelling circumstances. Requests to make a motion and any responses to such requests must be made only by letter to the tax court of no more than two pages in length, a copy of which must be served on all opposing counsel and self-represented litigants.

Nothing in this part alters or tolls any deadlines established by statute, including the deadlines for obtaining appellate review of any order of the tax court.

Statutory Authority: *MS s 271.06*

History: *48 SR 411*

Published Electronically: *November 1, 2023*

8610.0100 STIPULATION OF FACTS.

The parties may stipulate to any or all questions of fact involved in the appeal or petition. Any written stipulation of fact must be filed with the tax court. Any oral stipulation of fact must be placed on the record.

Statutory Authority: *MS s 271.06*

History: 21 SR 805; 48 SR 411

Published Electronically: November 1, 2023

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, written notice must be provided to all parties at least ten days before the hearing.

Statutory Authority: *MS s 271.06*

History: 21 SR 805; 48 SR 411

Published Electronically: November 1, 2023

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

Published Electronically: May 13, 1997

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.

Statutory Authority: *MS s 271.06*

History: 21 SR 805; 48 SR 411

Published Electronically: November 1, 2023

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*

Published Electronically: *May 13, 1997*

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 and serve 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 motion must be supported by an affidavit outlining the basis for granting costs and itemizing the amounts requested. 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 non-moving party must file and serve any objection to the request for costs and disbursements. 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 or remote technology at the court's discretion. Failure to respond within the ten-day period waives the non-moving party's right to contest awarding costs.

Statutory Authority: *MS s 271.06*

History: *21 SR 805; 48 SR 411*

Published Electronically: *November 1, 2023*

8610.0160 E-FILE AND E-SERVICE.

Subpart 1. **Definitions.** The terms used in this part have the meanings given to them in this subpart.

A. "Confidential document" means a document that will not be accessible to the public, but will be accessible to tax court personnel and, if applicable, to certain governmental entities as authorized by law, court rule, or court order.

B. "Conventionally" means the filing or serving of documents or other materials through authorized means other than through the e-filing system in accordance with this part.

C. "Designated provider" means the electronic filing service provider designated by the tax court administrator.

D. "Designated email address" has the meaning set forth in subpart 5.

E. "E-filing system" means the designated provider's Internet-accessible electronic filing and service system.

F. "Electronic means" means transmission using computers or similar means of transmitting documents electronically, including facsimile transmission.

G. "Registered user" means a person registered with the designated provider and authorized to file and serve documents electronically through the e-filing system under this part.

H. "Select users" means the following persons appearing or submitting documents in a case:

(1) attorneys admitted to practice and in good standing in the courts of Minnesota;

(2) attorneys appearing in the tax court under part 8610.0020; and

(3) for purposes of notices of appeal from orders of the commissioner of revenue in the Small Claims Division only, a duly authorized employee of the commissioner of revenue.

I. "Self-represented litigant" means an individual, other than a licensed attorney, who represents themselves in a case or proceeding before the tax court.

Subp. 2. **Scope of mandatory and voluntary e-file and e-service.** Unless otherwise authorized by this part, other rules of court, or court order, select users must file all documents electronically with the tax court through the e-filing system and must serve documents electronically through the e-filing system as required under subpart 6, item C.

Subp. 3. **E-service of e-filed documents only.** Documents not filed may not be e-served through the e-filing system. Unless discovery material is properly filed with the tax court, such discovery material may not be served using the e-filing system.

A. **Request for exception to mandatory e-file and e-service requirement.** A select user required to file and serve electronically may request to be excused from mandatory e-filing and e-service in a particular case, or with respect to a particular document, by motion to the presiding judge. An opt out request may be granted for good cause shown.

B. Self-represented litigants voluntary and mandatory e-file and e-serve.

(1) **Election to use e-filing system.** Unless otherwise required by tax court order, a self-represented litigant may elect to use the e-filing system to electronically file and serve documents. Unless otherwise ordered by the presiding judge, a self-represented litigant is not required to use the e-filing system. If a self-represented litigant has elected or been ordered to use the e-filing system and has become a registered user, that individual must electronically file and serve all documents in that case through the e-filing system unless otherwise required or authorized by this part or the tax court. Registered users are subject to all applicable requirements and obligations as set forth in this part.

(2) **Excuse and prohibition.** A self-represented litigant who has elected to use the e-filing system may be excused from the requirement to electronically file and serve only upon request to and at the discretion of the presiding judge.

(3) **Misuse.** If the tax court becomes aware of any misuse of the e-filing system by a self-represented litigant or determines it appropriate in the exercise of discretion, considering the need for the just, speedy, and inexpensive determination of every action, the tax court may, without prior notice, revoke the self-represented litigant's right to use the e-filing system in the case and require the individual to file and serve all documents conventionally.

C. **Case initiating documents.** Minnesota Statutes, chapters 271 and 278, govern the service of certain case-initiating documents by conventional means, or the filing of case-initiating documents other than by e-filing in the tax court. Nothing in this subpart or chapter 8610 supersedes statutes governing filing and service.

Subp. 4. **Relief from operation of this part.**

A. **Technical errors; relief for sending party.** Upon motion and a showing that electronic filing or electronic service of a document was not completed because of:

- (1) an error in the transmission of the document to the e-filing system;
- (2) a failure of the e-filing system to process the document when received; or
- (3) other technical problems experienced by the sending party or e-filing system, the tax court may enter an order permitting the document to be deemed filed or served on the date and time it was first attempted to be transmitted electronically. If appropriate, the tax court may adjust the schedule for responding to these documents or the tax court's hearing.

B. **Technical errors; relief for other parties.** Upon motion and a showing that an electronically served document was unavailable to or not received by a party served, the tax court may enter an order extending the time for responding to that document.

Subp. 5. **Registration process and duty to designate email address for service.**

A. **Becoming a registered user.** Only a registered user may electronically file or serve documents through the e-filing system. To become a registered user, a select user or self-represented litigant must complete the registration process, as established by the tax court administrator, and must designate an email address for receipt of electronic service and tax court notices. Registration as a registered user includes consent to receive electronic service and notices from the tax court and other registered users in the case through the e-filing system at a designated email address. This designated email address may also be used by the tax court, but not other parties, to deliver official tax court notices by means other than the e-filing system.

B. **Obligations and responsibilities of registered users.**

(1) A registered user is responsible for all documents filed or served under the registered user's username and password.

(2) If a registered user knows their login information has been misappropriated, misused, or compromised in any way, they must promptly notify the tax court and change their password.

(3) The court must deem any electronic transmission, downloading, or viewing of an electronic document under a registered user's username and password to have been made with the authorization of that registered user unless and until proven otherwise by a preponderance of the evidence.

(4) A registered user shall maintain a designated email address for receiving electronic service and tax court notices for the duration of any case in which the registered user has electronically transmitted a document for filing as a party or person and until all applicable appeal periods have expired. A registered user shall ensure the designated email address and account are current, monitored regularly, have not exceeded any storage limitation, and that all notices and document links transmitted to the designated email account are timely opened and reviewed.

(5) A registered user may not designate email addresses for any other person or party who is not the registered user's client, law firm staff, or co-counsel. The tax court may impose a sanction against any registered user who violates this subpart. It shall not be a violation for a registered user to select service recipients who have been added to the service list for a case by another registered user when filing or serving documents using the e-filing system.

Subp. 6. Filing and service of documents and tax court notices.

A. Filed upon transmittal if accepted. If it is subsequently accepted by the tax court administrator, a document that is electronically filed is deemed to have been filed on the date and time of its transmittal to the tax court through the e-filing system, and except for proposed orders, the filing shall be stamped with this date and time. Acceptance of electronic filings is governed by rule 5.04(c) of the Minnesota Rules of Civil Procedure. If the filing is not subsequently accepted by the tax court administrator, no date stamp shall be applied and the e-filing system shall notify the filer that the filing was not accepted. Upon receipt of a document electronically transmitted for filing by a registered user, the e-filing system shall confirm to the registered user that the transmission of the document was completed and the date and time of the document's receipt, through an automatically generated notification to the registered user's designated email address. Absent confirmation of receipt, there is no presumption that the document was successfully transmitted to the tax court. The registered user is solely responsible for verifying that the tax court received all electronically transmitted documents.

B. Effective time of filing. Any document electronically transmitted to the tax court through the e-filing system for filing by 11:59 p.m. local Minnesota time shall be deemed filed on that date so long as the document is not subsequently rejected for filing by the tax court administrator for a reason authorized by rule 5.04 of the Minnesota Rules of Civil Procedure.

C. Service by registered users. Unless personal service is otherwise required by statute, this part, other rules of court, or court order, a registered user shall serve all e-filed documents required or permitted to be served upon another party or person in the following manner:

(1) **Service on registered users.** Except as otherwise permitted in subpart 3, if the party or person to be served is a registered user, service shall be accomplished by using the electronic service function of the e-filing system.

(2) **Service on other parties or persons.** If the party or person to be served is not a registered user but has agreed to service by electronic means outside the e-filing system, such as by email, service may be made in the agreed upon manner. The presiding judge may also order that service on the non registered user be made by electronic means outside of the e-filing system. If service by electronic means is not required or permitted, another method of service authorized under applicable rules or law must be used.

D. Effective date of service. Service via the e-filing system is effective upon completion of the electronic transmission of the document to the e-filing system, even if the document is subsequently rejected for filing by the tax court administrator.

E. Tax court notices. The tax court may transmit any document or notice to a registered user through the e-filing system. Notice is effective upon transmission of the document or notice to the e-filing system by the tax court. The tax court may also transmit notices outside the e-filing system as provided in subpart 5, item A, or other applicable rules.

F. Document requirements and format. Unless otherwise authorized by this part, other rules of court, or court order, all documents filed electronically must conform to the document technical and size requirements as established by the tax court. Such technical and size requirements may be described from time to time in the General Order: e-filing and e-service, which shall be posted on the tax court website.

G. Nonconforming documents. If it is not feasible for a registered user to convert a document to an authorized electronic form by scanning, imaging, or other means, or when a document cannot reasonably be transmitted through the e-filing system in conformance with technical and size requirements as established by the tax court, the tax court may allow the registered user to file the document conventionally. A motion to file a nonconforming document must be filed electronically. If the tax court grants the registered user's motion to file a nonconforming document, the registered user shall file and serve the nonconforming document conventionally.

Subp. 7. **Signatures.**

A. Judge and administrator signatures. All electronically filed and served documents that require a judge's or tax court administrator's signature shall either capture the signature electronically or begin with a handwritten signature on paper that is then converted to electronic form by scanning, imaging, or other means such that the final electronic document has the judge's or tax court administrator's signature depicted thereon. The final electronic document shall constitute an original.

B. Registered user and nonregistered user signatures.

(1) **Registered users.** Any document electronically filed or served through the e-filing system that requires the signature of the registered user filing or serving the document shall be deemed to have been signed by the registered user and shall bear the facsimile or typographical

signature of the person, along with the typed name, address, telephone number, designated email address, and, if applicable, attorney registration number of a signing attorney. The typographical or facsimile signature of a registered user shall be considered the functional equivalent of an original, handwritten signature produced on paper. A typographical signature shall be in the form: /s/ Pat L. Smith.

(2) **Nonregistered users.** Any document electronically filed or served through the e-filing system that requires the signature of a person who is not the registered user filing or serving the document shall bear the typed name, along with the facsimile or typographical signature, of the person. The typographical or facsimile signature of a nonregistered user shall be considered the functional equivalent of an original, handwritten signature produced on paper. A typographical signature shall be in the form: /s/ Pat L. Smith.

C. **Notary signature, stamp.** Unless specifically required by court rule, all documents, including affidavits, electronically filed or served through the e-filing system are not required to be notarized. When a signature under penalty of perjury is otherwise required, the provisions of item D apply. A document electronically filed or served through the e-filing system that by court rule specifically requires a signature of a notary public shall be deemed signed by the notary public if, before filing or service, the notary public has signed a printed or electronic form of the document and the electronically filed or served document bears a facsimile or typographical notary signature and stamp.

D. **Perjury penalty acknowledgment.** A document electronically filed or served through the e-filing system that requires a signature under penalty of perjury may, with the same force and effect and in lieu of an oath, be supported by an unsworn declaration. The typographical or facsimile signature of the declarant must be affixed immediately below a declaration using substantially the following language: "I declare under penalty of perjury that everything I have stated in this document is true and correct." In addition to the signature, the date of signing and the county and state where the document was signed must be noted on the document.

E. **Certification.** By electronically filing or serving a document through the e-filing system, the registered user certifies compliance with the signature requirements of this part for all signatures on the document, and the signatures on the document are the functional equivalent of original, handwritten signatures produced on paper.

Subp. 8. **Proof of service.** When a document is both e-filed and e-served together using the e-filing system, the records of the e-filing system indicating transmittal to the registered user recipient shall be sufficient proof of service on the recipient for all purposes.

Subp. 9. **Submission of nonpublic information; e-filing system.**

A. **Filer's duty to designate as confidential.** If a registered user electronically files a document that is not accessible to the public in whole or in part under any applicable law, court rule, or court order, the registered user is responsible for designating that document as confidential in the e-filing system before transmitting it to the court. This designation is made in the e-filing system by selecting the box "Request Confidential" and by providing the basis for nonpublic status. A registered user must seek advance approval from the tax court to transmit a document for filing

designated as confidential if that document is not already inaccessible to the public under any applicable law, court rule, or court order. The registered user must separate all nonpublic documents from public documents when filing.

B. Correction of designation by the court. The tax court may modify the designation of any document incorrectly designated as confidential and shall provide prompt notice of any change to the registered user who filed the document.

C. Filing confidential document in paper form. A confidential document may be filed in paper form if required or permitted by the tax court. A motion to file a confidential document in paper form must be filed and served electronically.

Subp. 10. **Records: official; supreme court appeal; certified copies.** Both documents filed electronically and paper documents filed conventionally but converted into electronic form by the tax court are official tax court records for all purposes. Certified copies may be issued in the conventional manner or in any manner authorized by law, but no certified copies shall be made of any proposed orders. Unless otherwise provided in this part or by tax court order, a conventionally filed paper document need not be maintained or retained by the tax court after the court digitizes, records, scans, or otherwise reproduces the document into an electronic record, document, or image.

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8610.0170 VOLUNTARY ALTERNATIVE DISPUTE RESOLUTION.

Subpart 1. **Application of rule.** Cases pending in the tax court may be submitted, by agreement of all parties to the dispute, to voluntary alternative dispute resolution ("ADR"). The provisions of subparts 2, item B, and 3 apply exclusively to ADR provided by a current judge of the tax court as described in subpart 2, item A, subitem (1).

Subp. 2. **Selection of neutral.**

A. Selection by parties or by tax court. If the parties have agreed to voluntary ADR, the parties may elect to proceed either with:

(1) voluntary mediation by a current judge of the tax court who is not assigned to hear their case serving as neutral ("tax court mediation"); or

(2) another ADR process of the parties' agreement.

The scheduling order may establish a deadline for the completion of the ADR process.

B. Compensation. Tax court judges serving as neutrals in tax court mediation consent to the jurisdiction of the ADR Review Board and compliance with the Code of Ethics set forth in the Appendix to Rule 114 of the General Rules of Practice for the District Courts. No current judge of the tax court may receive any form of compensation for serving as a neutral in tax court mediation.

Subp. 3. **Attendance at mediation.**

A. **Privacy.** Tax court mediation is not open to the public except with the consent of all parties.

B. **Attendance.** An individual with the authority to settle the case on behalf of each party must attend tax court mediation, unless otherwise authorized by the tax court. The tax court may require that the attorneys who will try the case attend tax court mediation.

C. **Sanctions.** The tax court may impose sanctions, including attorney fees and costs, for failure to attend scheduled tax court mediation.

Subp. 4. **Confidentiality.**

A. **Evidence; inadmissibility.** As provided by Minnesota Statutes, section 595.02, or without the consent of all parties and an order of the tax court, statements made and documents produced in nonbinding ADR processes, such as mediation under this part that are not otherwise discoverable are not subject to discovery or other disclosure. Such evidence is inadmissible for any purpose at trial, including impeachment.

B. **Records of neutral.** Notes, records, and recollections of the neutral are confidential, which means they may not be disclosed to the parties, the public, or anyone other than the neutral, unless:

- (1) all parties and the neutral agree to disclosure, or
- (2) disclosure is required by law or other applicable professional codes. No record shall be made without the parties' agreement, except for a memorandum of issues that are resolved.

Subp. 5. **Communication with mediator and presiding judge.**

A. **Tax court mediation.** Parties and their counsel may communicate ex parte with the neutral in a tax court mediation, so long as the communication relates directly to the substance of the mediation and encourages or facilitates settlement.

B. **Communications to presiding judge during mediation.** During mediation the presiding judge may be informed only of the following:

- (1) the failure of a party or an attorney to comply with the order to attend the process;
- (2) any request by the parties for additional time to complete mediation;
- (3) with the written consent of the parties, any procedural action by the tax court that would facilitate mediation; and
- (4) the neutral's assessment that the case is inappropriate for mediation.

C. **Communications to presiding judge after mediation.** When mediation has concluded, the presiding judge may be informed only of the following:

(1) if the parties do not reach an agreement on any matter, the neutral must report the lack of an agreement to the presiding judge, including by entry on docket, without comment or recommendation, subject to subitem (3);

(2) if the parties reach an agreement, the final settlement; and

(3) with the written consent of the parties, the neutral's report also may identify any pending motion or outstanding legal issue, discovery process, or other action by any party which, if resolved or completed, would facilitate the possibility of settlement.

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