



UNITED STATES TAX COURT
Washington, D.C. 20217

May 29, 2020

Administrative Order No. 2020-02

Subject: Remote Court Proceedings During COVID-19 Pandemic

The United States Tax Court, headquartered in Washington, D.C., is a Court of nationwide jurisdiction and conducts trial sessions in 74 cities across the country. These sessions typically involve a large number of participants, including litigants, attorneys, witnesses, low-income taxpayer clinic representatives, bar-sponsored pro bono program representatives, and Court personnel.

On March 13, 2020, in response to the COVID-19 pandemic, the President declared a National Emergency. COVID-19 continues to present public health risks and challenges, particularly where multiple individuals come together in a courtroom. As of the date of this Administrative Order, multiple jurisdictions across the country remain under restrictions on travel and in-person gatherings.

Given the ongoing uncertainties and the Court's desire to continue essential operations, on May 29, 2020, the Court adopted procedures for conducting Court proceedings remotely. These procedures will be in effect until further notice. Sample orders and notices incorporating these procedures are attached to this Administrative Order and will be posted on the Court's website under "Forms".

Public access to the Court's remote proceedings will be made available via real-time audio with dial-in information for each session posted on the Court website.

This Order is effective immediately and shall continue in effect until terminated by this Court.

Maurice B. Foley
Chief Judge

**UNITED STATES TAX COURT
WASHINGTON, DC 20217**

NAME,)
)
Petitioner(s),)
)
v.) Docket No. XXXX-20.
)
COMMISSIONER OF INTERNAL REVENUE,)
)
Respondent)

Trial At: [Place of Trial information auto-populated].
THIS TRIAL SESSION WILL BE CONDUCTED REMOTELY.

NOTICE SETTING CASE FOR TRIAL

The parties are hereby notified that this case is set for trial at the Trial Session beginning at 10:00 AM on Monday, September 28, 2020. The calendar for that Session will be called at that date and time, and the parties are directed to appear before the Court at a proceeding to be held using Zoomgov and to be prepared to try the case. Your failure to appear may result in dismissal of the case and entry of decision against you.

The Court will set the time for each trial at the end of the calendar call. In setting trial times the Court attempts to accommodate the parties, but the final determination of trial times rests in the Court's discretion.

ACCESS REMOTE PROCEEDING

- **[Insert instructions on how to access the remote proceeding, including dial-in information.]**
- Your Meeting ID and Password for the remote proceeding is:

**Meeting ID: 123-456-789
Password: 012345**

There are specific requirements in the Standing Pretrial Order that is served with this Notice. The parties should contact each other promptly and cooperate fully so that the necessary steps can be taken to comply with these requirements. Your failure to cooperate may also result in dismissal of the case and entry of decision against you.



UNITED STATES TAX COURT
WASHINGTON, DC
www.ustaxcourt.gov

STANDING PRETRIAL ORDER

This case is set for trial at the trial session beginning at **10:00AM** on **Monday, September 28, 2020**.

[CONNECTION INSTRUCTIONS OR LOCATION INFO]

The attached Notice Setting Case for Trial notifies the parties that this case is calendared for trial at the remote trial session beginning on Monday, September 28, 2020. This Order sets out the Court's standing procedures for the remote trial session.

About the Court. The U.S. Tax Court hears disputes between taxpayers (petitioners) and the IRS (respondent). The Court is independent of, and not affiliated with, the IRS. Documents previously given to the IRS are not part of the record in this case and may not be considered unless made a part of this case.

Contact Information. The parties must provide the Court with current contact information. If your phone number, email, or mailing address changes, inform the Court right away by filing a Notice of Change of Address form, available on the Court's website, www.ustaxcourt.gov.

Electronic Filing (eFiling). The Court encourages registration for eAccess so that you can electronically file and view documents in your case. To register for eAccess, call (202) 521-4629 or email Admissions@ustaxcourt.gov. If you are not registered for eFiling, you must send the opposing party a copy of any document you file with the Court. eFiling will remain available to parties during the trial session. For more information, see www.ustaxcourt.gov.

Communication Between the Parties. The parties must begin discussing settlement and/or preparation of a stipulation of facts (facts on which the parties agree) as soon as possible. All minor issues should be settled so that the Judge can focus on the issue(s) needing a decision. Some cases may be susceptible to partial or full settlement, and the Court expects the parties to negotiate in good faith with this goal in mind. If a party has trouble communicating with another party or complying with this Order, that party should inform the Judge right away by filing a Status Report or requesting a conference call by calling the Judge's chambers at the phone number listed below.

Language Barriers. All Court proceedings are conducted in English. All documents must be filed in English or include a certified English translation. You should let the Judge know as early as possible that you require help with English. It is generally the responsibility of each petitioner to bring an interpreter. If you give advance notice, the Court may have one available.

Technology. For remote proceedings, you must appear before the Judge as instructed in the Notice Setting Case for Trial. That may be by telephone or by video. Information on how to use Zoomgov, including tips, can be found on the Court's website, www.ustaxcourt.gov. A personal Zoom account is not required, and there is no cost to you. If you have any concerns about your ability to fully participate in a remote Court proceeding, you should immediately let the Judge know.

Sanctions. The Court may impose appropriate sanctions, including dismissal, for any unexcused failure to comply with this Order. See Rule 131(b). Any failures may also be considered in relation to sanctions against and disciplinary proceedings involving counsel. See Rule 202(a).

To allow the efficient disposition of all cases on the trial calendar:

It is ORDERED that the parties comply with the following deadlines and requirements, unless the Court, upon request, grants an extension:

- 1. No later than 60 days before the first day of the trial session:** If a party wants to ask the Judge to decide all or part of the case without trial, the party may file a Motion for Summary Judgment.
- 2. No later than 45 days before the first day of the trial session:** The Parties should file any motions related to discovery or stipulations.
- 3. No later than 31 days before the first day of the trial session:** The Parties may file any Motions for Continuance (postponement of trial), which the Judge will grant only in exceptional circumstances. See Rule 133, Tax Court Rules of Practice and Procedure (available at www.ustaxcourt.gov). Even joint Motions for Continuance are not automatically granted.
- 4. No later than 30 days before the first day of the trial session:** If a party plans to call an expert witness at trial, a Motion for Leave to File an Expert Report, with the expert report attached (lodged), should be filed. An expert witness's testimony may be excluded if the party fails to comply with this Order and Rule 143(g).
- 5. No later than 21 days before the first day of the trial session:** The parties **shall file** one of the following: a Proposed Stipulated Decision, a Pretrial Memorandum, a Motion to Dismiss for Lack of Prosecution, or a Status Report.

A. Settlement. If a basis for settlement has been reached, the Proposed Stipulated Decision shall be electronically filed no later than 21 days before the first day of the trial session. If the parties have reached a basis for settlement and need additional time to file the Proposed Stipulated Decision, a joint Status Report including a summary of the basis of settlement shall be filed no later than 21 days before the first day of the trial session. A Stipulation of Settled Issues should be attached, if available. The Status Report shall state the reasons for delay in filing the Proposed Stipulated Decision. The Court will issue an Order specifying the date by which the Proposed Stipulated Decision will be due. If a basis for settlement is reached after the trial session begins, the Court will handle any required scheduling on the record.

B. Pretrial Memoranda. If a basis for settlement has not been reached and it appears that a trial is necessary, each party shall file a Pretrial Memorandum no later than 21 days before the first day of the trial session. A Pretrial Memorandum form is attached to this Order.

- i. Witnesses.** Witnesses shall be identified in the pretrial memorandum with a brief summary of their anticipated testimony. Witnesses who are not identified will not be permitted to testify at the trial without a showing of good cause.

C. Motion to Dismiss for Lack of Prosecution. If a party has been unresponsive and has failed to cooperate in preparing the case for trial or resolution or to participate in preparing a Stipulation of Facts, the opposing party shall file a Motion to dismiss for Lack of Prosecution no later than 21 days before the first day of the trial session.

6. No later than 14 days before the first day of the trial session: The parties **shall file** a Stipulation of Facts together with all stipulated documents. Documents and pages should be numbered for parties to identify documents and pages within documents easily.

A. Stipulation of Facts. All facts and documents shall be stipulated (agreed upon in writing) to the maximum extent possible. If a complete stipulation of facts is not ready for submission no later than 14 days before the first day of the trial session, or when otherwise ordered by the Court, and if the Court determines that this is due to lack of cooperation by either party, the Court may order sanctions against the uncooperative party.

B. Unagreed Trial Exhibits. All documents or materials (except impeachment documents or materials) that a party expects to use at trial that are not in the Stipulation of Facts shall be marked and filed as Proposed Trial Exhibits. The Court may refuse to receive in evidence any document or material that is not filed as a Proposed Trial Exhibit no later than 14 days before the first day of the trial session.

7. Change in Case Status. A Status Report shall be filed to inform the Court if the status of the case changes at any time before the trial date and after a Pretrial Memorandum, Motion to Dismiss for Lack of Prosecution, or Status Report is filed. Alternatively, if the case has settled, a Proposed Stipulated Decision may be filed.

8. Remote Proceeding Access. Parties shall be responsible for ensuring, to the best of their abilities, that they and their witnesses have adequate technology and internet resources to participate in a remote proceeding. The parties should log on and test their connections at least 30 minutes before the proceedings scheduled time.

9. Time of Trial. All parties shall be prepared for trial at any time during the trial session unless a specific date has been previously set by the Court. After Pretrial Memoranda are filed, the Court may schedule a time and date certain for the trial. The parties may also jointly contact the Judge's chambers to request a time and date certain for the trial. If practicable, the Court will attempt to accommodate the request, keeping in mind other scheduling requirements and the anticipated length of the session. Parties should jointly inform the Judge as early as possible if they expect trial to require 3 days or more.

If you do not follow the provisions of this Order, the Judge may dismiss your case and enter a Decision against you.

Dated:

JUDGE NAME
CHAMBERS PHONE NUMBER

Trial Calendar: New York, NY – Remote Proceedings
Date: September 28, 2020

Pretrial Memorandum for [Petitioner/Respondent]

Please type or print legibly. This form may be expanded as necessary.

NAME OF CASE:

DOCKET NO(S):

Filed Electronically

ATTORNEYS:

Petitioner:

Respondent:

Tel:

Tel:

Email:

Email:

AMOUNTS IN DISPUTE:

Year(s)/Period(s)

Deficiencies/Liabilities

Additions/Penalties

STATUS OF CASE:

Probable Trial _____ Definite Trial _____

CURRENT ESTIMATE OF TRIAL TIME: _____ hour(s)

MOTIONS YOU EXPECT TO MAKE: *(title and brief description)*

STATUS OF STIPULATION OF FACTS:

Completed, will be filed electronically In progress

ISSUES:

WITNESS(ES) YOU EXPECT TO CALL:

(name and brief summary of expected testimony)

SUMMARY OF FACTS: *(attach separate pages, if necessary, to inform the Court of facts in chronological narrative form)*

BRIEF SYNOPSIS OF LEGAL AUTHORITIES: *(attach separate pages, if necessary, to fully discuss your legal position)*

EVIDENTIARY PROBLEMS:

Date

Petitioner/Respondent

Trial Judge:

[Judge]

United States Tax Court

400 Second St NW

Washington, DC 20217

[Chambers Phone No.]



UNITED STATES TAX COURT

Washington, D.C. 20217

www.ustaxcourt.gov

STANDING PRETRIAL ORDER FOR SMALL TAX CASES

This case is set for trial at the trial session beginning at **10:00AM** on **Monday, September 28, 2020**.

[CONNECTION INSTRUCTIONS OR LOCATION INFO]

Read this Order because it sets out the Court's standing procedures for the remote trial session. If this is your first time appearing before the Tax Court, **please pay special attention to the attached "Petitioner's (Taxpayer's) Getting Ready for Trial Checklist"**.

1. **About the Court.** The U.S. Tax Court hears disputes between taxpayers (petitioners) and the IRS (respondent). The Court is independent of, and not affiliated with, the IRS. Documents previously given to the IRS are not part of the record in this case and may not be considered unless made part of this case.
2. **Contact Information.** The parties must provide the Court with current contact information. If your phone number, email, or mailing address changes, inform the Court right away by filing a Notice of Change of Address form, available on the Court's website at www.ustaxcourt.gov.
3. **Electronic Filing (eFiling).** The Court encourages registration for eAccess so that you can electronically file and view documents in your case. To register for eAccess, call (202) 521-4629 or email Admissions@ustaxcourt.gov. If you are not registered for eFiling, you must send the opposing party a copy of any document you file with the Court. For more information, see www.ustaxcourt.gov.
4. **Communication Between the Parties.** The parties must begin discussing settlement and/or preparation of a stipulation of facts (facts on which the parties agree) as soon as possible. All minor issues should be settled so that the Judge can focus on the issue(s) needing a decision. Some cases may be susceptible to partial or full settlement, and the Court expects the parties to negotiate in good faith with this goal in mind. If a party has trouble communicating with another party or complying with this Order, that party should tell the Judge right away by filing a Status Report or requesting a conference call by calling the Judge's chambers at the phone number listed below.
5. **Language Barriers.** All Court proceedings are conducted in English. All documents must be filed in English or include a certified English translation. You should let the Judge know as early as possible that you require help with English. It is generally the responsibility of each petitioner to bring an interpreter. If you give advance notice, the Court may have one available.
6. **Technology.** For remote proceedings, you must appear before the Judge as instructed in the Notice Setting Case for Trial. That may be by telephone or by video. Information on how to use Zoomgov, including tips, can be found on the Court's website, www.ustaxcourt.gov. A personal Zoom account is not required, and there is no cost to you. If you have any concerns about your ability to participate in a remote Court proceeding, you should immediately let the Judge know.

7. **Readiness for Trial.** If the case needs a trial, the parties must be ready for trial when scheduled by the Judge. If you need special help with scheduling your trial, call the Judge's chambers (at the telephone number listed below) as early as possible and before the first day of the trial session.
- a. **Participation.** If you have not yet settled your case and you do not participate in conference calls and pretrial conferences, or appear at trial, the Judge may dismiss your case and enter a decision against you. **The Judge may also dismiss your case and enter a decision against you if you do not follow this or other Court Orders.**
 - b. **Stipulation.** The parties should agree in writing (stipulate) before the trial begins as to all relevant facts and documents that they do not dispute. Examples might include tax returns for the years involved and the notice issued by the IRS. A Stipulation of Facts and the agreed documents should be filed 14 days before the first day of trial.
 - c. **Unagreed Trial Exhibits.** All documents or materials (except impeachment documents or materials) that a party expects to use at trial that are not in the Stipulation of Facts should be filed as Proposed Trial Exhibits 14 days before the first day of trial.
 - d. **Time of Trial.** The parties may contact the Judge's chambers to request a time and date certain for the trial. The parties and any witnesses must be ready to participate at the time the trial starts. Testimony given by you or your witnesses during the trial is considered evidence.
 - e. **Continuances.** Continuances (postponements of trial) will be granted only in exceptional circumstances. See Rule 133, Tax Court Rules of Practice and Procedure (available at www.ustaxcourt.gov). Even joint Motions for Continuance are not automatically granted.
8. **Pretrial Memorandum.** If all the issues in the case have not been settled, each party shall send to the Judge and the other party a Pretrial Memorandum. You can use the Pretrial Memorandum form attached to this Order. The Pretrial Memorandum must be filed no later than 21 days before the first day of the trial session.
9. **Status Reports and Motion to Dismiss for Lack of Prosecution.** If the parties have (1) reached a basis of settlement or (2) will not need a trial for some other reason, **the parties must file a Status Report no later than 21 days before the first day of the trial session.** A joint Status Report from all parties is encouraged. If a party has not (1) responded to telephone calls from the other party, (2) has not cooperated in preparing the case for trial, or (3) has not agreed in writing to facts and documents, the other party may file a Motion to Dismiss for Lack of Prosecution no later than 21 days before the first day of the trial session.
10. **Order.** The parties are **ORDERED to participate in (1) pre-trial matters, including conference calls and pretrial conferences scheduled by the Judge, and (2) trial. If you do not follow this Order, the Judge may dismiss your case and enter a Decision against you.**

Dated:

JUDGE NAME
CHAMBERS PHONE NUMBER



UNITED STATES TAX COURT

Washington, DC 20217

www.ustaxcourt.gov

Petitioner's (Taxpayer's) Getting Ready for Trial Checklist

Before you come to Court:

- Review all of the materials that the Court has sent you.
- Think about what facts you want to tell the Judge.
- Organize your facts and arguments so you can tell your side of the story.
- Organize any documents you have to support your case.
- Speak to the people at the IRS who call or write to you after you get this notice.
- Provide copies of documents to the IRS as soon as possible. The parties are required to exchange copies of any documents they want to use at trial, and to submit them to the Court before trial.
- Agree (stipulate) in writing to facts and documents that are not in dispute. All minor issues should be settled so that the Judge can focus on the remaining issue(s). The Stipulation of Facts needs to be filed with the Judge no later than 14 days before trial.
- Consider whether you need any witnesses to support your case. If you plan to have a witness, let the IRS know no later than 21 days before trial. Make sure the witness is available for trial at the trial session.
- Participate in contacts from the Judge by telephone or video.
- Be ready when your case is called for trial. That means you should log on and test your connection at least 30 minutes before your scheduled time.
- Learn more about the Tax Court at www.ustaxcourt.gov.