

CC-2013-010

April 9, 2013

Subject: Approving the Use of Electronic
Signatures on Electronically Filed
Tax Court Submissions

Cancel Date: Upon incorporation
into the CCDM

Purpose

This Notice approves the use of electronic signatures for Chief Counsel attorneys submitting documents through the Tax Court's electronic filing (eFiling) system and provides instructions for electronically signing those documents.

Discussion

1. Tax Court Rules and Instructions

Tax Court Rule 23(a)(3) provides:

Signature: The original signature, either of the party or the party's counsel, shall be subscribed in writing to the original of every paper filed by or for that party with the Court, except as otherwise provided by these rules. * * * The name, mailing address, and telephone number of the party or the party's counsel, as well as counsel's Tax Court bar number, shall be typed or printed immediately beneath the written signature. * * *

Tax Court Rule 26(a) provides:

General: The Court will accept for filing papers submitted, signed, or verified by electronic means that comply with procedures established by the Court. A paper filed electronically in compliance with the Court's electronic filing procedures is a written paper for purposes of these Rules.

Tax Court Rule 33 provides:

(a) Signature: Each pleading shall be signed in the manner provided in Rule 23. * * *

(b) Effect of Signature: The signature of counsel or a party constitutes a certificate by the signer that the signer has read the pleading; that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and that it is not interposed for any improper

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purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. The signature of counsel also constitutes a representation by counsel that counsel is authorized to represent the party or parties on whose behalf the pleading is filed. If a pleading is not signed, it shall be stricken, unless it is signed promptly after the omission is called to the attention of the pleader. * * *

The Tax Court has adopted eFiling procedures and published instructions in two documents available on its website:

- (1). eFiling Information for IRS Chief Counsel Attorneys (June 2010).
http://www.ustaxcourt.gov/eaccess/eFiling_Information_for_IRS_Chief_Counsel_Attorneys.pdf
- (2) eFiling Instructions for Practitioners (August 2012).
http://www.ustaxcourt.gov/eaccess/eFiling_Instructions_Practitioners.pdf

At pages 3 and 4 of the eFiling Instructions for Practitioners, the Court instructs:

Format and style of documents

Each document transmitted in electronic form must state below the docket number on the first page that it has been filed electronically.

* * *

The document must include the typed name of the user under whose login and password the document is transmitted; that login and password serve as the eFiler's signature on all electronic documents filed with the Court. In addition, a party may eFile a document containing a digitized signature or a scanned document containing a written signature. The document must contain the eFiler's Tax Court bar number, address, telephone number and email address.^[1]

* * *

Documents that require signatures in addition to that of the eFiler, such as a motion signed by two practitioners, may be electronically transmitted; however, the eFiler must maintain the paper copy (with all required original signatures) for a period of 18 months after the decision in the case is final. Documents bearing multiple signatures must contain the address and telephone number of each signer and the date they signed the document. The Court will accept digitized signatures and typewritten names of the other

¹ IRS attorneys do not include email addresses in the signature block of documents eFiled with the Court. When formally consenting to electronic service, IRS Chief Counsel informed the Court that:

The Government's computer security rules, however, prevent us from emailing material containing Personal Identifying Information (sometimes known as PII) outside of the Treasury firewall without a prior agreement with the recipient to use an encryption scheme. Accordingly, we will not be able to electronically serve documents, such as discovery[,] that are not filed through the Court's eFiling system, nor will we be able to accept electronic service of such documents. Because we cannot accept documents by email, we plan to omit our email addresses from the signature block on documents eFiled with the Court.

parties or persons if the document contains a statement that the document is being filed with their consent. Alternatively, documents containing written signatures may be scanned into PDF or TIFF. On request of the Court, the eFiler must provide original documents for review. Below is an example of the signature page of a motion electronically transmitted by two practitioners, James M. Scott and Martha L. Johnson. James Scott is eFiling on behalf of [himself and] his associate; therefore, his signature is not required but may be included. Martha Johnson's signature is digitized in this example, but the Court would also accept the document if the signature were typed or if the page were scanned with her written signature.

WHEREFORE, it is prayed that this motion be granted	
Date: May 1, 2010	James M. Scott Tax Court Bar No. SJ0000 111 Elm Street Washington, DC 20000 Telephone: (202) 555-1212 email: myusername@example.com
Date: May 1, 2010	<i>Martha L. Johnson</i> Martha L. Johnson Tax Court Bar No. JM0000 1111 Elm Street Washington, DC 20000

eFiling Instructions for Practitioners, pp. 3-4 (August 2012).

According to the Court's instructions, this document should contain a statement that the document is being filed with the consent of the additional signers. A statement like "Electronically filed by James Scott with the consent of Martha Johnson" would suffice.

Although the instructions provide that the Court will accept digitized signatures and typewritten names of the other parties or persons if the document contains a statement that the document is being filed with their consent, Chief Counsel attorneys should refrain from signing on behalf of any other party because signing for another party may lead to questions about the filed document and result in unnecessary controversy over what was intended to be filed. Chief Counsel attorneys should also not give permission to an opposing party to sign on their behalf.

2. Counsel Implementation

The Court's instructions make it clear that eFiling a document using an attorney's eAccess username and password constitutes the signature of the filer on the document. Attorneys in the Office of Chief Counsel generally rely on clerical assistance to actually enter eAccess on their behalf to electronically file documents. Chief Counsel attorneys cannot rely on clerical personnel to sign documents on their behalf. Attorneys should avail themselves of the options described below.

The Court requires that the attorney's full name, Tax Court bar number, address, and telephone number appear, along with the date, in the usual signature locations. The Court further allows eFiled documents to contain a scanned handwritten signature or to display a digitized signature.

Note, however, that whenever a Chief Counsel attorney has to serve another party by paper service because that party does not receive electronic service, the paper-served document should not contain an electronic signature; rather, the attorney should affix an original signature in the signature block for the document and on the certificate of service. The attorney should maintain a copy of this version in the legal file. The purpose for serving an originally-signed copy is to comply with Tax Court Rules 21(b) and 26, read in conjunction, and to avoid suggesting that paper-served parties (particularly pro-se petitioners) may affix digital signatures to paper-filed documents.

3. Digital signature options

The Court has indicated a preference for digital signatures that mimic the conforming signatures that Tax Court Judges apply to orders and decision documents. The judges stamp these documents thusly:

**(signed) John Marshall
Judge**

The Court will accept signatures from practitioners in this or equivalent format. For example:

(signed) Alexander Hamilton

Alexander Hamilton (block or script formats)

/s/ Alexander Hamilton

Alexander Hamilton (cursive)

The Adobe Acrobat digital signature feature will also be an acceptable digital signature provided that the attorney's name is displayed in its common order (first name, middle initial (if any), last name). The default Chief Counsel IRS CC Secure Email digital ID in Adobe lists the attorney's name backwards (last name, first name, middle initial). The display of the name cannot be changed and would not be acceptable to the Court.

It is fairly simple for each Counsel user to set up a new Adobe digital ID that will list that attorney's name in the common and preferred order: First name, middle initial (if any), last name. The following instructions will walk you through placing the default digital signature on a document and then through the steps needed to set up a new Adobe Acrobat digital signature and place that on the same document:²

Default Adobe signature:

Office 2003 users -

1. Open a Word document
2. From the menu bar, select **Adobe PDF** then **Convert to Adobe PDF**
3. Name and save the file, and it should automatically open in Adobe Acrobat.

Office 2010 users -

1. Open a Word document
2. From the Add-ins ribbon, select the **PDF Button** to convert a Word document to a PDF file.
3. Name and save the file, and it should automatically open in Adobe Acrobat

4. Within Adobe Acrobat, select **Advanced | Sign & Certify | Sign Document or Place Signature**

² The purpose of this exercise is to set up the new digital signature and to show you how the default and preferred signatures differ so you can be sure to use the correct one on Tax Court electronic filings.

5. Click **OK** if a dialog box appears regarding digital signatures
6. Drag to make a rectangle to contain your signature
7. Click **Sign**
8. Save your document (e.g., test signature document.pdf)

Establishing a new Adobe signature the Court will accept:

1. In the same Adobe document that you just digitally signed with the default signature,
2. Select **Advanced | Security Settings**
3. The **Security Settings** window will open automatically
4. On the left side of that window highlight **Digital IDs**
5. Select **Add ID**
 - a. Select **A new digital ID I want to create now**
 - b. Click **Next**
 - c. Select **Windows Certificate Store**
 - d. Click **Next**
 - e. Complete the first four fields:
 - i. **Name:** [First, Middle initial, Last] (Your name will be the name for this digital signature.)
 - ii. **Organizational Unit:** [Optional]
 - iii. **Organizational Name:** [Optional]
 - iv. **Email address:** [Enter yours]
 - v. Click **Finish**
 - f. In the **Security Settings** window, select the name you just set up
 - g. Click **Usage Options** drop arrow
 - h. Click **Use for signing** (pen symbol)
 - i. Now the pen appears before the name of your new digital ID, and this is now your default signature digital ID certificate
 - j. Exit the **Security Settings** window
6. Click on **Edit | Preferences**
 - a. Under **Categories**, highlight **Security** and click on it
 - b. In the **Appearance** section, click **New**
 - c. The **Configure Signature Appearance** box opens automatically; in that window
 - i. Enter a **Title** for new signature (e.g., "Tax Court signature")
 - ii. Choose **Name** radio button³
 - iii. Uncheck the **Location**, **Reason**, and **Distinguished name** checkboxes, leaving **Name**, **Date**, **Labels**, and **Logo** boxes checked⁴
 - iv. Click **OK**
 - d. Click **OK** to close the **Preferences** dialog box
7. Select **Advanced | Sign & Certify | Sign Document or Place Signature**
8. The **Sign Document** window will open automatically; in that
 - a. Under **Sign As:** Select the name you created using the Windows Store. (Your name should come up as the default.)
 - b. Using the **Appearance** drop down arrow, select the name you used for your new digital signature appearance in step 6(c)(i) above (e.g., Tax Court Signature):

³ If you have a scanned image of your handwritten signature, you may select **Import Graphic**, click the **File** button, and import your image into the signature certificate.

⁴ The Distinguished name checkbox will import your email address into the digital signature. As discussed above, Counsel attorneys are expected not to place their email addresses on Tax Court filings. The Location and Reason fields are unnecessary.

this is now the default signature appearance that Adobe will use each time you sign a document

c. Click **Sign**

The new signature you created only contains your common name, First name, Middle initial (if any), Last name, a statement that you applied the digital signature, and the date and time of the signature, without an organization name, distinguished name, or email address. If you want any of the additional information to be shown with your digital signature, you must check the appropriate box(es) in the **Configure Text** section of step 6 above. Do not check the **Distinguished name** box, however, as that will insert your email address into the signature, and as noted above, Counsel attorneys are expected not to place their email address on Tax Court filings.

Your test document will have two signatures: one in the default format (Last name, first name, middle initial); the other in common format (First name, Middle initial, Last name). Familiarize yourself with these two signatures, and, to avoid potential rejections by the Tax Court docket section, make sure you use the common format signature if you digitally sign eFiled documents using Adobe Acrobat.

The next time you go to sign a document, the **Sign Document** dialog box will show two entries in the **Sign As:** pull down menu. One will be your IRS CC Secure email certificate and the second one will be the certificate you established today. Based on the steps above, the default certificate should be the new common-name certificate. There will be two choices in the **Appearances:** pull down menu, Standard Text and the custom, common-appearance you created and named in the above steps (e.g., "Tax Court Signature"). If you wish to use an Adobe digital signature, make sure you use the common-named signature, or something other than the Standard Text appearance for signing documents eFiled with the Tax Court.

4. Conclusion

The Tax Court will accept digital signatures in the following formats from practitioners, including IRS Chief Counsel:

Digitally signed
by Alexander
Hamilton
Date: 2013.03.22
09:32:44 -04'00'

Alexander Hamilton
Tax Court Bar No. AH0000
Attorney, Procedure & Administration
1111 Constitution Ave, NW, Rm. 1776
Washington, DC 20224
202-622-3630



Alexander Hamilton
Tax Court Bar No. AH0000
Attorney, Procedure & Administration
1111 Constitution Ave, NW, Rm. 1776
Washington, DC 20224
202-622-3630

/s/ Alexander Hamilton

Alexander Hamilton
Tax Court Bar No. AH0000
Attorney, Procedure & Administration
1111 Constitution Ave, NW, Rm. 1776
Washington, DC 20224
202-622-3630

(signed) Alexander Hamilton

Alexander Hamilton
Tax Court Bar No. AH0000
Attorney, Procedure & Administration
1111 Constitution Ave, NW, Rm. 1776
Washington, DC 20224
202-622-3630

Chief Counsel attorneys are now authorized to use in addition to a scanned handwritten signature, a conformed signature or an Adobe digital signature provided the attorney's name is in the format described above.

/s/

Thomas R. Thomas
Acting Associate Chief Counsel
(Procedure & Administration)