

Department  
of the  
Treasury

Internal  
Revenue  
Service

Office of  
Chief Counsel

# Notice

CC-2017-008

July 26, 2017

Department of Justice, Tax Division,  
Appellate Section Access to the Tax  
Court's Electronic Docket Records for

Effective until further  
notice

**Subject:** Cases on Appeal

**Cancel Date:**

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## Purpose

This Notice sets forth guidelines for providing Department of Justice Tax Division appellate attorneys with access to the U.S. Tax Court's electronic docket records for cases on appeal.

## Background

The U.S. Tax Court provides electronic access (eAccess) to permit persons who are admitted to practice before the court and who are representing petitioners or respondent to electronically view the documents in their Tax Court cases. eAccess is gained by being listed as an attorney of record for one of the parties on the court's docket sheet for the case. The Appellate Section of the Tax Division of the Department of Justice has now been granted permission by the Tax Court to have electronic access to case files for Tax Court cases on appeal. Among other uses, this will principally facilitate the compilation of or agreement to the appendix to appellate briefs by the Department of Justice attorneys representing the Commissioner on appeal as required by Rule 30 of the Federal Rules of Appellate Procedure.

In order to allow Department of Justice attorneys access to the Tax Court's electronic records for cases on appeal, it will be necessary for Chief Counsel personnel to add the Chief of the Appellate Section of the Department of Justice Tax Division to each new case on appeal. Once listed as one of respondent's counsel on the docket sheet for the appellate case, the Chief of the Appellate Section can, in turn, add the assigned Appellate Section docket attorney to the case.

## Procedure

### Decision or Dispositive Order

Appellate review of a decision or dispositive order of the Tax Court (such as an order of dismissal for lack of jurisdiction) is obtained by the filing of a Notice of Appeal with the Clerk of the Tax Court within 90 days after the decision or dispositive order is entered. The Chief of the Appellate Section should be added to the case as follows:

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Distribute to:	Tax Litigation staff	Tax Litigation staff & Support personnel
	X All Personnel	X Electronic Reading Room

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- For cases in which the petitioner is the appellant, a Chief Counsel attorney of record for the case, or F&M staff acting on behalf of the attorney, adds the Chief of the Tax Division's Appellate Section to the case as an additional attorney for respondent within seven business days after service of the petitioner's notice of appeal by the Clerk of the Tax Court. The mechanics of adding the Chief of the Appellate Section to the case are detailed below.
- For cases in which respondent is the appellant, a Chief Counsel attorney of record, or F&M staff acting on behalf of the attorney, adds the Chief of the Tax Division's Appellate Section to the case as an additional attorney for respondent within seven business days after the notice of appeal on behalf of the Commissioner is filed with the Tax Court.

### Interlocutory Orders

In those rare cases in which the Tax Court grants a motion for immediate appeal of a non-dispositive order and includes in its order the statement that a controlling question of law is involved as described in Tax Court Rule 193 and I.R.C. § 7482(a)(2)(A), appeal is taken by filing a petition for permission to appeal with the Clerk of the U.S. Court of Appeals for the appropriate circuit within 10 days of service of the interlocutory order. Upon service of the order granting permission to appeal by the Clerk of the Court of Appeals, a Chief Counsel attorney of record, or F&M staff acting on behalf of the attorney, adds the Chief of the Tax Division's Appellate Section to the case as an additional attorney for respondent.

The current Chief of the Tax Division Appellate Section is:

Gilbert S. Rothenberg  
Tax Court Bar Number: RG0320

### Procedure for Adding an Additional Counsel for Respondent on eAccess

After logging on to eAccess and selecting the appropriate case from the "My Cases" link, you will be taken to the Case Index screen for that case. From "Go to" line (sample below), click on the "Respondent Practitioners" link.

**Go to »** [Case Index](#), [Miscellaneous Unfiled Documents](#), [Service Parties](#), [Parties](#), [Participants](#), [Respondent Practitioners](#), [eFiling](#)

On the Respondent Practitioners screen, enter Gilbert Rothenberg's Tax Court Bar Number into the box shown below and click on the "Add Practitioner" box.

**Add New Tax Court Bar No:**

This will add Mr. Rothenberg as an additional respondent's counsel to the docket sheet.

### Confirming the Successful Addition of the Chief of the Tax Division Appellate Section

To confirm that the Chief of the Appellate Section has been added, view the list of Respondent Practitioners in eAccess. If successfully added, Mr. Rothenberg will be listed along with the Chief Counsel attorney(s) already added to the case.

Likewise, clicking on the View/Print Docket Sheet button in the Tax Court docket inquiry page for a given case will display a PDF version of the docket sheet, showing all attorneys of record for the case, including Mr. Rothenberg. (You do not need to be a counsel of record for the case to view this listing; just click on the button.)



Removal of Tax Division Appellate Section Attorneys Upon Conclusion of the Appeal

It is the expectation that the Tax Division Appellate Section attorney will promptly notify Chief Counsel when appellate proceedings have concluded, either through affirmance, reversal, or remand. When we are so notified, or otherwise learn of the closing, the Tax Division Appellate Section attorney(s) added as respondent's counsel will be removed from the case, either by a Chief Counsel attorney listed for the case, F&M staff acting for the attorney, or the Tax Division attorney(s) previously added. An attorney is removed from the docket sheet by clicking on the "Remove" hyperlink in the "Remove From Case" column on the list of IRS attorneys on the "Respondent Practitioners" screen.

Please contact Senior Technician Reviewer David Skinner at (202) 317-5240 with any questions regarding this Notice.

/s/

Kathryn A. Zuba  
Associate Chief Counsel  
(Procedure & Administration)