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ADMINISTRATIVE
HEARINGS

1 **Minnesota Tax Court**

2 **Adopted Permanent Rules Relating to Tax Court Rules of Procedure**

3 **TAX COURT RULES OF PROCEDURE**

4 **8610.0010 REPRESENTATION.**

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

6 A. a lawyer licensed to practice law in Minnesota;

7 B. a lawyer licensed to practice law in a jurisdiction other than Minnesota who
8 complies with part 8610.0020;

9 C. an individual, when representing the individual or a partnership in which the
10 individual is a general partner; and

11 D. the sole shareholder of a corporation or sole member of a limited liability
12 company, when representing the corporation or limited liability company. Except as
13 provided in this item, a lawyer must represent a corporation or limited liability
14 company.

15 **8610.0020 PRACTICE BEFORE TAX COURT BY NONRESIDENT LAWYERS.**


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

19 A. the nonresident lawyer files an affidavit with the tax court and serves the
20 affidavit on opposing counsel at the time an appeal is filed under Minnesota Statutes,
21 chapter 271, or at the time a petition is filed under Minnesota Statutes, chapter 278;

22 B. the affidavit establishes that the nonresident lawyer is familiar with and
23 prepared and willing to follow Minnesota's:

24 (1) Rules of Civil Procedure;

25 (2) Rules of Evidence;



- 1 (3) Rules of Professional Conduct;
- 2 (4) Rules on Lawyers Professional Responsibility; and
- 3 (5) Tax Court Rules of Procedure; and

4 C. the nonresident lawyer includes with the affidavit a certificate of good standing
5 from the jurisdiction issuing the nonresident lawyer's license to practice law.

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

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

18 **8610.0030 EXTENSION OF TIME TO APPEAL FROM AN ORDER OF**
19 **COMMISSIONER OF REVENUE.**

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

23 If the request for an extension of time is received within 60 days of the making and
24 filing of the order, the tax court will extend the time to appeal for an additional 30 days.
25 If the request for an extension is made more than 60 days after the making and filing of
26 the order, the tax court may, for cause shown, extend the time for appeal to a date not

1 more than 90 days from the date of the making and filing of the order of the
2 commissioner. A request for an extension made more than 60 days after the making and
3 filing of the order must explain why the extension was not requested within the original
4 60-day period.

5 **8610.0040 FORM FOR APPEAL FROM ORDER OF COMMISSIONER.**

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

9 [The form of the caption is deleted in its entirety and replaced by the following form.]

10

11

STATE OF MINNESOTA

12

TAX COURT

13

Appellant,

In The Matter of the Appeal from
the Commissioner's Order dated

15

_____ relating to

16

vs.

_____ (type of) tax of

17

_____ for the

18

Commissioner of Revenue,
Appellee.

year ending _____

19

20

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

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

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

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

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

6 **8610.0050 FORM FOR PETITION RELATING TO PROPERTY TAXES.**

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

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

16 _____ ,
 17
 18 Petitioner(s),
 19
 20 vs.
 21
 22 County of _____,
 23
 24 Respondent. Court File No. _____

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

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

31 [insert here official description of land]

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

33 3. Petitioner(s) claim(s) that

34 [insert here claim and relief requested]

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

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

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

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

13 **8610.0060 CONTINUANCES.**

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

16 **8610.0070 MOTION PRACTICE.**

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

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

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

26 B. "Nondispositive motions" are all other motions, including, but not limited to,
27 discovery, third party practice, temporary relief, intervention, and amendment of
28 pleadings.

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

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

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

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

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

19 Subp. 5. **Dispositive motions.**

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

23 (1) notice of motion and motion;

24 (2) proposed order;

25 (3) any affidavits and exhibits to be submitted in conjunction with the motion;

26 and

1 (4) memorandum of law.

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

5 (1) memorandum of law; and

6 (2) any supplementary affidavits and exhibits to be submitted in conjunction
7 with the response.

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

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

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

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

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

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

25 Subp. 6. **Nondispositive motions.**

26 A. No nondispositive motion may be heard until the moving party serves a copy of

1 the following documents on opposing counsel or party if that party is pro se and files
2 the original with the tax court administrator at least 14 days prior to the hearing:

3 (1) notice of motion and motion;

4 (2) proposed order;

5 (3) any affidavits and exhibits to be submitted in conjunction with the motion;

6 and

7 (4) any memorandum of law.

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

11 (1) a memorandum of law; and

12 (2) any relevant affidavits and exhibits to be submitted in conjunction with the
13 response.

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

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

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

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

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

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

22 **8610.0100 STIPULATION OF FACTS.**

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

26 **8610.0110 SUBMISSION WITHOUT HEARING.**

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

6 **8610.0120 HEARINGS.**

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

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

14 **8610.0130 DOCUMENTARY EVIDENCE.**

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

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

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

24 **8610.0140 AMICUS CURIAE BRIEFS.**

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

1 **8610.0150 REQUEST FOR COSTS AND DISBURSEMENTS.**

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

17 **REPEALER.** Minnesota Rules, parts 8600.0200; 8600.0300; 8600.0400; 8600.0500;
18 8600.0600; 8600.0700; 8600.0800; 8600.0900; 8600.1000; 8600.1100; 8600.1200; 8600.1300;
19 8600.1400; 8600.1500; 8600.1600; 8600.1700; 8600.1800; 8600.1900; 8600.2000; 8600.9910;
20 8600.9920; 8600.9930; 8600.9940; 8600.9950; and 8600.9960, are repealed.