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**IN THE SUPREME COURT
STATE OF ARIZONA**

In the Matter of

Arizona Supreme Court No. R-23-_____

ARIZONA TAX COURT
RULES OF PRACTICE

PETITION TO AMEND THE
ARIZONA TAX COURT RULES OF
PRACTICE

**PETITION TO AMEND THE ARIZONA TAX COURT
RULES OF PRACTICE**

Pursuant to Rule 28, Rules of the Supreme Court of Arizona, the Honorable Sara J. Agne, presiding judge of the Arizona Tax Court (“Petitioner”), after consultation with stakeholders, including practitioners involved in the State Bar of Arizona Tax Law Section, petitions this Court to amend the Arizona Tax Court Rules

of Practice (“Tax Court Rules”), as reflected in the attachment to this Petition, effective January 1, 2024.

I. INTRODUCTION AND BACKGROUND

The genesis for this project arose due to the undersigned’s roles as Co-Chair of the Arizona Supreme Court’s Advisory Committee on Rules of Evidence (since 2019) and as Presiding Judge for the Arizona Tax Court (since June 2022). Arizona Tax Court Rule of Practice 26 provides procedure for the Introduction of Evidence in small claims tax case trials, and the revised version proposed herein contains language regarding a unified evidentiary standard that past leaders and members of the Advisory Committee on Rules of Evidence have worked diligently to build into various rules sets in Arizona.

Many of this state’s court rules sets have been restyled in recent years, but the Tax Court Rules have not undergone that treatment since 2002, when the Honorable Paul A. Katz, Tax Court Presiding Judge, chaired a committee of practitioners and stakeholders to accomplish the revisions. With past conventions like ‘paper courtesy copies to chambers’ and the word “shall” being obviated by email and e-filing for the former and more modern word usages for the latter, Petitioner respectfully submits that the time has arrived for a comprehensive restyle of the Tax Court Rules.

Trends identified in Tax Court filings over the last two decades also speak to this need. The Great Recession caused a significant spike in Tax Court case filings

between 2009 and 2014, including those cases filed by self-represented litigants. One of the laudable goals of court rules restylings that this Court has initiated and adopted in the past several years has been to build in clearer language—when possible, plain English—and to avoid ambiguous terminology (e.g., “shall”) and legal jargon. (*See* Prefatory Comment to 2017 Amendments to the Arizona Rules of Civil Procedure.) This attention to clarity assists all users of court rules, but particularly non-law-trained self-represented litigants. The Tax Court Rules are due to be updated in that regard, whether or not another influx of case filings is on the horizon.

Making the rules more useful and accessible to self-represented litigants was another chartering goal of this project, as the Tax Court had the benefit of a Legal Extern¹ during summer 2022, who undertook to review all the Tax Court Rules for revisions that would promote that accessibility. Arizona Tax Court Staff Attorney Elena Cottam also provided material assistance in the development of the proposed changes set forth in the attachment to this Petition and discussed herein. On October 11, 2022, the undersigned discussed the proposed changes with the State Bar of Arizona Tax Law Section during an event at the Daniel J. McAuliffe CLE Center

¹ Sarah Pelton, J.D. Candidate, Class of 2024, Sandra Day O’Connor College of Law, Arizona State University.

and received very helpful feedback that led to further nuanced proposed revisions included in the attachment.

Petitioner looks forward to further comments and suggestions from stakeholders in the Tax Court Rules. Accordingly, the undersigned files this Petition to initiate the public comment and amendment process set forth in Rule 28 of this Court's rules with regard to the proposed restyling, summarized below.

II. SUMMARY OF THE PROPOSED AMENDMENTS

The proposed amendments adhere closely to those restyling conventions used in the work of groups like this Court's Task Force on the Arizona Rules of Civil Procedure (2017 Amendments) and Task Force on the Rules of Procedure for the Juvenile Court (July 2022 Amendments). Beyond aiming to use plain English, the proposed revisions avoid long sentences and use consistent formatting conventions and terminology. To alert rule users to the aims of this restyling, Petitioner proposes in the attachment a 'Comment to 2024 Amendments' that borrows language from the Prefatory Comment to the 2017 Amendments to the Arizona Rules of Civil Procedure.

Many, but not all, of the Tax Court Rules have revisions proposed for them. Petitioner believes that Rules 1 (Administration), 8 (Caption), 16 (Uniform Interrogatories and Appendix of the same), 17 (Small Claims Procedures), 18 (Election), and 24 (repealed, effective January 1, 2014), either required no changes

to effect the goals of the restyling or—in the case of Rule 24—were prior repealed by this Court. Similarly, Tax Court Rule 11 (“Copies to Judge or Commissioner”) should be repealed effective January 1, 2024, as paper courtesy copies are no longer useful to or desired by Tax Court judicial officers or practitioners. E-filing is mandatory, including for the vast majority of case initiations, and practitioners who wish to provide the Tax Court with a courtesy copy that will arrive in advance of an e-filed copy do so by emailing such items to Division staff.

No objections were heard to this proposed repeal from either practitioners or judicial officers in the pre-petition vetting of these changes. The rule repeal would also not prohibit courtesy copies, and judicial officers in any department—including the Arizona Tax Court—remain free to build in their own protocols for courtesy copies via posted Division information or minute entries. *See Troy W. v. Dep’t of Child Safety*, 1 CA-JV 20-0261, 2021 WL 736087, at *2 (App. Feb. 25, 2021) (mem.) (noting a minute entry requiring a “courtesy copy to chambers” under certain conditions) (cited for persuasive value only pursuant to Ariz. R. Supreme Ct. 111(c)(1)(C)).

Having discussed the birds’-eye view of the proposed restyle, Petitioner in the next section proceeds to discuss the specific rationale for the changes, in rule-by-rule manner.

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III. SPECIFICS OF THE RATIONALE FOR THE PROPOSED AMENDMENTS TO THE TAX COURT RULES

As noted, the proposed amendments are more comprehensive than they are substantive, because this is a proposed restyling and as the substance of the Tax Court Rules remains in very large part sound. Any substantive changes are called out below:

Rule 2. Practice and Procedure

With Rule 1 (Administration) needing no changes from Petitioner’s perspective, the first proposed restyling changes appear in Rule 2, where the archaic “herein” is replaced with “otherwise” and a short title for reference to the Local Rules of Practice for the Superior Court in Maricopa County is built in. A brief explanatory phrase as to the import of Ariz. R. Civ. P. 42.1 (“which provides for a change of judge as a matter of right”) would aid both self-represented litigants and new practitioners, all of whom may be still gaining familiarity with various rule sets.

Rule 3. Tax Court Clerk

Petitioner proposes restyling Rule 3 to eliminate the overuse of “of phrases,” which are disfavored in modernized rule sets, and to standardize the use of capitalization.

Rule 4. Case Numbering

The Rule 4 restyling would similarly eliminate “of phrases,” standardize capitalization style, and eliminate the use of the outmoded word “shall.”

Rule 5. Filing

Petitioner proposes restyling Rule 5 to use the preferred “documents” in place of “papers,” eliminate the word “shall,” and add the appropriate reference to Arizona Rule of Civil Procedure 5.1 (Filing Pleadings and Other Documents).

Rule 6. Cases Transferred to the Tax Court

Rule 6 should be restyled to have standardized capitalization, eliminate “shall,” add an explanatory reference that compliance with Tax Court Rule of Practice 10 means “filing a Cover Sheet” within a specified time in a transferred Tax Court case, and eliminate the passive voice where possible. Two instances of “after the filing” are proposed for addition to each subsection of Rule 6, to provide filing parties with clarity that the *filing* of the order for transfer triggers the deadline clock.

Rule 7. Documents Stamped by Clerk

Petitioner proposes restyling Rule 7 to conform its language to modern guidelines for drafting procedural rules, including eliminating “shall” and “which shall,” as well as the passive voice.

Rule 9. Forms of DocumentsPapers

Restyled Rule 9 makes generous use of subsections, subheadings, phrases, and clauses, so users of the rule can more easily find applicable portions. Where restyling guidance was needed to effect this stylistic reorganization, Petitioner looked to Ariz. R. Civ. P. 5.2 (also titled Form of Documents) as a model.

Rule 10. Filing of Cover Sheet

The restyling of Rule 10 shortens the rule from two sentences to one without sacrificing meaning and eliminates “shall.”

~~Rule 11. Copies to Judge or Commissioner~~ (*Proposed for Repeal.*)

As noted above, Petitioner proposes repeal of Rule 11 in its entirety; modern legal and judicial practices, including e-filing, render it unnecessary.

Rule 12. Hearings and Trials Other than in Maricopa County

The restyled Rule 12 would eliminate five lengthy sentences of block text in favor of four succinct subsections with subheadings to direct rules users’ eyes. The final sentence of the existing rule references “motions to set,” which no longer exist in the Arizona Rules of Civil Procedure—having been repealed from Rule 38.1(d) by this Court, effective April 15, 2014. *See Beltz v. Greystar Real Estate Partners, LLC*, 1 CA-CV 14-0779, 2016 WL 1440202, at *1, n.1 (App. Apr. 12, 2016) (mem.) (discussing this Court’s order in R-13-0017 (filed August 28, 2013) (cited for persuasive value only pursuant to Ariz. R. Supreme Ct. 111(c)(1)(C)). Therefore, Petitioner proposes subsection (d), which instead references the existing response and reply times in Ariz. R. Civ. P. 7.1(a)(3).

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Rule 13. Juries

Petitioner proposes restyling Rule 13 to shorten and clarify, as well as to eliminate “shall.”

Rule 14. Pending Appeals Calendar

Petitioner is grateful for the advance input the State Bar of Arizona Tax Law Section provided on all of the proposed changes, but particularly for that with regard to certain rules like Tax Court Rule 14. A Pending Appeals Calendar rule must be clear and functional for Tax Court, Court administration, Tax Court Clerk, counsel, and parties, and while the existing rule has ‘good bones,’ the additions of subsection headings and uses of “may” where appropriate should make this rule more user-friendly. Petitioner also proposes eliminating “of phrases,” standardizing numeric references, clarifying references to “the decision on appeal,” and changing a reference to “inactive calendar” in proposed Tax Court Rule 14(c) (presently Tax Court Rule 14(b)) to “dismissal calendar,” instead, as the civil rules now reference Dismissal Calendar. *See* Ariz. R. Civ. P. 38.1(d).

Rule 15. Publication

Petitioner proposes restyling Rule 15 to shorten and clarify, as well as to correct style on the reference to this Court’s rules.

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Rule 15.1. Distribution of Tax Decisions

The restyled Rule 15.1 would use subheadings, eliminate “shall,” and favor “filing date” over “date of issuance”—for both brevity and clarity’s sake.

Rule 19. Reclassification if ~~awhen~~ Defendant Taxpayer Elects

Petitioner proposes restyling Rule 19 to use plain English and eliminate “shall.”

Rule 20. Reclassification ~~w~~When Requirements Not Met

Petitioner also proposes restyling Rule 20 to use plain English and eliminate “shall.”

Rule 21. Clerk to Serve Small Tax Complaint

Petitioner proposes restyling Rule 21 to clarify language, standardize capitalization, and eliminate “shall.”

Rule 22. Non-Lawyer Representation in Small Tax Claims

Tax Court Rule 22 should be restyled to clarify language, use plain English, eliminate “shall,” and standardize references to “Tax Court.”

Rule 23. Dismissal By Taxpayer~~Before Judgment~~

Restyled Rule 23 is another that benefitted significantly from the input of the Tax Law Section. In addition to using clarifying and explanatory language throughout, proposed Rule 23 would mirror both clauses of Ariz. R. Civ. P. 41(a)(1)(A) to allow for dismissal by a taxpayer alone in a small tax claims case—

at an appropriate time (i.e., “before the opposing party serves either an answer or a motion for summary judgment”)—or “by order of the Tax Court based on a stipulation of dismissal signed by all parties who have appeared.” The final line explains the meaning of “with prejudice,” which Petitioner views as both a necessity and a kindness to the non-law-trained users of the rule.

Rule 25. Small Claims Hearings and Trials

Petitioner proposes restyling Rule 25 to use plain English and eliminate “shall.”

Rule 26. Introduction of Evidence

Noted above as the genesis of this restyling, restyled Rule 26 builds in the unified evidentiary standard built into the Rules of Procedure for the Juvenile Court in its Rule 104(b), effective July 1, 2022, and restyles the reference to informality to be more specific as to the goals of that approach (“due process and fairness”). The intent of Tax Court Rule 26 is for the Arizona Rules of Evidence to be relaxed in small tax claims cases, yet existing Rule 26 is both too broad² and too narrow³ to be of consistent help to the Tax Court, practitioners, and self-represented litigants in

² “Any evidence may be received which will assist the Court to arrive at a just and equitable determination of the case.”

³ “Subject to the foregoing, the Arizona Rules of Evidence shall govern the taking of evidence, except that the Tax Judge or Commissioner may receive opinion evidence, hearsay, and documentary evidence on such foundation as the Court determines to be reliable, consistent with the summary nature of the proceeding.”

determining what would pass muster under the evidentiary standard to be applied in those cases. Restyling to conform to the unified evidentiary standard currently in use in other rule sets would ameliorate those issues.

CONCLUSION

Petitioner respectfully requests that the Court consider this Petition and its proposed rule changes at its earliest convenience. Petitioner additionally requests that the Petition be circulated for public comment until May 1, 2023, and that the Court adopt the proposed rule amendments as presented, or as modified in light of comments received from the public, and any replies, with an effective date of January 1, 2024.

DATED this 9th day of January, 2023.

/s/ Sara J. Agne _____
Sara J. Agne
Presiding Judge, Arizona Tax Court

ATTACHMENT⁴

ARIZONA TAX COURT RULES OF PRACTICE

Rule 2. Practice and Procedure

Except as ~~herein~~ otherwise provided in these rules, the Local Rules of Practice for the Superior Court in Maricopa County (“Local Rules”), and the Arizona Rules of Civil Procedure, with the exception of Arizona Rule of Civil Procedure 42.1 of said rules, which provides for a change of judge as a matter of right, and the Local Rules of Practice for Maricopa County Superior Court shall govern all Arizona Tax Court proceedings.

Rule 3. Tax Court Clerk

The ~~Clerk of the Tax Court Clerk should~~ shall be a ~~Deputy Clerk of the Superior Court in Maricopa County~~ deputy superior court clerk.

Rule 4. Case Numbering

The ~~Clerk of the Tax Court Clerk must~~ shall assign a number to every case filed with the Court. Cases filed in the Tax Court, except cases filed under the Small Claims Procedure, ~~are~~ shall be numbered with the alphabetical prefix, “TX”. Cases filed under the Small Claims procedure ~~are~~ shall be numbered with the alphabetical prefix, “ST”, and may be referred to as Small Tax Claims. Otherwise, all Tax Court ~~tax~~ cases must shall be numbered as prescribed by the Clerk of the Superior Court in Maricopa County.

Rule 5. Filing

Pleadings and other documents ~~papers shall~~ must be filed with the Tax Court by ~~mailing to or directly filing them with the Clerk of the Tax Court Clerk of the Superior Court in Maricopa County~~ in the same manner as other documents ~~civil cases are filed under Arizona Rule of Civil Procedure 5.1.~~

⁴ Changes or additions in rule text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~. Rules *not* noted in this Attachment either have no proposed changes associated with them or were prior repealed by this Court.

Rule 6. Cases Transferred to the Tax Court

(a) Transferred Cases. Tax cases filed in the ~~s~~Superior ~~c~~Court, but not in the Tax Court, ~~that~~which are later transferred to the Tax Court ~~must~~shall be treated by the Clerk for purposes of Rule 4 as if they were cases newly filed in the Tax Court. ~~In such cases,~~ The plaintiff in those cases ~~must~~shall comply with Rule 10 by filing a Cover Sheet no later than~~within~~ 30 days after the filing of the order for directing the transfer.

(b) Transferred Files and Fees. When a tax case is transferred, the ~~Clerk of the Superior Court from which the case is transferred shall forthwith~~ transferring county's superior court clerk must transmit the file together with all exhibits and certified transcripts to the ~~Clerk of the Tax Court~~ Clerk. If the case is transferred from a county other than Maricopa, the transferring county's superior court Clerk must ~~of the county from which the case is received shall remit to the Clerk of the Maricopa County Superior Court Tax Court Clerk Department~~ filing and appearance fees the parties paid to the transferring Clerk by the parties. If the case was first filed in a county other than ~~in~~ Maricopa County, the parties ~~must~~ shall pay to the ~~Clerk of the Maricopa County Superior Court Tax Court Clerk Department~~ such document storage and retrieval fees, and other applicable surcharges ~~as are applicable~~. ~~Such p~~ayment ~~must~~ shall be made no later than~~within~~ 30 days after the filing of the order transferring the case.

Rule 7. Documents Stamped by Clerk

The Clerk ~~must~~ shall affix on each document filed ~~by mail in~~with the Tax Court a stamp ~~that~~which ~~shall~~ reflects both the filing date of filing and the date and time of receipt. If a document is filed~~filing has been made~~ by mail, the filing date of filing ~~must~~ shall be the date on the postmark on the envelope ~~in which the filing is~~ received by the Tax Court Clerk. If a filing arrives by mail with no discernible postmark, the filing date of filing ~~must~~ will be identified as the date of receipt. If a filing date of filing is critical, and the filing is to be made by mail, it is the filing party's responsibility of the litigant to provide the Tax Court with proof of the date of mailing.

Rule 9. Forms of DocumentsPapers

(a) Representatives. If a representative of a party presents a document is being ~~presented by a representative of a party~~, and the representative is not a member of the State Bar of Arizona, the information required in Local Rule 2.15(a), ~~Local Rules of Practice. Maricopa County Superior Court,~~ shall~~must~~ be provided as

directed, except for the State Bar of Arizona attorney identification number. A representative ~~In addition, if the representative is certified or registered by any governmental body for a reason relating to taxation must provide their, such certification or registration shall be provided.~~ Examples of ~~such~~ certification or registration, for purposes of this rule, are “CPA,”; or, “IRS Enrolled Agent.”;

(b) Caption. The caption in Rule 8 must appear centered on or below line 6 of the first page of any document presented, and the first page must also contain:

(1) Bbelow the caption, ~~and there shall be inserted in the space to the left of the center of the page,~~ ~~per~~ the title of the action or proceeding;

(2) opposite the title, in the space to the right of the center of the page, the case number of the action or proceeding;

(3) immediately below the case number, a brief description of the nature of the document; and

(4) ~~In the space to the right of the center and below the caption, there shall be inserted (1) the number of the action or proceeding, (2) a brief description of the nature of the document, and (3) the Title in the Arizona Revised Statutes that which provides for the tax that which is the subject of the plaintiff’s claim, unless the applicable Title is Title 42.~~

(A) Title 42. If the applicable Title is Title 42, one of the following designations must appear shall be utilized:

(i) Property Tax;

(ii) Transaction Privilege Tax;

(iii) Unspecified Title 42.

(B) Municipal Tax. If the action is an appeal concerning a municipal tax, the word “MUNICIPAL” should replace the title identification.

(C) Small Tax Claim. If the action is being pursued as a small tax claim, the words “SMALL CLAIMS PROCEDURE,”; should be inserted below the identification of the appropriate title.

Rule 10. Filing of Cover Sheet

When filing a case in the Tax Court, the plaintiff must shall furnish the Clerk, on a designated Cover Sheet form provided by the Clerk, ~~such~~ information concerning the parties, their representatives, or the plaintiff’s claim, as ~~is~~ requested on the form. ~~The forms, designated “Cover Sheets”, shall be available on request from the Tax Court, or from the Clerk of the Superior Court in Maricopa County.~~

Rule 11. Repealed by Supreme Court order filed _____, 2023, effective January 1, 2024.

~~Rule 11. Copies to Judge or Commissioner~~

~~At the time of the filing of the original with the Clerk, a copy of each motion, objection, exception and memorandum shall be presented to the judicial officer to whom the case has been assigned or to the Judge of the Tax Court.~~

Rule 12. Hearings and Trials Other than in Maricopa County

(a) Location. Trials and hearings which require the taking of evidence may be held in any county in Arizona~~the state~~.

(b) Forum. In determining where the Tax Court will sit, the cCourt will consider the most convenient forum for litigants and witnesses, and balance these interests against the efficient management of the Tax Court's calendar.

(c) Application. If a party wishes ~~that a trial or hearing to~~ requiring the taking of evidence be held at a location other than in Maricopa County, the party must file an application ~~therefore should be filed not later~~ than 60 days before ~~prior to~~ the trial or hearing. The application should set forth the reason ~~that the applicant~~ believes a trial or hearing locations ~~is~~ other than Maricopa County would be a more convenient ~~forum~~.

(d) Response and Reply. Responsive and reply memoranda may be filed as provided in Arizona Rule of Civil Procedure 7.1(a)(3). ~~Such application may be controverted as motions to set are controverted.~~

Rule 13. Juries

~~If n the event~~ a jury is required for a trial in the Tax Court, all local rules ~~in the Local Rules of Practice~~ for the county in which the Court is sitting ~~shall~~ apply to the extent those ~~such~~ rules concern jurors or juries.

Rule 14. Pending Appeals Calendar

(a) Generally. The Tax Court must ~~shall~~ maintain a pending appeals calendar for cases ~~which it is anticipated to~~ will be fully resolved by an appellate decision pending in another case.

(ab) Placement on the Pending Appeals Calendar. A case may be ~~is~~ placed on the pending appeals calendar by joint motion of all ~~of the~~ parties to the litigation. The ~~Such~~ joint motion must ~~shall~~ contain an averment by all parties that they

believe all issues that remain in dispute in the case ~~in Tax Court will~~ may be resolved by the pending appellate decision in the case on appeal. Upon the joint motion's filing receipt of the joint motion, the Tax Court will may convene a conference with all parties to review the issues to be decided in the Tax Court case. If it is determined that issues will may still need to be tried after the appellate case is decided, the Tax Court may, with the consent of all ~~the~~ parties, proceed to ~~such motions and hearings as will~~ decide those issues which will not anticipated to be resolved by the pending appellate decision in the case on appeal. Once the Tax Court determines that all issues remaining in the Tax Court case will may be resolved by the pending appellate decision ~~decided when the decision on appeal is made~~, the Tax Court case may be placed on the pending appeals calendar.

(bc) Dismissal Calendar. Cases on the pending appeals calendar must ~~will~~ remain in an inactive status for an indefinite period pending the appellate decision ~~upon which the anticipated resolution rests~~. Once the appropriate appellate court files ~~issues~~ its mandate resolving the pending appellate decision, the Tax Court must ~~will~~ remove the Tax Court case from the pending appeals calendar and place it on the dismissal inactive calendar for ~~sixty (60)~~ days so that the appropriate party may ~~can~~ prepare a formal written judgment for approval by the Tax Court. If no ~~such~~ proposed judgment is presented, the case will be dismissed without further notice.

(ed) Issues Not Resolved by Mandate. Once the mandate is filed ~~issued~~, if a party or parties believes it does not resolve all ~~of~~ the issues in the Tax Court case, ~~such party~~ those parties may file an ~~make~~ application to the Tax Court for ~~such~~ further proceedings ~~in the trial court as is~~ believed necessary. Upon such application's filing, the Court must ~~will~~ review the appellate decision, and the Tax Court case, to determine whether ~~or not~~ the appellate decision has resolved all ~~of~~ the issues in the Tax Court ~~trial court case have been resolved by the appellate decision~~. The Tax Court must ~~will~~ then issue ~~such~~ further appropriate orders ~~as are appropriate~~.

(de) Notice to the Tax Court. The Tax Court ~~on its own motion~~ may request that a party or all parties ~~shall~~ notify the Tax Court in writing within 10 ~~ten~~ days of the ~~issuance~~ filing of a mandate in an appellate decision that resolves all issues that remain in dispute in the Tax Court ~~tax case then~~ pending on the pending appeals calendar.

Rule 15. Publication

The Tax Court may, ~~upon its own motion or upon the motion of either party~~, designate its decisions for publication in the manner prescribed by Rule 111, Rules of the Supreme Court of Arizona.

Rule 15.1. Distribution of Tax Decisions

(a) **Posting.** The Tax Court ~~must shall~~ post on its website those of its unpublished decisions ~~that which, in its sole discretion,~~ it determines ~~to~~ involve substantive or significant issues of legal interpretation or procedure.

(b) **Posting on Request.** The Tax Court may, ~~upon~~ the request of either party or the judge or commissioner and at its sole discretion, post on its website an unpublished tax decision from any superior court of this state, including decisions arising under the Tax Court small claims procedure, A.R.S. § 12-172. The decision to post or not to post any decision under this subsection ~~is not an~~ ~~shall not be~~ ~~construed~~ as endorsement or rejection by the Tax Court of ~~the such~~ decision.

(c) **Not Precedent.** Unpublished decisions on the Tax Court website ~~must shall~~ be posted in a manner that prominently indicates that they are not binding authority and are not legal precedent.

(d) **Time Posted.** Unpublished decisions ~~must shall~~ remain posted on the Tax Court website for three years from the ~~date of issuance~~ filing date, unless the Tax Court ~~in its sole discretion~~ determines that a different length of time is appropriate.

Rule 19. Reclassification ~~if a~~ when Defendant Taxpayer Elects

If a defendant taxpayer elects small claims procedures, and ~~the such~~ election is not controverted, or if controverted, the controversion is overruled, the case ~~must shall~~ be reclassified as a small tax claim, and the clerk ~~must shall~~ assign the case a new number as provided ~~directed~~ in Rule 4.

Rule 20. Reclassification ~~w~~ When Requirements Not Met

If the Tax Court determines that a case designated as a small tax claim does not meet the requirements of A.R.S. § Section 12-172, Arizona Revised Statutes, the case ~~must shall~~ be reclassified as a record tax case. The clerk ~~must shall~~ assign a new number as provided ~~directed~~ in Rule 4, and ~~must shall~~ assess the taxpayer and all other parties for whom the payment of filing and appearance fees are not exempt, with the difference between what ~~the such~~ party paid to file or appear, and the statutory fees required for a record tax case. Parties ~~must are to~~ pay ~~the such~~ assessment ~~within no later than~~ 10 days of after transmittal of the assessment notice by the clerk.

Rule 21. Clerk to Serve Small Tax Complaint

When a small tax claim is filed, the Tax Court Clerk ~~must of the Tax Court shall~~

serve a copy of the complaint on the applicable state or local taxing authority by mail. Service is effective upon the complaint's receipt of the complaint by the ~~t~~axing ~~a~~Authority.

Rule 22. Non-Lawyer Representation in Small Tax Claims

In a small tax claim, a party may be represented by a person who is not an active member of the State Bar, if the Tax Court allows such representation. The Tax Court must shall establish a procedure ~~consistent with the Statute and Rules of Court~~, by which non-lawyer representation can be effected in small tax claims. Information about ~~the~~such procedure must shall be in writing, and must shall be available from the Tax Court on request.

Rule 23. Dismissal By Taxpayer ~~Before Judgment~~

A taxpayer may dismiss a small tax claims case ~~before the entry of judgment~~ by filing a Notice of Dismissal with the ~~Clerk of the Tax Court~~ Clerk before the opposing party serves either an answer or a motion for summary judgment. A small tax claims case also may be dismissed by order of the Tax Court based on a stipulation of dismissal signed by all parties who have appeared. The order may be signed by a judge, an authorized court commissioner, the clerk, or a deputy clerk. A dismissal by the taxpayer is with prejudice, meaning a taxpayer is barred from bringing a later case on the same claim for the same tax period.

Rule 25. Small Claims Hearings and Trials

All testimony in a small claims hearing or trial must shall be given under oath. The proceedings do not need to ~~not~~ be recorded.

Rule 26. Introduction of Evidence

A small claims trial ~~shall must be informal~~. conducted as informally as the requirements of due process and fairness allow. Any non-privileged evidence tending to make a fact at issue more or less probable is admissible unless the Court determines the evidence lacks reliability or will cause unfair prejudice or confusion, or waste time. ~~evidence may be received which will assist the Court to arrive at a just and equitable determination of the case. Subject to the foregoing, the Arizona Rules of Evidence shall govern the taking of evidence, except that the Tax Judge or Commissioner may receive opinion evidence, hearsay, and~~

~~documentary evidence on such foundation as the Court determines to be reliable, consistent with the summary nature of the proceeding.~~

COMMENT TO 2024 AMENDMENTS

These amendments “restyle” the Arizona Tax Court Rules of Practice in a manner similar to the 2017 restyling of the Arizona Rules of Civil Procedure. By using clearer language and, if possible, plain English, these rules should be easier to understand. The restyled rules avoid long sentences, ambiguous terminology (such as the word “shall”), and legal jargon. These rules also use consistent formatting conventions and terminology.