

Arizona Tax Court Rules of Practice

Prefatory Comment

In 2002, a committee composed of tax practitioners from the private and public sectors who practice in the Arizona Tax Court, chaired by the Honorable Paul A. Katz, Presiding Judge of the Arizona Tax Court, undertook a revision of the Arizona Tax Court Rules of Practice. The committee sought to simplify procedures, eliminate redundant and inconsistent rules, and increase the efficiency of case processing. Part of the committee's recommendation to the Supreme Court, which was adopted in January 2003, was to delete numerous tax court rules that were duplicative of or inconsistent with the Arizona Rules of Civil Procedure and the Local Rules of Practice, Maricopa County Superior Court, as these sets of rules govern proceedings in the Arizona Tax Court.

The 2024 amendments further restyle the Arizona Tax Court Rules of Practice, in a manner similar to the 2017 restyling of the Arizona Rules of Civil Procedure. Clearer language and improved syntax should make these rules even easier to understand. The 2024 restyling also makes greater use of section titles and uses more consistent formatting conventions and terminology, which should also add clarity and assist readers in locating pertinent provisions.

Part I. General Provisions

Rule 1. Arizona Tax Court

The Arizona Tax Court is the Tax Department of the Superior Court in Maricopa County.

Rule 2. Applicable Court Rules

Except as otherwise provided, the following rules govern all Arizona Tax Court proceedings:

- (a) the Arizona Rules of Civil Procedure (“Civil Rules”), except Civil Rule 42.1, which provides for a change of judge as a matter of right,
- (b) the Local Rules of Practice for the Superior Court in Maricopa County (“Local Rules”), and
- (c) these Tax Court rules.

Rule 3. Tax Court clerk

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The Maricopa County Superior Court Clerk (“Clerk”) will assign a deputy superior court clerk to serve as the Tax Court clerk (“Tax Court clerk.”).

Comment to the 2024 Amendment.

References in these rules to the elected Maricopa County Superior Court Clerk are shown with a capital “C.” References to a deputy clerk, including the tax court clerk, who is a deputy Superior Court clerk, are shown with a lower case “c.”

Rule 4. Case Numbering

- (a) **Generally.** Except as provided in this rule, every Tax Court case must be numbered as the Clerk directs.
- (b) **Assigned Number.** The Clerk’s Office must assign a number to every case filed with the Tax Court.
- (c) **Prefix.**
 - (1) ***Small Tax Claims (“ST”).*** Cases filed in the Tax Court as Small Claims Procedures under A.R.S. § 12-172 must be numbered with the alphabetical prefix, “ST” and may be referred to as Small Tax Claims.
 - (2) ***All Other Cases (“TX”).*** Except for cases filed as Small Claims Procedures, all other cases filed in the Tax Court must be numbered with the alphabetical prefix “TX.”

Rule 5. Filing

Pleadings and other papers must be filed with the Tax Court by mailing them to, or directly filing them with, the Tax Court clerk, but otherwise these documents must be filed in the same manner as other pleadings and documents are filed under Civil Rule 5.1.

Rule 6. Cases Transferred to the Tax Court

- (a) **Transferred Cases.**
 - (1) ***Renumbering.*** If a tax case is filed in the superior court in any county, but not in the Tax Court, and the case is later transferred to the Tax Court, then the Tax Court clerk must renumber the case as if it were a newly filed tax case under Rule 4.

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- (2) **Cover Sheet.** The plaintiff in transferred cases must comply with Rule 10 by filing a Cover Sheet no later than 30 days after entry of the transfer order.

(b) Transferring Files; Fees.

- (1) **Transfer of the Case File.** Promptly upon entry of a transfer order, the transferring county's superior court clerk must transmit the complete case file, including all exhibits and certified transcripts to the Tax Court clerk.
- (2) **Remitting Fees.** If the case is transferred from a county other than Maricopa, the transferring county's superior court clerk must remit to the Tax Court clerk any filing and appearance fees the parties paid to the transferring clerk.
- (3) **Surcharges.** If the case was first filed in a county other than Maricopa County, the parties must pay to the Tax Court clerk applicable document storage fees, retrieval fees, and other applicable surcharges. Parties must make their respective payments no later than 30 days after entry of the transfer order.

Comment to the 2024 Amendment.

See A.R.S. § 12-165 for provisions on venue.

Rule 7. Documents Stamped by Clerk

The clerk must stamp on each document filed with the Tax Court the date and time the document is received and the filing date. If a document is filed by mail, the filing date is the postmark date on the envelope received by the Tax Court clerk. If a filing arrives by mail with no discernible postmark, the filing date is the date the Tax Court clerk receives the document, unless the filing party provides the Tax Court with proof of the date of mailing.

Rule 8. Court Title in the Caption.

The court title used in the caption of documents filed in the Arizona Tax Court is two lines, as follows:

THE SUPERIOR COURT OF THE STATE OF ARIZONA

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IN THE ARIZONA TAX COURT

Rule 9(b) contains other requirements for the caption.

Rule 9. Form of Documents

- (a) Representatives.** If a party's representative files a document, and the representative is not an active member of the State Bar of Arizona, the document must contain the information required by Local Rule 2.15(a), except for the State Bar attorney identification number. If a document is prepared by a representative who is certified or registered by any governmental body for a reason relating to taxation, the document must also contain the representative's certification or registration information. For purposes of this rule, examples of certification or registration are "CPA" or "IRS Enrolled Agent."
- (b) Caption.** The court title in Rule 8 must appear centered on or below line 6 of the first page of every filed document, and the first page must also contain:
- (1)** Below the court title and to the left of the center of the page, 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)** the Title in the Arizona Revised Statutes that provides for the tax that is the subject of the plaintiff's claim, unless the applicable Title is Title 42.
 - (A)** If the applicable Title is Title 42, one of the following designations must appear:
 - (i)** Property Tax,
 - (ii)** Transaction Privilege Tax, or
 - (iii)** Unspecified Title 42.

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- (B) If the action is an appeal concerning a municipal tax, the word “MUNICIPAL” should replace the A.R.S. title required above.
- (C) If a party elects to proceed as a Small Tax Claim under Part II of these rules, the words “SMALL CLAIMS PROCEDURE” should be inserted below the identification of the appropriate title.

Comment to the 2024 Amendment.

Regarding representatives, see A.R.S. § 12-174(B).

Rule 10. Required Cover Sheet

A plaintiff who files a case in the Tax Court must submit to the Tax Court clerk a designated form maintained by the Superior Court in Maricopa County, and provide the indicated information concerning the parties, their representatives, and the plaintiff’s claim.

Rule 11. Repealed.

Rule 12. Hearings and Trials Outside of Maricopa County

- (a) **Location.** Trials and hearings that require the taking of evidence may be held in any Arizona county.
- (b) **Forum.** In determining where the Tax Court will sit, the court 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 a trial or hearing to be held at a location other than in Maricopa County, the party must file an application no later than 60 days before the trial or hearing. The application must state the reason the applicant believes a trial or hearing in another county would be more convenient.
- (d) **Response and Reply.** Parties may file responses and replies concerning the application as provided in Civil Rule 7.1(a)(3).

Rule 13. Juries

If a jury is required for a trial in the Tax Court, all local rules for the county in which the Tax Court is sitting concerning jurors or juries will apply.

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Rule 14. Pending Appeals Calendar

- (a) **Generally.** The Tax Court must maintain a pending appeals calendar for cases which it anticipates will be fully resolved by an appellate decision pending in another case.
- (b) **Placement on the Pending Appeals Calendar.**
- (1) **Procedure.** A case may be placed on the pending appeals calendar by joint motion of all parties. The joint motion must contain a statement by all parties that they believe all issues that remain in dispute in the case may be resolved by the pending appellate decision. After reviewing the joint motion, the Tax Court may convene a conference with all parties to review the issues to be decided in the Tax Court case. If the Tax Court determines that all issues remaining in the Tax Court case may be resolved by the pending appellate decision, the Tax Court case may be placed on the pending appeals calendar.
- (2) **Remaining Issues.** If after reviewing the filings and possibly convening a conference, the Tax Court determines that issues will still need to be tried after the appellate case is decided, the Tax Court may, with the consent of all the parties, proceed to decide those issues in due course.
- (c) **Dismissal Calendar.** Cases on the pending appeals calendar must remain in an inactive status for an indefinite period pending the appellate decision. Once the appropriate appellate court files its mandate resolving the pending appellate decision, the Tax Court must remove the Tax Court case from the pending appeals calendar. The Tax Court then must place the case on the dismissal calendar for at least 60 days so the appropriate party may prepare a formal written judgment for approval by the Tax Court. If no proposed judgment is presented, the case will be dismissed without further notice.
- (d) **Issues Not Resolved by the Mandate.** Once the mandate is filed, if a party believes the appellate decision did not resolve all of the issues in the Tax Court case, that party may file an application in the Tax Court requesting further proceedings believed necessary. When such an application is filed, the Tax Court must review the appellate decision and the Tax Court case, and then determine whether the appellate decision has resolved all the issues in Tax Court case. The Tax Court then must issue further appropriate orders.

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- (e) **Notice to the Tax Court.** The Tax Court may request that a party or parties notify the Tax Court in writing within 10 days of the filing of a mandate in an appellate decision that resolves all issues that remain in dispute case.

Rule 15. Publication of Tax Court Decisions

The Tax Court may 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 may post on its website unpublished decisions that it determines involve substantive or significant issues of legal interpretation or procedure.
- (b) **Posting on Request.** The Tax Court may, on the request of either party or the judge or commissioner, post on its website an unpublished tax decision from any superior court of this state, including decisions in Small Tax Claims cases. The posting of any decision, or not posting a decision, must not be construed as endorsement or rejection of the decision by the Tax Court.
- (c) **Not Precedent.** Unpublished decisions on the Tax Court website must prominently indicate that they are not binding authority and are not legal precedent.
- (d) **Time Posted.** Unpublished decisions must remain posted on the Tax Court's website for three years from the filing date, unless the Tax Court determines that a different length of time is appropriate.

Editors' Notes

Committee Comment [2007 Addition]

The addition of this new rule is intended to comply with A.R.S. § 42-2077(D). The committee does not read A.R.S. § 42-2077 to require, and this rule is not intended to require, the Tax Court to provide copies of any unpublished decisions posted pursuant to this rule to the state library or any law libraries. It is intended that unpublished decisions as referred to in this rule include superior court tax decisions not issued by the Tax Court, Tax Court small claim cases, and any other type of tax decision, including those written by a superior court.

Rule 16. Uniform Interrogatories

Appendix 1 contains Uniform Interrogatories for use in property tax disputes under these rules.

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[**Note to the Publisher:** The following interrogatories should be published in an appendix after the last Tax Court rule (Rule 26) rather than being published between Rules 16 and 17. The current posting makes it easy to overlook the last several Tax Court rules. See further the note after Rule 26 below.]

Part II. Small Tax Claims Procedures

Rule 17. Application of Small Tax Claims Rules

Rules 1 through 16 apply to all Tax Court cases, including small tax claims. Rules 18 through 26 apply only to small tax claims cases.

Rule 18. Election of Small Claims Procedures

- (a) **Election by Plaintiff.** A taxpayer plaintiff elects to use small tax claims procedures by placing the legend, “SMALL TAX CLAIMS PROCEDURE,” as directed in Rule 9.
- (b) **Election by Defendant.** A taxpayer defendant elects to use small tax claims procedures by filing a “Notice of Election to Use Small Tax Claims Procedures” with the answer.
- (c) **Controverting a Defendant’s Election.** If a “Notice of Election to Use Small Claims Tax Procedures” is filed by a taxpayer defendant, and the plaintiff asserts that the case does not meet the requirements for a small tax claim, as set out in A.R.S. § 12-172, the plaintiff may, within 10 days of the filing of the answer, controvert the defendant’s election. A Tax Court judge or commissioner will rule on the issue.

Rule 19. Reclassification in Small Tax Claims Cases

If a defendant taxpayer elects to proceed under the small tax claims procedures in A.R.S. § 12-172, and the election is not controverted, or if it is controverted but overruled, the case must be reclassified as a Small Tax Claim, and the clerk must assign the case a new number as provided in Rule 4.

Rule 20. Reclassification When Small Tax Claim Requirements Not Met

- (a) **Reclassification Generally.** If the Tax Court determines that a case designated as a Small Tax Claim does not meet the requirements of A.R.S. § 12-172, the Tax Court must reclassify the case as a “TX” tax case. The clerk must then assign the case a new number as provided in Rule 4.

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- (b) **Fees.** After assigning a new case number under section (a), the Clerk’s Office must 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 party previously paid to file or appear, and the statutory fees required for a “TX” case. Parties must pay the assessment no later than 10 days after the clerk transmits the assessment notice.

Rule 21. Clerk to Serve Small Tax Complaint

When a Small Tax Claims case is filed, the Tax Court clerk must serve a copy of the complaint on the applicable state or local taxing authority by mail. Service is effective when the Taxing Authority receives the complaint.

Rule 22. Non-Lawyer Representation in Small Tax Claims

In Small Tax Claims cases, the Tax Court may allow a person who is not an active member of the State Bar of Arizona to represent a party. The Tax Court must establish a written procedure for this purpose, which must be available from the Tax Court upon request.

Rule 23. Dismissal of Small Tax Claims Cases

A taxpayer may dismiss a Small Tax Claims case by filing a Notice of Dismissal with the Tax Court clerk before an 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 dismissal 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 24. Repealed, effective January 1, 2014.

Rule 25. Hearings and Trials in Small Tax Claims Cases.

All testimony in a Small Tax Claims case hearing or trial must be given under oath. The court is not required to make an audio or video recording of the hearing or trial.

Rule 26. Introduction of Evidence

A small claims trial must be 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.

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Note to the Publisher: Appendix 1 as proposed by this draft would contain the content of the uniform interrogatories currently located directly after Rule 16. There are no changes to the content or to the numbering of those interrogatories. The sole change is to the title, which should now be as follows:

APPENDIX 1. UNIFORM INTERROGATORIES FOR USE IN PROPERTY TAX DISPUTES

[Interrogatories currently located after Rule 16 to be set forth here.]