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5
6 IN THE SUPREME COURT STATE OF ARIZONA

7 In the Matter of

Arizona Supreme Court No. R-23-0016

8
9 ARIZONA TAX COURT
RULES OF PRACTICE

COMMENT OF JOHN P. AGER TO
SUPPLEMENTAL TAX RULES
PETITION

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12 Pursuant to Rule 28(g), Rules of the Supreme Court of Arizona, I submit the
13 following Comment in support of the Supplemental Petition filed in the above-captioned
14 matter proposing amendments to the Tax Court Rules of Practice.

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16 The proposed amendments include significant stylistic and organizational changes,
17 in addition to substantive changes, which clarify and modernize the rule set, and conform
18 the language to current style conventions. The proposed changes have been carefully
19 considered and extremely well-vetted by vested stakeholders, including a subcommittee
20 of the State Bar of Arizona Civil Practice and Procedure Committee, of which I was the
21 chairperson. The amendments would make the rules more useful and accessible to
22 everyone, especially less experienced practitioners and self-represented litigants,
23 promoting access to justice.
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PROPOSED ADDITIONAL STYLISTIC AMENDMENTS

Attached in strikethrough and underline format as Exhibit 1, and in clean format as Exhibit 2, are additional proposed stylistic modifications, which even better conform the proposed amendments to current conventions.

MINOR SUBSTANTIVE ISSUES TO BE ADDRESSED

Consideration of the following substantive issues may improve the rule set as well.

Rule 10(b)(3) - Surcharges on Transfer of a Case to Tax Court

Rule 10(b)(3) addresses surcharges associated with cases which are filed in counties other than Maricopa County and transferred to the Tax Court. It requires the payment of document storage fees, retrieval fees, and other applicable surcharges no later than 30 days after entry of the transfer order. It is unclear from the rules how and when the parties are to be made aware of the amount of these fees.

Rule 14(c) - Dismissal Following Appeal

Rule 14(c) addresses dismissal after an appeals court has issued its mandate. The rule requires the “appropriate party” to file a motion for entry of judgment, or face dismissal. This seems to assume all issues will be resolved on appeal, but what if they are not? Some undecided issues may not be submitted to an appeals court and remain to be decided by the Tax Court after an appeal, as contemplated by Rule 14(b)(2). A mandate might also require the Tax Court to take further action before a judgment can or should be entered.

1 **CONCLUSION**

2 The amendments to the Tax Court Rules of Practice will keep the rule set
3 consistent and up to date with current conventions and promote access to justice. The
4 Supreme Court should adopt the rules as amended by Petitioner, with the additional
5 amendments proposed in this Comment. Supreme Court should also consider the
6 substantive issues noted in this comment.
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8 DATED this 23rd day of October, 2024.
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10 SANDWEG & AGER, P.C.

11 By /s/ John P. Ager
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13 1221 E. Osborn Road, Suite 100
14 Phoenix, Arizona 85014-5540
15 Attorneys for Plaintiff

16 This comment has been filed via electronic filing in accordance with deadlines set forth
17 in the Supreme Court’s August 19, 2024 order.

18 A copy of this Comment has been emailed to the Petitioner at the following:

19 The Honorable Sara J. Agne
20 Presiding Judge, Arizona Tax Court
21 101 W. Jefferson Street
22 Phoenix, Arizona 85003
23 Sara.Agne@JBAZMC.Maricopa.Gov
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