

1 Honorable Dean M. Fink
2 Presiding Judge, Arizona Tax Court
3 Superior Court of Arizona, Maricopa County
4 125 W. Washington St., Suite 202
Phoenix, AZ 85003
(602) 506-3776

5 IN THE SUPREME COURT OF THE STATE OF ARIZONA

6
7 In the Matter of:

} Supreme Court No. R-13-____

8
9 PETITION TO REPEAL RULE 24
10 OF ARIZONA TAX COURT RULES
11 OF PRACTICE

12
13 Pursuant to Rule 28, Rules of the Supreme Court of Arizona, the Presiding
14 Judge of the Arizona Tax Court, respectfully petitions this Court to repeal Rule
15 24 of the Arizona Tax Court Rules of Practice. Rule 24 provides a timeframe in
16 which the Tax Court must set small tax cases for trial. However, this rule is
17 unnecessary and not required by law.

18 The timeframe in Rule 24 is merely a guideline. No statute provides a
19 timeframe for setting small tax trials, there is no constitutional time requirement
20 for this timeframe, and the timeframe provided by Rule 24 is not jurisdictional.
21 As a result, the timeframe is simply unnecessary and should be removed from
22 the rules. No other case type has a rule setting a timeframe for trials without a
23 statutory or constitutional basis for the timeframe. In addition, there is no
24 penalty provided by rule or statute for failing to set a small tax case for trial
25 within nine months.

26 Last year, the timeframe was extended from six months to nine months
27 without a single objection. The fact that this timeframe can simply be extended
28 by a rule petition further demonstrates that it is merely a guideline without an

1 underlying legal basis.

2 Even without a timeframe set by the Arizona Tax Court Rules of Practice,
3 the Arizona Tax Court will diligently set small tax cases for trial as soon as
4 practicable after the filing of the Answer or the notice to the Tax Court of the
5 taxpayer's election that the case proceed as a small claim.

6 For the foregoing reasons, the Presiding Judge of the Arizona Tax Court,
7 respectfully requests this Court repeal Rule 24 of the Arizona Tax Court Rules
8 of Practice.

9 Respectfully submitted this 10th day of January, 2013.

10
11
12 Hon. Dean M. Fink
13 Presiding Judge, Arizona Tax Court_____
Superior Court of Arizona, Maricopa County

14 Original and six (6) copies delivered this
15 10th day of January, 2013 to:

16 Clerk of the Arizona Supreme Court
17 1501 W. Washington, Suite 402
18 Phoenix, AZ 85007

19 Copy delivered this
20 10th day of January, 2013 to:

21 David K. Byers, Director
22 Administrative Office of the Courts
23 1501 W. Washington St.
24 Phoenix, Arizona 85007
25
26
27
28

1 Exhibit A

2 **Arizona Tax Court Rules of Practice**

3 **~~Rule 24. Setting Small Claims for Trial~~**

4 ~~The Court will set a small tax case for trial so that it will be tried within nine (9)~~
5 ~~months of the filing of an Answer or notice to the Tax Court of the taxpayer's~~
6 ~~election that the case proceed as a small claim, whichever is later. The Presiding~~
7 ~~Judge of the Superior Court in Maricopa County by Administrative Order may~~
8 ~~extend the time to trial for extraordinary circumstances.~~