

Purpose

This Notice is to advise all Chief Counsel employees of the procedures for obtaining access to United States Tax Court facilities in field locations, including courtrooms and respondent's (or petitioner's) counsel room, prior to the normal opening of the facilities by Tax Court personnel for scheduled sessions of the court.

Background

On occasion, Chief Counsel employees may wish to gain access to Tax Court facilities prior to the opening of a trial calendar in order to set up files, exhibits, or equipment in connection with a scheduled proceeding. Recently, Chief Counsel employees have entered courtroom space and respondent's counsel room without the permission of the court. Unless arranged beforehand with the presiding judge or other appropriate Tax Court officials with the knowledge of the opposing party, such access may give rise to an appearance of unfairness or impropriety.

Procedure

Tax Court facilities maintained in field locations, including courtrooms and counsel rooms, are spaces belonging to the Tax Court. Access to this space is under the exclusive control of the Tax Court, even when the court's facilities are located in federal buildings to which Chief Counsel employees otherwise may have access. If Chief Counsel employees require access to any Tax Court space before the commencement of the trial session, they must request permission in advance from either the presiding judge or other appropriate Tax Court official and should follow the directions given with respect to the request for access. For example, if there is a need to deliver and set up voluminous files or exhibits in advance of the commencement of the session in connection with the trial of large case, arrangements should be made through a

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telephone conference with the presiding judge and opposing party. The judge may require advance contact with the trial clerk at the session or communication with the Office of the Clerk of the Court in Washington, D.C. If the presiding judge is unavailable for a telephone conference, the calendar administrator should contact the Clerks' Office in Washington by telephone at (202) 606-8754 to make a request.

Chief Counsel employees should not under any circumstances enter any of the court's space without first obtaining permission from the presiding judge or the Office of the Clerk of the Court. This prohibition includes any request that building security or courtroom security officers unlock a courtroom or counsel room. This prohibition also includes any use of any available office keys that may operate locks on courtrooms or counsel rooms in federal buildings. In addition, if Chief Counsel employees arrive at court for a session and find that the facilities have been unlocked and opened by building security or by a court security officer before the arrival of the trial clerk, Chief Counsel employees should not enter the court's facilities until the trial clerk has arrived, unless advance arrangements have been made as described above.

Unauthorized or premature access to courthouse facilities creates a perception problem. Further, the Tax Court's files and internal papers of the presiding judge, not available to the parties, may have been delivered for storage in the courtroom in advance of the session, or left in the courtroom after each day's proceedings. Thus, court facilities are restricted when court personnel are not present. Finally, if any Chief Counsel employee has possession of any keys to Tax Court facilities, the employee should immediately contact the Special Counsel listed below.

Questions concerning this Notice should be directed to Peter Reilly, Special Counsel (Tax Practice & Procedure), APJP, Branch 3, at (202) 622-7071.

/s/ DEBORAH A. BUTLER Associate Chief Counsel (Procedure & Administration)