

TITLE XVII
SMALL TAX CASES¹

RULE 170. GENERAL²

The Rules of this Title XVII, referred to herein as the “Small Tax Case Rules”, set forth the special provisions which are to be applied to small tax cases. The term “small tax case” means a case in which the amount in dispute is \$50,000 or less (within the meaning of the Internal Revenue Code) and the Court has concurred in the petitioner’s election. See Code secs. 7436(c) and 7463. Except as otherwise provided in these Small Tax Case Rules, the other Rules of practice of the Court are applicable to such cases.

**RULE 171. ELECTION OF SMALL TAX CASE
PROCEDURE³**

With respect to classification of a case as a small tax case, the following shall apply:

(a) A petitioner who wishes to have the proceedings in the case conducted as a small tax case may so request at the time the petition is filed. See Rule 173.

(b) A petitioner may, at any time after the petition is filed and before trial, request that the proceedings be conducted as a small tax case.

¹Title XVII sets forth the procedures to be applied in small tax cases, which can now include proceedings under Code section 7436(c). Code section 7436(c) was added by section 1454(a) of the Taxpayer Relief Act of 1997, Pub. L. 105–34, 111 Stat. 1055, and provides for the applicability of the small tax case procedures in certain actions for redetermination of employment status, effective on August 5, 1997. Additionally, the maximum amount in dispute in a case eligible for the small tax case procedures was increased from \$10,000 to \$50,000 by section 3103(a) and (b)(1) of the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105–206, 112 Stat. 731, effective with respect to proceedings commenced after July 22, 1998.

²The amendments of Rule 170 generally are effective as of June 30, 2003; except that the amendment relating to the amount in dispute (\$50,000 or less) is effective with respect to proceedings commenced after July 22, 1998; and the amendment relating to Code section 7436(c) is effective with respect to proceedings commenced on or after August 5, 1997.

³The amendments are effective as of June 30, 2003.

(c) If such request is made in accordance with the provisions of this Rule 171, then the case will be docketed as a small tax case. The Court, on its own motion or on the motion of a party to the case, may, at any time before the trial commences, issue an order directing that the small tax case designation be removed and that the proceedings not be conducted under the Small Tax Case Rules. If no such order is issued, then the petitioner will be considered to have exercised the petitioner's option and the Court shall be deemed to have concurred therein, at the commencement of the trial.

RULE 172. REPRESENTATION¹

A petitioner in a small tax case may appear without representation or may be represented by any person admitted to practice before the Court. As to representation, see Rule 24.

RULE 173. PLEADINGS²

(a) Petition: (1) *Form and Content:* The petition in a small tax case shall be substantially in accordance with Form 2 shown in Appendix I.

(2) *Filing Fee:* The fee for filing a petition shall be \$60, payable at the time of filing. The payment of any fee under this paragraph may be waived if the petitioner establishes to the satisfaction of the Court by an affidavit containing specific financial information the inability to make such payment.

(b) Answer: No answer is required to be filed in a small tax case, except where there is an issue on which the Commissioner bears the burden of proof or where the Court otherwise directs. Where an answer is filed, the provisions of Rule 36 shall apply. In a case where no answer is filed, the allegations of error and facts relating thereto set forth in the petition shall be deemed denied.

(c) Reply: A reply to the answer shall not be filed unless the Court otherwise directs. Any reply shall conform to the requirements of Rule 37(b). In the absence of a requirement of a reply, the provisions of the second sentence of Rule

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37(c) shall not apply and the affirmative allegations of the answer shall be deemed denied.

RULE 174. TRIAL¹

(a) **Place of Trial:** At the time of filing the petition, the petitioner may, in accordance with Form 5 in Appendix I or by other separate writing, designate the place where the petitioner would prefer the trial to be held. If the petitioner has not filed such a designation, then the Commissioner shall, within 30 days after the date of service of the petition, file a designation showing the place of trial preferred by the Commissioner. The Court will make every effort to conduct the trial at the location most convenient to that designated where suitable facilities are available.

(b) **Conduct of Trial and Evidence:** Trials of small tax cases will be conducted as informally as possible consistent with orderly procedure, and any evidence deemed by the Court to have probative value shall be admissible.

(c) **Briefs:** Neither briefs nor oral arguments will be required in small tax cases unless the Court otherwise directs.

RULE 175. NUMBER OF COPIES OF PAPERS²

Only an original and two copies of any paper need be filed in a small tax case. An additional copy shall be filed for each additional docketed case which has been, or is requested to be, consolidated.

¹The amendments are effective as of June 30, 2003.

²The amendments are effective as of June 30, 2003.