

objection, accompanied or preceded by an alternative computation, then, on or before a date specified in the Clerk's notice, the Court may enter decision in accordance with the computation already submitted. If in accordance with this Rule computations are submitted by the parties which differ as to the amount to be entered as the decision of the Court, then the parties may, at the Court's discretion, be afforded an opportunity to be heard in argument thereon and the Court will determine the correct deficiency, liability, or overpayment and will enter its decision accordingly.

(c) **Limit on Argument:** Any argument under this Rule will be confined strictly to consideration of the correct computation of the deficiency, liability, or overpayment resulting from the findings and conclusions made by the Court, and no argument will be heard upon or consideration given to the issues or matters disposed of by the Court's findings and conclusions or to any new issues. This Rule is not to be regarded as affording an opportunity for retrial or reconsideration.

Rule 156. Estate Tax Deduction Developing at or After Trial

If the parties in an estate tax case are unable to agree under Rule 155, or under a remand, upon a deduction involving expenses incurred at or after the trial, then any party may move to reopen the case for further trial on that issue.

Rule 157. Motion to Retain File in Estate Tax Case Involving Section 6166 Election

In any estate tax case in which the time for payment of an amount of tax imposed by Code Section 2001 has been extended under Code Section 6166, the petitioner shall, after the decision is entered but before it becomes final, move the Court to retain the Court's official case file pending the commencement of any supplemental proceeding under Rule 262.

TITLE XVI.—POST-TRIAL PROCEEDINGS

Rule 160. Harmless Error

No error in either the admission or exclusion of evidence, and no error or defect in any ruling or order or in anything done or omitted by the Court or by any of the parties, is ground for granting a new trial or for vacating, modifying, or otherwise disturbing a decision or order, unless refusal to take such action appears to the Court inconsistent with substantial justice. The Court at every stage of a case will disregard any error or defect which does not affect the substantial rights of the parties.

Rule 161. Motion for Reconsideration of Findings or Opinion

Any motion for reconsideration of an opinion or findings of fact, with or without a new or further trial, shall be filed within 30 days after a written opinion or the pages of the transcript that contain findings of fact or opinion stated orally pursuant to Rule 152 (or a written summary thereof) have been served, unless the Court shall otherwise permit.

Rule 162. Motion to Vacate or Revise Decision

Any motion to vacate or revise a decision, with or without a new or further trial, shall be filed within 30 days after the decision has been entered, unless the Court shall otherwise permit.

Rule 163. No Joinder of Motions Under Rules 161 and 162

Motions under Rules 161 and 162 shall be made separately from each other and not joined to or made part of any other motion.

TITLE XVII.—SMALL TAX CASES

Rule 170. General

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 as defined in Rule 171. See Code Section 7463 (Appendix II). 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. Small Tax Case Defined

The term "small tax case" means a case in which:

(a) Neither the amount of the deficiency, nor the amount of any claimed overpayment, placed in dispute (including any additions to tax, additional amounts, and penalties) exceeds—

- (1) \$10,000 for any one taxable year in the case of income taxes,
- (2) \$10,000 in the case of estate taxes,
- (3) \$10,000 for any one calendar year in the case of gift taxes, or
- (4) \$10,000 for any one taxable period or, if there is no taxable period, for any taxable event in the case of excise taxes under Code Chapter 41, 42, 43, or 44 (taxes on certain organizations and persons dealing with them) or under Code Chapter 45 (windfall profit tax);

(b) The petitioner has made a request in accordance with Rule 172 to have the proceedings conducted under Code Section 7463; and

(c) The Court has not entered an order in accordance with Rule 172(d) or Rule 173, discontinuing the proceedings in the case under Code Section 7463.

Rule 172. Election of Small Tax Case Procedure

With respect to classification of a case as a small tax case under Code Section 7463, the following shall apply:

(a) A petitioner who wishes to have the proceeding in the case conducted under Code Section 7463 may so request at the time the petition is filed. See Rule 175.

(b) A petitioner may, at any time after the petition is filed and before trial, request that the proceedings be conducted under Code Section 7463.

(c) If such request is made in accordance with the provisions of this Rule 172, 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, enter an order directing that the small tax case designation shall be removed and that the proceedings shall not be conducted under the Small Tax Case Rules. If no such order is entered, then the petitioner will be considered to have exercised the petitioner's option and the Court shall be deemed to have concurred therein, in accordance with Code Section 7463, at the commencement of the trial.

Rule 173. Discontinuance of Proceedings

After the commencement of a trial of a small tax case, but before the decision in the case becomes final, the Court may order that the proceedings be discontinued under Code Section 7463, and that the case be tried under the Rules of Practice other than the Small Tax Case Rules, but such order will be issued only if (1) there are reasonable grounds for believing that the amount of the deficiency, or the claimed overpayment, in dispute will exceed \$10,000 and (2) the Court finds that justice requires the discontinuance of the proceedings under Code Section 7463, taking into consideration the convenience and expenses for both parties that would result from the order.

Rule 174. Representation

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 175. Pleadings

(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, or shall, in the alternative, comply with the requirements of Rule 34(b), and contain additionally (A) the location of the office of the Internal Revenue Service which issued the deficiency notice, (B) the taxpayer identification number (e.g., social security number) of each petitioner, and (C) a request that the proceedings be conducted under Code Section 7463.

(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.

(3) *Verification Not Required:* The petition need not be verified, unless the Court directs otherwise.

(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, on its own motion or upon motion of the Commissioner, shall otherwise direct. Any reply shall conform to the re-

quirements of Rule 37(b). In the absence of a requirement of a reply, the provisions of the second sentence of Rule 37(c) shall not apply and the affirmative allegations of the answer will be deemed denied.

Rule 176. Preliminary Hearings

If, in a small tax case, it becomes necessary to hold a hearing on a motion or other preliminary matter, the parties may submit their views in writing and may, but shall not ordinarily be required to, appear personally at such hearing. However, if the Court deems it advisable for the petitioner or the petitioner's counsel to appear personally, the Court will so notify the petitioner or the petitioner's counsel and will make every effort to schedule such a hearing at a place convenient to them.

Rule 177. Trial

(a) **Place of Trial:** At the time of filing the petition, the petitioner may, in accordance with Form 4 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, but the Court on its own motion or upon request of either party may permit the filing of briefs or memorandum briefs.

Rule 178. Transcripts of Proceedings

The hearing in, or trial of, a small tax case shall be stenographically reported or otherwise reported but a transcript thereof need not be made unless the Court otherwise directs.

Rule 179. Number of Copies of Papers

Only an original and two conformed 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.

TITLE XVIII.—SPECIAL TRIAL JUDGES

Rule 180. Assignment

The Chief Judge may from time to time designate a Special Trial Judge (see Rule 3(d)) to deal with any matter pending before the Court in accordance with these Rules and such directions as may be prescribed by the Chief Judge.

Rule 181. Powers and Duties

Subject to the specifications and limitations in orders designating Special Trial Judges and