

SUPREME COURT OF ARIZONA

In the Matter of ) Arizona Supreme Court  
 ) No. R-10-0024  
PETITION TO AMEND RULES 6, 18, )  
19, 20, and 24 OF ARIZONA TAX )  
COURT RULES OF PRACTICE )  
 ) **FILED 09/01/2011**  
 )  
\_\_\_\_\_ )

**ORDER  
AMENDING RULES 6, 18, 19, 20, AND 24, ARIZONA TAX COURT RULES OF  
PRACTICE**

A petition having been filed proposing to amend Rules 6, 18, 19, 20, and 24 of the Arizona Tax Court Rules of Practice, and comments having been received, upon consideration,

IT IS ORDERED that Rules 6, 18, 19, 20, and 24, Arizona Tax Court Rules of Practice, be amended in accordance with the attachment hereto, effective January 1, 2012.

DATED this \_\_\_\_\_ day of September, 2011.

\_\_\_\_\_  
REBECCA WHITE BERCH  
Chief Justice

TO:  
Rule 28 Distribution  
Dean M Fink  
Mark C Faull  
mwa

## ATTACHMENT<sup>1</sup>

### Arizona Tax Court Rules of Practice

#### Rules 1-5 [No change in text.]

#### Rule 6. Cases Transferred to the Tax Court

(a) Tax cases filed in the Superior Court, but not in the Tax Court, which are later transferred to the Tax Court shall be treated by the Clerk for purposes of Rule 34 as if they were cases newly filed in the Tax Court. In such cases, the Plaintiff shall comply with Rule 910 within 30 days of the order directing the transfer.

(b) When a tax case is transferred, the Clerk of the Superior Court from which the case is transferred shall forthwith transmit the file together with all exhibits and certified transcripts to the Clerk of the Tax Court. If the case is transferred from a county other than Maricopa, the Clerk of the county from which the case is received shall remit to the Clerk of the Maricopa County Superior Court Tax Court Department filing and appearance fees paid to the transferring Clerk by the parties. If the case was first filed other than in Maricopa County, the parties shall pay to the Clerk of the Maricopa County Superior Court Tax Court Department such document storage and retrieval fees, and other surcharges as are applicable. Such payment shall be made within 30 days of the order transferring the case.

#### Rules 7-17 [No change in text.]

#### Rule 18. Election

A taxpayer plaintiff elects to use small claims procedures by placing the legend, “SMALL CLAIMS PROCEDURE”, as directed in Rule 89. A taxpayer defendant elects to use small claims procedures by filing a “Notice of Election to Use Small Claims Procedures” with the answer. If a “Notice of Election to Use Small Claims Procedures” is filed by a taxpayer defendant, and the plaintiff asserts that the case does not meet the requirements for a small tax claim, as is set out in § 12-172, Arizona Revised Statutes, the plaintiff may, within 10 days of the filing of the answer, controvert the defendant's election. A Tax Court judge or commissioner will rule on the issue without further argument.

#### Rule 19. Reclassification when Defendant Taxpayer Elects

If a defendant taxpayer elects small claims procedures, and such election is not controverted, or if controverted, the controversion is overruled, the case shall be reclassified as a small tax claim, and the clerk shall assign the case a new number as directed in Rule 34.

#### Rule 20. Reclassification when Requirements Not Met

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<sup>1</sup> Changes or additions in rule text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~.

If the Court determines that a case designated as a small tax claim does not meet the requirements of Section 12-172, Arizona Revised Statutes, the case shall be reclassified as a record tax case. The clerk shall assign a new number as directed in Rule ~~34~~, and shall assess the taxpayer and all other parties for whom the payment of filing and appearance fees are not exempt, with the difference between what such party paid to file or appear, and the statutory fees required for a record tax case. Parties are to pay such assessment within 10 days of notice by the clerk.

**Rules 21-23 [No change in text.]**

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

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

**Rules 25-26 [No change in text.]**