

## INDIANA TAX COURT RULES

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### Rule 3. Commencement of an Action

- (A) **Appeals from Final Determinations of the Department of State Revenue.** An original tax appeal from a final determination of the Department of State Revenue is commenced by conventionally filing a petition in the Tax Court.
- (B) **Appeals from Final Determinations of the Indiana Board of Tax Review.** An original tax appeal from a final determination of the Indiana Board of Tax Review is commenced by conventionally filing a petition in the Tax Court and filing a written notice of appeal with the Indiana Board of Tax Review.
- (C) **Appeals from Final Determinations of the Department of Local Government Finance.** An original tax appeal from a final determination of the Department of Local Government Finance is commenced by conventionally filing a petition in the Tax Court.

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- (E) **Filing the Record of Judicial Review.** In original tax appeals filed under Sections (B) or (C) of this Rule, the petitioner shall request the Indiana Board of Tax Review or the Department of Local Government Finance to prepare a certified copy of the agency record by including the request in the petition. The petitioner shall ~~transmit~~ conventionally file a certified copy of the record ~~to~~ with the Tax Court within thirty (30) days after receiving notification from the Indiana Board of Tax Review or the Department of Local Government Finance that the record has been prepared.

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- (G) ~~**Documents and Information Excluded from Public Access and Confidential Pursuant to Administrative Rule 9(G).** Documents and information excluded from public access pursuant to Administrative Rule 9(G) shall be filed in accordance with Administrative Rule 9(G)(5).~~

#### Confidentiality of Court Records on Appeal.

(1) Court Records are accessible to the public, except as provided in Administrative Rule 9(G).

(2) Procedures for Excluding Court Records from Public Access on Appeal. Any Court Record excluded from Public Access on appeal must be filed in accordance with the following procedures:

(a) Notice to maintain exclusion from Public Access.

(i) In cases where the Court Record is excluded from Public Access pursuant to Administrative Rule 9(G)(2), 9(G)(3), or 9(G)(4), the party or person submitting the confidential record must provide the separate

written notice required by Administrative Rule 9(G)(5)(a) identifying the specific 9(G)(2) or 9(G)(3) ground(s) upon which exclusion is based. (See Form # App.R. 11-5)

(ii) In cases where all Court Records are excluded from Public Access in accordance with Administrative Rule 9(G)(1), no notice of exclusion from Public Access is required.

(b) Public Access and Non-Public Access Versions. Where only a portion of the Court Record has been excluded from Public Access pursuant to Administrative Rule 9(G)(2) or 9(G)(3), the following requirements apply:

(i) Public Access Version.

a. If a filing contains confidential Court Records to be excluded from Public Access, the confidential Court Record shall be omitted or redacted from this version.

b. The omission or redaction shall be indicated at the place it occurs in the Public Access version. If multiple pages are omitted, a separate place keeper insert must be inserted for each omitted page to keep PDF page numbering consistent throughout.

c. If the entire document is to be excluded from Public Access, the Administrative Rule 9(G)(5)(a) Notice filed with the document will serve as the Public Access Version.

(ii) Non-Public Access Version.

a. If the omitted or redacted Court Record is not necessary to the disposition of the case on appeal, the excluded Court Record need not be filed or tendered in any form and only the Public Access version is required. The Administrative Rule 9(G)(5)(a) Notice should indicate this fact. (See Form # App.R. 11-6)

b. If the omitted or redacted Court Record is necessary to the disposition of the case, the excluded Court Record must be separately filed or tendered as follows.

1. The first page of the Non-Public Access Version should be conspicuously marked "Not for Public Access" or "Confidential," with the caption and number of the case clearly designated.

2. The separately filed Non-Public Access version shall consist of a complete, consecutively paginated replication including both the Public Access material and the Non-Public Access material.

3. Use of green paper is abolished for E-Filing. Pages in the Non-Public Access version containing Court Records that are excluded

from Public Access shall instead be identified with a header, label, or stamp that states, “CONFIDENTIAL PER A.R. 9(G)” or “EXCLUDED FROM PUBLIC ACCESS PER A.R. 9(G).”

(iii) The requirements in Tax Court Rule 3(G)(2)(b) do not apply to cases in which all Court Records are excluded from Public Access pursuant to Administrative Rule 9(G)(1).

(4) E-Filing document security codes settings.

(a) Where only a portion of the Court Record has been excluded from Public Access pursuant to Administrative Rule 9(G)(2) or 9(G)(3), the E-Filing document security codes setting for the Public Access Version shall be “Public Document.”

(b) Where only a portion of the Court Record has been excluded from Public Access pursuant to Administrative Rule 9(G)(2) or 9(G)(3), the E-Filing document security codes setting for the Non-Public Access Version shall be “Confidential document under Admin. Rule 9.”

(c) In cases in which all Court Records are excluded from Public Access pursuant to Administrative Rule 9(G)(1), the E-Filing document security codes setting shall be “Confidential document under Admin. Rule 9.”

**(H) Attorney Information.** Any attorney that enters an appearance and initiates an original tax appeal on behalf of the named petitioner under this rule, or who enters an appearance as amicus curiae or as an intervenor on behalf of the named petitioner, shall provide the following:

(1) Certification that the contact information listed on the Indiana Supreme Court Roll of Attorneys for each attorney is current and accurate as of the date ~~of the commencement of the action~~ the appearance is filed (Attorneys can review and update their Roll of Attorneys contact information on the Clerk of Courts Portal);

(2) Acknowledgment that all orders, opinions, and notices in the matter will be sent to the email address(es) specified by the attorney on the Roll of Attorneys regardless of the contact information provided on the notice of appearance ~~form~~; and

(3) Acknowledgment that each attorney listed on the notice of appearance ~~who filed a notice of appearance form~~ is solely responsible for keeping his/her Roll of Attorneys contact information accurate per Ind. Admis. Disc. R. 2(A).

## Rule 4. Jurisdiction over Respondents and Service of Process

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### (D) Substitution of Parties.

(1) When a public officer who is made a party to an original tax appeal in his or her official capacity dies, resigns, or otherwise no longer holds the public office, the officer's successor is automatically substituted as a party.

(2) A party shall, ~~by notice filed with the Clerk, advise the~~ provide notice to the Tax Court of the succession in office of any party. The failure of any party to file a notice shall not affect the party's substantive rights.

(3) The death or incompetence of any party on appeal shall not cause the original tax appeal to abate. Successor parties may be substituted for the deceased or incompetent parties.

### (E) Responding Party Attorney Information. Any attorney that enters an appearance on behalf of the named respondent under this rule, or who enters an appearance as amicus curiae or as an intervenor on behalf of the named respondent, shall provide the following:

(1) Certification that the contact information listed on the Indiana Supreme Court Roll of Attorneys for each attorney is current and accurate as of the date ~~of the commencement of the action~~ the appearance is filed (Attorneys can review and update their Roll of Attorneys contact information on the Clerk of Courts Portal);

(2) Acknowledgment that all orders, opinions, and notices in the matter will be sent to the email address(es) specified by the attorney on the Roll of Attorneys regardless of the contact information provided on the notice of appearance ~~form~~; and

(3) Acknowledgment that each attorney listed on the notice of appearance ~~who filed a notice of appearance form~~ is solely responsible for keeping his/her Roll of Attorneys contact information accurate per Ind. Admis. Disc. R. 2(A).

## Rule 8. Hearings

### (A) Location of Hearings. All hearings, including but not limited to evidentiary hearings, trials, oral arguments, and hearings on motions, shall be conducted in Allen County, Jefferson County, Lake County, Marion County, St. Joseph County, Vanderburgh County, or Vigo County. A taxpayer who appeals to the Tax Court shall, at the time the appeal is filed, file ~~a written~~ an election as to the county in which the hearings in the appeal shall be conducted. If the taxpayer is an appellee in an appeal to the Tax Court, the taxpayer shall file such ~~written~~ an election within thirty (30) days after receiving notice of the appeal. If no such

~~written~~ election is timely filed, hearings shall be conducted in Marion County unless otherwise ordered by the Court.

(B) **No Jury Trials.** All appeals shall be tried to the Tax Court without a jury.

## **Rule 11. Court and Clerk**

(A) **Tax Court Always Open.** The Tax Court shall be deemed always open for the purpose of filing any pleadings or other proper ~~paper~~ documents, of issuing and returning any process contemplated by these rules, and of making and directing all interlocutory motions, orders, and rules. Terms of court shall not be recognized.

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(C) **Clerk, Clerk's Office, and Orders by Clerk.** The clerk of the Court is the clerk of the Supreme Court, Court of Appeals, and Tax Court, and the address of the clerk's office is State House, Room 216, Indianapolis, Indiana 46204. Except as may be otherwise provided by law, the clerk's office with the clerk or a deputy in attendance shall be open during business hours on all days except Saturdays, Sundays, and legal holidays. All motions and applications ~~in the clerk's office~~ for issuing process, for entering defaults or judgments by default, and for other proceedings which do not require allowance or order of the Court are grantable of course by the clerk; but the clerk's action may be suspended or altered or rescinded by the Court upon cause shown.

## **Rule 12. Hearings and Motions**

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### **(B) Motion, Response, and Reply**

(1) Every motion shall be accompanied by a proposed form of order, and except for motions for continuance, shall include a memorandum of law or a statement of points and authorities, explaining how relevant authorities support the contentions of the moving party.

(2) In matters other than motions for summary judgment (governed by Trial Rule 56), an opposing party may file a ~~written~~ memorandum of law or a statement of authority in response to the matters raised in any motion not later than ten (10) days from the date of service of the motion, or within such shorter or longer time as the Court may allow.

(3) A reply memorandum, if any, shall be filed within seven (7) days of the service of the responding memorandum, or within such shorter or longer time as the Court may allow.

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## Rule 14. Books and Records Kept by the Clerk and Entries

- (A) **Pleadings and Papers--Where Filed and Entered.** All pleadings, ~~papers~~ documents, and rulings, including final judgments and appealable orders, shall be filed electronically through the IEFS unless specifically exempted from E-Filing by the Tax Court or pursuant to the Supreme Court's "Order Initiating E-Filing In the Indiana Tax Court" posted at <http://courts.in.gov.efile>. ~~with~~ †The clerk of the Tax Court ~~who~~ shall ~~file and~~ keep them under a consecutive file number assigned by the clerk to each case.
- (B) **Docket Book.** The clerk of the Tax Court shall keep a docket book of such form that the file number of each case or proceeding shall be noted on the folio of the docket whereon the first entry of the action is made. All ~~papers filed with or transmitted to the clerk~~ filed documents, all process issued and returns made thereon, all appearances, orders, verdicts, judgments, enforcement proceedings, execution, and returns thereon shall be entered chronologically in the docket on the folio assigned to the action and shall be marked with its file number and the date of filing. Such entries shall be brief but shall show the nature of each ~~paper~~ document filed or writ issued and the bare substance of each order or judgment of the Tax Court and of the returns showing execution of process. Each entry shall show the date the filing, return, or entry was made, including the date of judgment or order was entered.
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- (F) **Replacing Lost ~~Papers~~ Conventionally-Filed Documents.** If an original pleading or ~~paper~~ document conventionally filed with the clerk ~~be is~~ lost, or ~~be~~ withheld by any person, the Tax Court may authorize a copy thereof to be filed and used instead of the original.

## Rule 16. Small Tax Cases

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- (C) **Manner of Service.** For the purpose of service, the notice of claim shall also be considered to be the summons. ~~A copy of~~ †The notice of claim shall be served upon the Attorney General by registered or certified mail, return receipt requested.
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- (E) **Appearances by Attorneys.** Any attorney that enters an appearance for any party under this rule shall provide the following:
- (1) Certification that the contact information listed on the Indiana Supreme Court Roll of Attorneys for each attorney is current and accurate as of the date ~~of the commencement of the action~~ the appearance is filed (Attorneys can review and update their Roll of Attorneys contact information on the Clerk of Courts Portal);

(2) Acknowledgment that all orders, opinions, and notices in the matter will be sent to the email address(es) specified by the attorney on the Roll of Attorneys regardless of the contact information provided on the [notice of appearance](#) ~~form~~; and

(3) Acknowledgment that each attorney [listed on the notice of appearance](#) ~~who filed a notice of appearance form~~ is solely responsible for keeping his/her Roll of Attorneys contact information accurate per Ind. Admis. Disc. R. 2(A).

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## **Rule 18. Mediation**

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(C) **Case Selection/Objection to Mediation Order.** After a case has been referred for mediation, a party may ~~object by filing a written objection with the Tax Court~~ [file an objection](#) within fifteen (15) days after the order of referral is entered. The party must specify the grounds for objection. The Tax Court shall promptly consider the objection and any response and determine whether the litigation should then be mediated or not. In this decision, the Tax Court shall consider the willingness of the parties to mutually resolve their dispute, the ability of the parties to participate in the mediation process, the need for discovery and the extent to which it has been conducted, and any other factors which affect the potential for fair resolution of the dispute through the mediation process. If a case is ordered for mediation, the case shall remain on the court docket and the trial calendar.

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## **Rule 19. Special Rules**

The judge of the Tax Court may from time to time make and amend rules governing practice before it not inconsistent with these rules. In all cases not provided for by rule, the Tax Court may regulate its practice in any manner not inconsistent with these rules. ~~Two (2) copies of all~~ [Any](#) special rules shall be furnished to the clerk and to the Office of the Administrator of State Courts.

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## **Rule 23. Electronic Filing and Electronic Service**

### **(A) Definitions.**

[\(1\) Case Management System \("CMS"\). Case Management System is the system of networked software and hardware used by any Indiana court that may receive, organize, store, retrieve, transmit, and display all relevant documents in any case before it.](#)

[\(2\) Conventional Filing. Conventional Filing is the physical non-electronic presentation of documents to a clerk or court.](#)

(3) *Electronic Filing (“E-Filing”). E-Filing is a method of filing documents with the clerk of any Indiana court by electronic transmission utilizing the Indiana E-Filing System.*

E-Filing does not include transmission by facsimile or by email.

(4) *E-Filing Manager (“EFM”). E-Filing Manager is the centralized entity approved by the Supreme Court that receives and transmits all E-Filing submissions between E-Filing Service Provider(s) and the appropriate CMS.*

(5) *E-Filing Service Provider (“EFSP”). E-Filing Service Provider is the organization and software selected by a User and approved by the Supreme Court to receive and transmit all E-Filing submissions between the User and the Indiana E-Filing System.*

(6) *Electronic Service (“E-Service”). E-Service is a method of serving documents by electronic transmission on any User in a case via the Indiana E-Filing System.*

(7) *Indiana E-Filing System (“IEFS”). Indiana E-Filing System is the system of networked hardware, software, and service providers approved by the Supreme Court for the filing and service of documents via the Internet, into the CMS(s) used by Indiana courts.*

(8) *Notice of Electronic Filing (“NEF”). Notice of Electronic Filing is the notice generated automatically when a document is submitted and transmitted through the IEFS, which sets forth the time of transmission, the name of the court, User, party, attorney, or administrative agency transmitting the document, the title of the document, the type of document, and the name of the court, attorney, party, or other person meant to receive the Notice. The time noted in a NEF will be the time at the location of the court where the case is pending. A NEF will appear immediately on the User’s screen upon submission of the document for E-Filing.*

(9) *Public Access Terminal. A Public Access Terminal is a publicly accessible computer provided by a clerk or court that allows a member of the public to access the IEFS and public court records.*

(10) *User Agreement. A User Agreement is an agreement in a form approved by the Division of State Court Administration that establishes obligations and responsibilities of the User within the IEFS.*

(11) *User. User is a Filing User or Registered User.*

(a) *Filing User. Filing Users include court and clerk staff, unrepresented litigants, attorneys, or an agent whom an attorney has expressly designated to make a filing on the attorney’s behalf and who has an IEFS user ID, password, and limited authority to file documents electronically.*

(b) *Registered User. A Registered User is a person or entity with a user ID and password assigned by the IEFS or its designee who is authorized to use the IEFS for the electronic filing or service of documents.*

(12) *Service Contacts. A Service Contact is a person for whom an email address and other identifying information has been entered into the IEFS by a Registered User.*

(a) Firm Service Contact. A Firm Service Contact is a Service Contact associated in the IEFS with an attorney, organization, or law firm.

(b) Public Service Contact. A Public Service Contact is a Service Contact who is listed on the Public Service List for purposes of E-Service. A Registered User may add a Service Contact to the Public Service List only if authorized by the Service Contact.

(c) Public Service List. The Public Service List is a directory of Public Service Contacts who are available for E-Service.

**(B) User Agreement Required.** Every User must execute a User Agreement with one or more EFSPs before that User may utilize the IEFS.

**(C) [Reserved]**

**(D) Electronic Filing of Documents.**

(1) Unless otherwise permitted by these rules, all documents submitted for filing in the Tax Court by an attorney must be filed electronically using the IEFS. The E-Filing of documents shall be controlled by the case number in the IEFS designated by the User.

(2) Attorneys who wish to be exempted from the requirement that they file electronically may file a motion for electronic filing exemption. The motion must be filed in each pending case to which these rules are applicable. The motion will be granted only upon a showing of good cause.

**(E) Proof of Filing.** Users should print or otherwise save each NEF as proof of E-Filing. Confirmation of E-Filing may also be made by referring to the Chronological Case Summary of the Tax Court's CMS.

**(F) Conventionally Filed Documents.** Conventionally filed documents must be entered into the CMS by the Clerk of the Tax Court. If the original documents cannot be converted into a legible electronic document, then the originals must be placed into the case file and that action must be noted in the Chronological Case Summary. The filer must also conventionally serve these documents in accordance with all applicable Tax Court Rules and file a certificate of service.

**(G) Service of Pleading and Other Papers:**

(1) Service on Public Service Contact. Registered Users must serve all documents in a case upon every other party who is a Public Service Contact through E-Service using the IEFS. E-Service has the same legal effect as service of an original paper document. E-Service of a document through the IEFS is deemed complete upon transmission, as confirmed by the NEF associated with the document. Exempt parties must serve all documents in a case as provided by all applicable Tax Court Rules.

(2) Service on Others. Service of documents on attorneys of record who are not Registered Users or on unrepresented parties who are not Public Service Contacts must be as provided by all applicable Tax Court Rules.

**(H) Format Requirements.**

(1) Documents filed electronically must conform with Tax Court Rule 22 and the requirements of the IEFS.

(2) All documents must be submitted in the manner required by the EFSP. The IEFS may be accessed via any Internet connection available to the Registered User and at Public Access Terminals located in the office of the Tax Court Clerk or the office of a county clerk.

**(I) Signature.**

(1) All documents electronically filed that require a signature must include a person's signature using one of the following methods:

(a) a graphic image of a handwritten signature, including an actual signature on a scanned document; or

(b) the indicator "/s/" followed by the person's name.

(2) A document that is signed and E-Filed is subject to the terms and provisions of either Trial Rule 11(A) or Appellate Rule 23(E), as applicable. A Registered User may include the Signature of other attorneys in documents E-Filed with the Court but in doing so represents to the Tax Court that any such Signature is authorized.

**(J) Time and Effect.** Subject to payment of all applicable fees, a document is considered E-Filed on the date and time reflected in the NEF associated with the document. E-Filing must be completed before midnight to be considered filed that day, and compliance with filing deadlines is determined in accordance with the time zone in Indianapolis, the location of the Tax Court. E-Filing under these rules shall be available 24 hours a day, except for times of required maintenance.

**(K) Official Court Record.** The electronic version of a document filed with or generated by the Tax Court under this rule is an official court record.

**(L) [Reserved]**

**(M) [Reserved]**

**(N) Inability to E-File.**

(1) IEFS Failures.

(a) The rights of the parties shall not be affected by an IEFS failure.

(b) When E-Filing is prevented by an IEFS failure, a User or party may revert to conventional filing.

(c) With the exception of deadlines that by law cannot be extended, when E-Filing is prevented by an IEFS failure, the time allowed for the filing of any document otherwise due at the time of the IEFS failure must be extended by one day for each day on which such failure occurs, unless otherwise ordered by the Tax Court.

(d) Upon motion and a showing of an IEFS failure, the Tax Court must enter an order permitting the document to be considered timely filed and may modify responsive deadlines accordingly.

(2) Other Failures Not Caused by the User Who Was Adversely Affected. When E-Filing is prevented by any other circumstance not caused by the User who was adversely affected, the User may bring such circumstances to the attention of the Tax Court and request relief as provided in either Trial Rule 6(B) or Appellate Rule 35, as applicable, or the User may revert to conventional filing.

**(O) Appearance Form in E-Filed Cases.** In all E-Filed cases, the parties shall file a notice of appearance that includes all of the information set forth in the sample notice of appearance form found at the end of the Tax Court Rules. A notice of appearance filed by an attorney shall also contain:

(1) Certification that the contact information listed on the Indiana Supreme Court Roll of Attorneys for each attorney is current and accurate as of the date the appearance is filed;

(2) Acknowledgment that all orders, opinions, and notices in the matter will be sent to the attorney at the email address(es) on the Roll of Attorneys regardless of other contact information supplied by the attorney; and

(3) Acknowledgment that each attorney listed on the appearance is solely responsible for keeping his/her Roll of Attorneys contact information accurate per Ind. Admis. Disc. R. 2(A).