

TITLE XIX

APPEALS

RULE 190. HOW APPEAL TAKEN

(a) **General:** Review of a decision of the Court by a United States Court of Appeals is obtained by filing a notice of appeal and the required filing fee with the Clerk of the Tax Court within 90 days after the decision is entered. If a timely notice of appeal is filed by one party, then any other party may take an appeal by filing a notice of appeal within 120 days after the Court's decision is entered. Code sec. 7483. For other requirements governing such an appeal, see rules 13 and 14 of the Federal Rules of Appellate Procedure. A suggested form of the notice of appeal is contained in Appendix I. See Code sec. 7482(a).

(b) **Dispositive Orders:** (1) *Entry and Appeal:* A dispositive order, including (A) an order granting or denying a motion to restrain assessment or collection, made pursuant to Code section 6213(a), and (B) an order granting or denying a motion for review of a proposed sale of seized property, made pursuant to Code section 6863(b)(3)(C), shall be entered upon the record of the Court and served forthwith by the Clerk. Such an order shall be treated as a decision of the Court for purposes of appeal.

(2) *Stay of Proceedings:* Unless so ordered, proceedings in the Tax Court shall not be stayed by virtue of any order entered under Code section 6213(a) that is or may be the subject of an appeal pursuant to Code section 7482(a)(3) or any order entered under Code section 6863(b)(3)(C) that is or may be the subject of an appeal.

(c) **Venue:** For the circuit of the Court of Appeals to which the appeal is to be taken, see Code section 7482(b).

(d) **Interlocutory Orders:** For provisions governing appeals from interlocutory orders, see Rule 193.

RULE 191. PREPARATION OF THE RECORD ON APPEAL

The Clerk will prepare the record on appeal and forward it to the Clerk of the Court of Appeals pursuant to the notice of appeal filed with the Court, in accordance with Rules 10

and 11 of the Federal Rules of Appellate Procedure. In addition, at the time the Clerk forwards the record on appeal to the Clerk of the Court of Appeals, the Clerk shall forward to each of the parties a copy of the index to the record on appeal.

RULE 192. BOND TO STAY ASSESSMENT AND COLLECTION

The filing of a notice of appeal does not stay assessment or collection of a deficiency redetermined by the Court unless, on or before the filing of the notice of appeal, a bond is filed with the Court in accordance with Code section 7485.

RULE 193. APPEALS FROM INTERLOCUTORY ORDERS

(a) **General:** For the purpose of seeking the review of any order of the Tax Court which is not otherwise immediately appealable, a party may request the Court to include, or the Court on its own motion may include, a statement in such order that a controlling question of law is involved with respect to which there is a substantial ground for difference of opinion and that an immediate appeal from that order may materially advance the ultimate termination of the litigation. Any such request by a party shall be made by motion which shall set forth with particularity the grounds therefor and note whether there is any objection thereto. Any order by a Judge or Special Trial Judge of the Tax Court which includes the above statement shall be entered upon the records of the Court and served forthwith by the Clerk. See Code sec. 7482(a)(2). For appeals from interlocutory orders generally, see rules 5 and 14 of the Federal Rules of Appellate Procedure.

(b) **Venue:** For the circuit of the Court of Appeals to which an appeal from an interlocutory order may be taken, see Code section 7482(a)(2)(B) and (b).

(c) **Stay of Proceedings:** Unless so ordered, proceedings in the Tax Court shall not be stayed by virtue of any interlocutory order that is or may be the subject of an appeal. See Code sec. 7482(a)(2)(A).