

TAX COURT OF NEW JERSEY

**RULES GOVERNING PRACTICE IN
THE TAX COURT OF NEW JERSEY**



RULES HANDBOOK

RULE 8:1. SCOPE: APPLICABILITY

The Rules in Part VIII govern the practice and procedure in all actions in the Tax Court.

RULE 8:2. REVIEW JURISDICTION

(a) General Jurisdiction. The Tax Court shall have initial review jurisdiction of all final decisions including any act, action, proceeding, ruling, decision, order or judgment including the promulgation of any rule or regulation of a County Board of Taxation, the Director of the Division of Taxation, any other state agency or official (including the Motor Vehicle Commission), or any county or municipal official with respect to a tax matter (including the realty transfer fee). The Tax Court shall have initial jurisdiction to review those local property tax assessments when review is sought pursuant to N.J.S.A. 54:51A-2 (direct review in the Tax Court of certain appeals). The Tax Court shall also have jurisdiction over any action cognizable in the Superior Court that raises any issue as to which expertise in taxation is desirable and that has been transferred to the Tax Court pursuant to Rule 4:3-4(a).

(b) Interlocutory Review. If a final decision or action of an agency or officer is reviewable by the Tax Court, an application may be made to it by an aggrieved party for leave to review an interlocutory order of such agency or officer in the manner prescribed by R. 3:24, insofar as applicable. Notice of the application shall be given by the party seeking review to all other parties in interest.

(c) Exhaustion of Remedies Before County Board of Taxation. Except as otherwise provided by N.J.S.A. 54:3-21 (direct review of certain assessments to the Tax Court), N.J.S.A. 54:4-63.11 (direct review when the original assessment plus the full added assessment before any monthly proration exceeds \$750,000), N.J.S.A. 54:4-63.39 (direct review when the original assessment, if any, plus the full omitted assessment before any monthly proration exceeds \$750,000), or N.J.S.A. 54:51A-7 (complaint for correction of error), no action to review a local property tax assessment may be maintained

unless an action has been instituted before the County Board of Taxation.

RULE 8:3. COMMENCEMENT OF ACTION; PLEADINGS

8:3-1. Commencement of Action

(a) An action is commenced by filing a complaint with the Clerk of the Tax Court.

(b) In local property tax cases a separate complaint must be filed for each separately assessed property except as hereinafter provided in R. 8:3-5(a)(2), (3) and (4).

(c) In local property tax cases, a separate complaint must be filed for each tax year for each separately assessed property, and a separate complaint must be filed each tax year for a group of properties permitted to be included in a single complaint as provided by R. 8:3-5(a)(2), (3) and (4). This requirement does not apply either to a complaint made pursuant to N.J.S.A. 54:51A-7 to correct an error affecting more than one tax year or to a complaint made pursuant to N.J.S.A. 54:4-23.8 relating to the imposition of the farmland rollback tax.

8:3-2. Pleadings Allowed

(a) Generally. Pleadings shall consist of the complaint and such responsive pleadings as shall be filed in the action. A case information statement shall be attached to the complaint.

(b) Local Property Tax Cases. In local property tax cases, every defendant may but need not file an answer. There may be a counterclaim and an answer to a counterclaim denominated as such. Unless by order of the court, no other pleading is allowed, except in response to amended and supplementary pleadings.

(c) State Tax Cases. In state tax cases (other than cases governed by R. 8:11 (Small Claims)), there shall be a complaint and an answer. Unless by order of the court, no other pleading is allowed, except in response to amended and supplementary pleadings.

8:3-3. General Form of Pleading

In addition to the special pleading requirements prescribed by these rules all pleadings shall generally accord as to form with the rules governing pleadings in the Superior Court. A pleading shall be signed by the attorney of record or, if not represented by an attorney, by the party. If a party is not represented by an attorney the pleading shall include the name, residence address and telephone number of the party.

8:3-4. Contents of Complaint, Generally

(a) Generally. The complaint shall set forth the claim for relief and a statement of the facts on which the claim is based and shall conform to the requirements of R. 8:3-5. The Clerk of the Tax Court shall make sample forms available to litigants on request. The wording of any sample form may be modified to conform to the claim made and relief sought in a particular case.

(b) Claim for Relief. A pleading which sets forth a claim for relief shall briefly state the factual basis of the claim and the relief sought. Relief in the alternative may be demanded. A request may be made for a change in a real property tax assessment without specifying the amount of such change. A claim for exemption shall be specifically pleaded.

(c) Small Claims Classification.

(1) In state tax cases the complaint shall state whether the amount of refund claimed or the taxes or additional taxes sought to be set aside or the amount in controversy, as the case may be, with respect to any year, exceeds the sum of \$2,000 exclusive of interest and penalties.

(2) In local property tax cases, the complaint shall state whether each separately assessed parcel of property under appeal is a class 2 property (1-4 family residence) or a class 3A farm residence.

(d) Claim of Discrimination. If discrimination is claimed, the complaint shall so state.

(e) Separately Assessed Parcels in Common Ownership. If a complaint or counterclaim in an action to review a real property tax assessment includes more than one separately assessed parcel of property contiguous and in common ownership pursuant to R. 8:3-5(a)(2) or (3), or in common ownership pursuant to R. 8:3-5(a)(4), the complaint shall so state.

8:3-5. Contents of Complaint; Specific Actions

(a) Local Property Tax Cases.

(1) The first paragraph of every complaint and counterclaim shall set forth the block, lot and street address of the property. A Case Information Statement in the form specified by the Tax Court shall be attached to the face of the complaint or counterclaim, and a copy of the County Board of Taxation judgment and memorandum of judgment or order or determination to be reviewed shall be attached to the complaint, except in matters to be directly reviewed by the Tax Court pursuant to N.J.S.A. 54:3-21. The complaint shall include the name of the owner, the assessment, the type of property, the prior year(s) for which action is pending in the Tax Court for the same property and whether exemption or farmland qualification is claimed.

(2) The complaint may include, in separate counts, each of the separately assessed contiguous properties in common ownership in the same or different taxing districts, for which review is sought. If separately assessed properties are in common ownership, they will be deemed to be contiguous for the purpose of this rule even if separated by a road, right of way or similar passageway for the passage of vehicles or pedestrians.

(3) In cases of direct review by the Tax Court pursuant to N.J.S.A. 54:3-21, the complaint shall contain an allegation that the assessed valuation of the property for which direct review is sought exceeds \$750,000. A complaint for direct review may include in separate counts separately assessed, contiguous properties in common ownership, in the same or different taxing districts, provided that the

assessed valuation of one of such separately assessed, contiguous properties exceeds \$750,000.

(4) Property assessed separately pursuant to the provisions of N.J.S.A. 46:8A-26 (Horizontal Property Act) or N.J.S.A. 46:8B-19 (Condominium Act) that is part of the same condominium complex may be combined in one complaint only if the separately assessed properties are in the same ownership and are part of the same master deed, provided that each separate assessment is listed on an attached schedule setting forth the name of the owner, the block, lot and assessment. Such properties will be deemed to be contiguous for the purpose of this rule if in common ownership and part of the same master deed even if separated by a road, right of way, or similar passageway for the passage of vehicles or pedestrians.

(b) State Tax Cases.

(1) A Case Information Statement in the form specified by the Tax Court shall be attached to the face of the complaint, and a copy of the action, determination or deficiency notice of the Director of the Division of Taxation or of any other state agency or officer (including the Motor Vehicle Commission) with respect to a tax matter, or of a county recording officer with respect to the realty transfer tax, if any, to be reviewed shall be attached to the complaint. The complaint may include in separate counts allegations with respect to separate taxes or assessments.

(2) A complaint by a taxpayer seeking review of a Certificate of Debt shall have attached thereto, where available, copies of the Certificate of Debt and the underlying tax assessment. The complaint shall state whether the issuance of the Certificate of Debt or the underlying tax assessment is being challenged. A challenge to the tax assessment may be reviewed only if the applicable period for filing a complaint to challenge this assessment had not previously expired.

(c) Review of Equalization Table. A complaint seeking the inclusion or exclusion of a specific sale or sales in the analysis of sales upon which an equalization table is based, shall set forth and identify the sale or sales and, if available, each Form SR1A identification

number of the Division of Taxation and the reasons alleged for inclusion or exclusion from the table, and a Case Information Statement in the form specified by the Tax Court shall be attached to the face of the complaint.

8:3-6. Answers

If an answer is filed, it shall conform to the requirements of R. 4:5-3.

8:3-7. Counterclaim in Real Property Tax Cases

A counterclaim shall accord, as to form, with R. 8:3-3; as to contents, with R. 8:3-4 and R. 8:3-5 and as to service, with R. 8:5-2 through 5 inclusive.

8:3-8. Amended and Supplemental Pleadings

(a) Amendments Generally. A party may, upon notice to all parties and proof of notice, amend pleadings at any time prior to the completion of the pretrial conference or, if there is no pretrial conference, at any time prior to the receipt of notice of the first date fixed for trial. The amendments in the amended pleadings shall be underlined. Unless the court and the proponent of the amendment are notified of objections within 20 days after service, the amendment shall be accepted. If objection is made, the matter may be listed for hearing in the discretion of the court. Amendment of the pleadings may be made thereafter only by motion for good cause shown. Amendments to conform to the evidence may be permitted in accordance with Rule 4:9-2.

(b) State Tax Cases - Additional Deficiency Notices and Claims. Provided that the statute of limitations period has not expired, a complaint may be amended at any time prior to the close of proofs to include either:

(1) An additional deficiency notice issued by the Director of the Division of Taxation or other state agency or official during the pendency of an action to review a deficiency notice for the same tax or

(2) Any additional claim for refund for the same tax.

(c) Filing. The amendment of the complaint permitted under R. 8:3-8(b) shall be made by filing the amended complaint with the Tax Court and serving a copy upon all parties without the necessity of a motion.

8:3-9. Withdrawal

Whether or not a responsive pleading has been filed, a complaint or a counterclaim may be withdrawn at any time prior to the close of the proofs before the Tax Court and thereafter with leave of Court.

RULE 8:4. TIME

8:4-1. Time for Filing Complaint

The time within which a complaint may be filed in the Tax Court is as follows:

(a) Local Property Tax Matters.

(1) Complaints seeking to review an Equalization Table, including a County Equalization Table, a State Equalization Table or a Table of Equalized Valuations, as promulgated by the Director of the Division of Taxation pursuant to N.J.S.A. 54:1-35 et seq., shall be filed within 45 days after the adoption or promulgation of the table to be reviewed, subject to the provisions of R. 1:3-3.

(2) Except for the review of a judgment, pursuant to N.J.S.A. 54:51A-1, a complaint to review an action of the County Board of Taxation shall be filed within 45 days after the date of the action to be reviewed. A complaint to review a judgment of a County Board of Taxation shall be filed within 45 days of the service of the judgment of the County Board of Taxation. Service of the judgment of the County Board of Taxation, when by mail, shall be deemed complete as of the date the judgment is mailed, subject to the provisions of R. 1:3-3.

(3) Complaints to correct errors in accordance with N.J.S.A. 54:51A-7 may be filed at any time during the tax year or within the next 3 tax years thereafter.

(4) Complaints pursuant to the direct review provisions of N.J.S.A. 54:3-21 shall be filed on or before April 1 of the tax year. In a taxing district where a municipal-wide revaluation or a municipal-wide reassessment has been implemented, complaints pursuant to the direct review provisions of N.J.S.A. 54:3-21 shall be filed on or before May 1 of the tax year. Complaints seeking to review a notification of change in assessment pursuant to the provisions of N.J.S.A. 54:3-21 shall be filed within 45 days of the service of the notice of change in assessment. Service of the notice of change in assessment, when by mail, shall be deemed complete as of the date the notice is mailed, subject to the provisions of R. 1:3-3.

(b) State Tax Matters. Complaints seeking to review actions of the Director of the Division of Taxation, any other state agency or officer (including the Motor Vehicle Commission) with respect to a tax matter, or a county recording officer with respect to the realty transfer tax shall be filed within 90 days after the date of the action to be reviewed.

(c) Tax Rebate Matters. Complaints seeking review of a final determination of the Director of the Division of Taxation with respect to any homestead credit, rebate, or refund program administered by the Division of Taxation, shall be filed within 90 days of the issuance of the determination.

8:4-2. Calculation of Time for Filing

(a) General. The time period shall be calculated from the date of service of the decision or notice of the action taken.

(b) Where Notice of Action Is Mailed. If notice of an action is mailed the time period within which a complaint for review may be filed shall be extended pursuant to R. 1:3-3.

(c) Where No Action Is Taken. If action is required to be taken with respect to a tax matter on or before a fixed date and the action is not so taken the time periods fixed by these rules shall be calculated from the date that the action was required to have been taken.

8:4-3. Time for Filing Responsive Pleadings

The time for filing of all pleadings other than the complaint shall be as prescribed by R. 4:6-1 and subject to R. 1:3-3 except that:

(a) In a direct appeal of a local property tax matter pursuant to N.J.S.A. 54:3-21, a counterclaim may be filed within 20 days from the date of service of the complaint even if the counterclaim is filed after the deadline for filing the complaint provided by N.J.S.A. 54:3-21.

(b) In a state tax matter (other than small claims cases) an answer shall be served within 60 days after service of the complaint.

RULE 8:5. PROCESS

8:5-1. Complaint as Process

Process shall be the complaint. There shall be no summons or additional forms of process.

8:5-2. By Whom Served

The complaint may be served by any person of the age of eighteen years or older.

8:5-3. On Whom Served

(a) Review of Action of a County Board of Taxation or Direct Review by the Tax Court.

(1) A complaint by a taxpayer to review the action of a County Board of Taxation with respect to a property tax assessment shall be served on the County Board of Taxation and on the assessor and the Clerk of the taxing district in which the property is located.

(2) A complaint by a taxing district to review the action of a County Board of Taxation shall be served on the County Board of Taxation and, if the action to be reviewed involves the assessment of a specific parcel of property, on the taxpayer of said property and the assessor of the taxing district.

(3) A complaint by a taxpayer to review an action of the County Board of Taxation with respect to the property of another shall name the taxing district and name the owner or taxpayer, as shown on the last municipal tax duplicate, as parties defendant and shall be served on the County Board of Taxation, on the assessor and the Clerk of the Taxing District and on the taxpayer whose property tax assessment is the subject of the action.

(4) A complaint to review the action of a County Board of Taxation with respect to a County Equalization Table or Abstract of Ratables or any other action dealing with the equalization or apportionment of county taxes shall be served upon the County Board of Taxation and upon the Chief Executive Officer and the Clerk of the Board of Chosen Freeholders of the County and upon the Clerk of every taxing district in the county and upon the Attorney General.

(5) A complaint to correct an error in an assessment pursuant to N.J.S.A. 54:51A-7 shall be served as follows:

(i) If by a property owner, upon the County Board of Taxation and the Clerk of the taxing district;

(ii) If by a municipality, upon the County Board of Taxation and the property owner;

(iii) If by a County Board of Taxation, upon the Clerk of the taxing district in which the property is located and upon the property owner.

(6) A complaint to review an order of the County Board of Taxation requiring a taxing district to revalue shall be served upon the County Board of Taxation, upon the Clerk of the taxing district in which the property is located (unless the complaint is filed by the taxing

district), upon the Director of the Division of Taxation and upon the Attorney General of the State of New Jersey.

(7) A complaint for direct review of an assessment that exceeds \$750,000 pursuant to the provisions of N.J.S.A. 54:3-21, 54:4-63.11, 54:4-63.28, or 54:4-63.39 shall be served on the County Board of Taxation and on the assessor and the Clerk of the taxing district in which the property is located, unless the complaint is by a taxing district, in which case the Clerk of the taxing district need not be served.

(8) A tenant who files a complaint to contest a local property tax assessment, whether such complaint is by direct review pursuant to N.J.S.A. 54:3-21, 54:4-63.11, 54:4-63.28, or 54:4-63.39, or to review the action of a County Board of Taxation, shall serve a copy of the complaint on the record owner of the property. The court, on application or on its own motion, may permit the owner to intervene as a party plaintiff, may require service on other tenants, or may take such other action as it deems appropriate under the circumstances.

(b) Review of State Tax Action.

(1) A complaint by a taxpayer to review an action of the Director of the Division of Taxation, any other state agency (including the Motor Vehicle Commission) with respect to a tax matter, or a county recording officer with respect to the realty transfer tax shall be served as to the former upon the state agency or as to the latter upon the county recording officer. In addition, said complaint shall be served upon the Attorney General of the State of New Jersey, except that no service upon the Attorney General shall be required of a complaint to review the Director's denial of any homestead credit, rebate, or refund program administered by the Division of Taxation. In cases arising under any homestead credit, rebate, or refund program administered by the Division of Taxation, the complaint shall be served on the Attorney General by the Clerk of the Tax Court as soon as practical after filing of the complaint.

(2) A complaint to review the apportionment valuations established by the Director of the Division of Taxation pursuant to N.J.S.A.

54:30A-16 et seq. or 54:30A-49 et seq. (Apportionment Valuations of Utilities, Franchise and Gross Receipt Taxes) shall be served upon the Director of the Division, upon the Attorney General of the State of New Jersey and upon the Clerk of every taxing district entitled to share in the apportionment.

(3) A complaint to contest the validity or amount of an assessment of Railroad Property or Franchise Taxes by the Director of the Division of Taxation shall be served pursuant to N.J.S.A. 54:29A-32 upon the Attorney General of the State of New Jersey, upon the Clerk of the Taxing District in which the property is located and, if the complaint is filed by the Attorney General or a taxing district, upon the taxpayer.

(4) A complaint by a taxing district to review the October 1 table of equalized valuations adopted by the Director of the Division of Taxation in accordance with N.J.S.A. 54:1-35.1 shall be served upon the Director of the Division of Taxation, the Attorney General of the State of New Jersey and the clerk of each taxing district that is a member of the same school district as the complaining taxing district.

(c) Subsequent Pleadings. Subsequent pleadings need be served only upon the parties in accordance with R. 1:5-2.

8:5-4. Mode of Service of Complaint

Service shall be made personally or by certified or registered mail, return receipt requested, as provided in R. 4:4-4 with the following exceptions:

(1) The County Board of Taxation shall be served by leaving a copy with the County Tax Administrator or with a person in charge of the office or by mailing a copy to the County Tax Administrator by ordinary mail.

(2) Service upon the assessor and the Clerk of a taxing district shall be by leaving a copy with the assessor or the person in charge of the office and by leaving a copy with the Clerk of the taxing district or the

person in charge of the office, or by mailing copies to the assessor and the Clerk by ordinary mail.

(3) Service upon a taxpayer in a local property tax matter shall be:

(i) By personal service or by certified or registered mail, return receipt requested, upon the attorney who appeared for the taxpayer in the County Board of Taxation proceeding which resulted in the judgment contested in the complaint.

(ii) If there was no attorney for the taxpayer in the County Board of Taxation proceeding which resulted in the judgment contested in the complaint or if the complaint is a direct appeal by a municipality pursuant to N.J.S.A. 54:3-21, service shall be made upon the taxpayer by personal service or by certified or registered mail, return receipt requested, and if by mail, at the address listed on the County Board of Taxation petition by the taxpayer, or if none, at the last known address as it appears on the last municipal tax duplicate.

(iii) Consistent with due process of law, service by mail pursuant to this subsection shall have the same effect as personal service, and the mailing shall constitute effective service unless the mail is returned undelivered by the Postal Service.

(iv) When service by certified or registered mail, return receipt requested, is not effected initially because the mail is returned undelivered, the party making service may make reservice simultaneously by certified or registered mail, return receipt requested, and ordinary mail, and if the addressee refuses to claim or accept delivery of the certified or registered mail and if the ordinary mail is not returned, the simultaneous mailing shall constitute effective service, and the additional time required for service shall not affect the validity of the complaint.

(v) If service cannot be made by any of the modes provided by this rule, a taxpayer may be served as provided by court order, consistent with due process of law.

(4) Upon the state agency involved or upon the county recording officer by leaving a copy with the Director of the agency or county recording officer or the person in charge of his office or by mailing a copy to the Director of the agency or the county recording officer.

(5) Upon the Chief Executive Officer and upon the Clerk of the Board of Chosen Freeholders by leaving a copy with the Chief Executive Officer and with the Clerk or with the person in charge of each of their offices, or by mailing copies to the Chief Executive Officer and the Clerk.

(6) On the Attorney General of the State of New Jersey in accordance with the provisions of R. 4:4-4(a)(7), except that service by the Tax Court Administrator in any homestead credit, rebate, or refund program cases under R. 8:5-3(b)(1) may be made in such manner as the Presiding Judge of the Tax Court may from time to time prescribe.

8:5-5. Proof of Service

Proof of service shall be submitted at the time a complaint is filed unless service is by mail and is not effected initially, in which case subsequent proof of service by simultaneous mailing by certified or registered mail, return receipt requested, and ordinary mail shall be submitted when service is effected.

RULE 8:6. PRETRIAL PROCEEDINGS; ASSIGNMENT TO TRACKS AND CASE MANAGEMENT

8:6-1. Discovery; Exchange of Appraisals and Comparable Sales and Rentals

(a) Discovery. Discovery may be taken in accordance with the provisions of R. 4:10-1 through R. 4:18-2 and R. 4:22 through R. 4:25 insofar as applicable except as follows:

(1) In state tax cases (other than small claims cases) leave of court, granted with or without notice, must be obtained if a party seeks to take a deposition by oral examination prior to the expiration of 60 days after service of the complaint.

(2) In state tax cases the 150 days for the completion of discovery prescribed by R. 4:24-1 shall commence to run 60 days after the service of the complaint.

(3) In actions to review any equalization table, answers to interrogatories shall be served within 20 days from the date of service of the interrogatories.

(4) In local property tax cases assigned to the Small Claims Track under the provisions of R. 8:11, discovery shall be limited to the property record card for the subject premises, inspection of the subject premises, a closing statement if there has been a sale of the subject premises within three (3) years of the assessing date, the costs of improvements within three (3) years of the assessing date, and income, expense and lease information for income-producing property. The court in its discretion may grant additional discovery for good cause shown.

(5) In local property tax cases, interrogatories and requests for production of documents shall be in the form and manner prescribed by the Tax Court.

(6) In local property tax cases the following time limits shall be applicable to discovery:

(i) Small Claims Track Cases. Discovery shall be completed within 75 days of the filing of the complaint. A discovery request for the items specified in Rule 8:6-1(a)(4) shall be responded to within 30 days after being served with the request.

(ii) Standard Track Cases. Discovery shall be completed within 150 days of the filing of the complaint.

(iii) Complex Track Cases. Discovery shall be completed within 150 days of the filing of the complaint unless extended by the court.

(iv) Expedited Track Cases. Discovery shall be completed within the time set by the court.

(v) Farmland and Exemption Track. Discovery shall be completed within 150 days of the filing of the complaint.

(b) Exchange of Appraisals and Comparable Sales and Rentals.

Where the valuation of property is an issue:

(1) A party intending to rely upon the testimony of any person testifying as a valuation expert must furnish an expert report containing the information in R. 8:6-1(b)(2). A party intending to rely upon the testimony of any person testifying as a valuation expert shall furnish each opposing party with a copy of the written appraisal report of the expert as follows:

(i) Standard Track Cases. Thirty (30) days prior to the trial date as designated by the court. The submission of this written appraisal report is in addition to the requirement that plaintiff's counsel furnish an appraisal or a demand for reduction in assessment with support therefore to counsel for defendant pursuant to R. 8:6-8.

(ii) Small Claims Track. Twenty (20) days prior to the trial date set forth in the case management notice or 20 days prior to such other trial date as designated by the court.

(iii) All Other Track Cases. As directed by the court.

(iv) The court in its discretion may grant additional time for discovery following the exchange of appraisal reports.

(2) A party intending to rely on sales or rentals of comparable properties shall furnish each opposing party with a list of comparable sales or rentals intended to be established by proof which list shall set forth as to each sale or rental the location of the property by block, lot, street, street number and municipality and, as to each sale, the name of seller and purchaser, date of sale, the consideration, book and page number of the recording of the deed and, if available, the form SR1A identification number of the Division of Taxation and, as to each rental, name of landlord and tenant, date of lease and

relevant lease terms. Such list shall be submitted as directed by the court or as follows:

(i) Standard Track Cases. Thirty (30) days prior to the trial date as designated by the court.

(ii) Small Claims Track. Twenty (20) days prior to the trial date set forth in the case management notice or such other trial date as designated by the court.

8:6-2. Pretrial Conferences

(a) Local Property Tax Cases. Pretrial conferences may be held at the discretion of the court either on its own motion or on a party's written request. The request of a party for a pretrial conference shall include a statement of the facts and reasons supporting the request. The court, on its own motion or at a party's request, may direct that a pretrial conference be conducted by telephone. In those cases in which a pretrial conference has been scheduled, each party shall file with the court and exchange with each other party its pretrial memorandum no less than seven (7) business days before the pretrial conference. The pretrial memorandum shall be in the form prescribed by the Tax Court.

(b) State Tax Cases. Pretrial conferences may be held pursuant to R. 4:25-1, et seq. There shall be no separately scheduled pretrial conferences for small claims division matters, except for good cause.

8:6-3. Failure to Make Discovery

The provisions of R. 4:23-5 shall apply to proceedings in the Tax Court except that the delinquent party shall pay the required costs to the Clerk of the Tax Court.

8:6-4. Local Property Tax Cases; Tracks and Subtracks; Standards for Assignment

Every local property tax action filed in the Tax Court shall be assigned, as prescribed by this rule, to the standard track, the

complex track, the expedited track, the farmland assessment and exemption track, or small claims track, in accordance with the following criteria:

(a) Standard Track. An action not qualifying for assignment to the complex track, farmland assessment and exemption track, small claims track, or expedited track shall be assigned to the standard track.

(b) Complex Track. An action shall ordinarily be assigned to the complex track for individual judicial management if it appears likely that the case will require a disproportionate expenditure of court and litigation resources in its preparation for trial by reason of the number of parties involved, the number of claims and defenses raised, the legal difficulty of the issues presented, the factual difficulty of the subject matter, or a combination of these or other factors.

(c) Expedited Track. An action shall ordinarily be assigned to the expedited track where specific disposition times are imposed by statute or where it appears that tax policy considerations as reflected in the statutes or court rules demonstrate that a summary proceeding would be more appropriate than a plenary trial.

(d) Farmland Assessment and Exemption Track. An action involving the review of a farmland assessment, rollback tax assessment and/or exemption shall ordinarily be assigned to the farmland assessment and exemption track.

(e) Small Claims Track. An action shall ordinarily be assigned to the small claims track if it is indicated on the case information statement that the matter is within the small claims jurisdiction pursuant to R. 8:11.

After track assignment has been made, the special procedures prescribed by these rules for each track governing such matters as discovery, motion practice, case management and pretrial conferences and orders, and the fixing of trial dates shall apply.

8:6-5. Local Property Tax Cases; Track Assignment

The Tax Court Management Office shall advise the parties of the track assignment. At the discretion of the Presiding Judge, the track assignment may be advanced or delayed. If all attorneys agree as to the appropriate track assignment, the assigned judge shall not designate a different track except for good cause and only after giving all attorneys the opportunity to object, either in writing or orally, to the proposed designation. If all attorneys do not agree, the designation shall be made by the assigned judge. If it is not clear from an examination of the information provided which track assignment is most appropriate, the case shall be assigned to the track that affords the greater degree of management.

8:6-6. Local Property Tax Cases; Case Management Notice

Upon the filing of a complaint, the Tax Court Management Office shall forward to the parties a case management notice in the form specified by the Tax Court. Forthwith upon the making of the track assignment, the Tax Court Management Office shall send written notice thereof to all parties in the action. If the case has been assigned to the standard, small claims, or farmland and exemption track, the notice shall state the date by which discovery is required to be completed pursuant to R. 8:6-1(a), the anticipated month and year of trial, the name of the case manager, and the requirements for case management and settlement conferences. The notice shall also advise that each party, including subsequently added parties, may apply for track reassignment pursuant to R. 8:6-7.

8:6-7. Local Property Tax Cases; Track Reassignment

An action may be reassigned to a track other than that specified in the case management notice on application of a party or on the court's own motion. The application may be made informally to the assigned judge and shall state with specificity the reasons why the original track assignment is inappropriate. No formal motion for track reassignment is required unless the assigned judge so directs. Any such application shall be made not later than the date of filing of the mandatory settlement conference report pursuant to R. 8:6-8. A

copy of such application shall be served on all parties and any objections to such application shall be submitted to the assigned judge within 10 days of that service.

8:6-8. Local Property Tax Cases; Mandatory Settlement Conference

In all local property tax cases assigned to the standard track, the parties shall hold a mandatory settlement conference not later than four (4) months before the scheduled trial month as set forth in the case management notice. The date for the mandatory settlement conference shall be fixed by the designated case manager and shall be provided to the parties in the form specified by the court. Counsel for all parties and the assessor or the taxing district's appraisal consultant shall be present at the mandatory settlement conference, which may be conducted by telephone or in person at the office of the municipal assessor or such other place as agreed upon by the parties. At least seven (7) days prior to the date fixed for the mandatory settlement conference, plaintiff's counsel must furnish to defendant's counsel an appraisal by plaintiff's appraisal expert in the form specified by the court or a demand for reduction in assessment with support therefor. Results of the mandatory settlement conference shall be reported by the parties to the case manager in the form specified by the court within ten (10) days of the mandatory settlement conference. The mandatory settlement conference report shall include certifications that initial standard form interrogatories have or have not been served and answered by each party. The parties shall have ten (10) days from the date of notice of noncompliance to comply with the requirements of this rule. The failure of any party to receive a notice of noncompliance shall not relieve that party of the duty to comply.

RULE 8:7. MOTIONS

(a) General. Unless otherwise provided in Part VIII of these Rules motions in the Tax Court shall be governed by the applicable rules in Part I and Part IV.

(b) Filing. The original of all motions or orders to show cause and all supporting papers shall be filed as follows:

(1) if a case has been assigned to a judge for settlement conference, pretrial conference or trial, then with the assigned judge;

(2) if the case is a local property tax case and has not been assigned to a judge for settlement conference, pretrial conference or trial, then with the judge assigned to the geographical area in which the property is located; and

(3) if the case is an unassigned case other than a local property tax case, then with the Presiding Judge who will designate the judge, location and date of hearing of the motion.

(c) Time. Motions shall be filed within the time prescribed by R. 1:6-3.

(d) Freeze Act. The Freeze Act (N.J.S.A. 54:51A-8) may be invoked at the option of the taxpayer on motion for supplementary relief to the Tax Court under the caption of the Tax Court judgment for the base year to which the Freeze Act application is sought.

(e) Motions pursuant to N.J.S.A. 54:4-34. Except in the case of a false or fraudulent account, all motions to dismiss for refusal or failure to comply with N.J.S.A. 54:4-34 shall be filed no later than the earlier of (1) 180 days after the filing of the complaint, or (2) 30 days before the trial date.

RULE 8:8. TRIALS

8:8-1. Trial by Court; Submission without Trial

(a) Trial by Court. All matters in the Tax Court shall be heard by a single judge sitting without a jury.

(b) Submission without Trial. A party may at any time upon notice to all other parties move the submission of a case for decision without trial, on the ground that sufficient facts have been admitted,

stipulated, established by depositions or otherwise included in the record. The court may require the filing of any additional materials and briefs and oral argument, or it may direct that the matter be placed upon the trial calendar.

8:8-2. Assignment for Hearing

Cases shall be assigned for hearing by the Presiding Judge, who shall consider insofar as practical the convenience of the participants and the location of the property.

8:8-3. Consolidation and Severance

(a) Consolidation. The Tax Court on its own motion or on a party's motion may consolidate actions if they present a common question of law or fact, involve the same property or related properties or the same or similar proofs.

(b) Severance. The Tax Court on its own motion or on a party's motion may try actions or portions thereof separately when a single trial is likely to become confusing or protracted or when the court otherwise deems that separate trials would be advantageous.

8:8-4. Non-Appearance

If any party fails to appear the court may order any one or more of the following:

(a) In the absence of an appearance by a plaintiff, dismiss the complaint;

(b) In the absence of an appearance by a defendant

(1) proceed to hear the matter on the designated date;

(2) dismiss the counterclaim, if any;

(c) Take such other action authorized by Rule 1:2-4(a) as it shall deem appropriate.

8:8-5. Adjournments

(a) State Tax Cases. Adjournments of pretrial conferences and trials will be granted only for good cause shown and may be subject to sanctions as provided by R. 1:2-4(a). Routine adjournments will not be permitted.

(b) Local Property Tax Cases. Except as provided in R. 8:8-5(c), adjournments of pretrial conferences and trials will be granted only for good cause shown and may be subject to sanctions as provided by R. 1:2-4(a). Routine adjournments will not be permitted. Failure to file the mandatory settlement conference report and certify that answers have been provided by all parties to standard form interrogatories shall result in a mandatory in-person conference with the assigned trial judge. The sanctions as provided by R. 1:2-4(a) other than dismissal of the complaint shall also be applicable to any party who without good cause fails to attend a mandatory settlement conference scheduled pursuant to R. 8:6-8.

(c) Standard Track Local Property Tax Cases. In standard track local property tax cases having an assigned trial date within fourteen (14) months after the date of the filing of the complaint, the case manager, having confirmed that the parties have complied with the requisite procedures of R. 8:6-8, shall grant a request for an adjournment by the non-defaulting party within thirty (30) days after the scheduled mandatory settlement conference pursuant to R. 8:6-8, and shall schedule the trial after the fourteenth (14th) month but not later than the eighteenth (18th) month following the filing of the complaint.

8:8-6. Full Court Review

The Presiding Judge may designate a case for determination by the judges comprising the Tax Court, in lieu of determination by an individual judge. The decision of a majority of the judges shall be the decision in any such case reviewed by the entire Tax Court.

RULE 8:9. JUDGMENT

8:9-1. Form of Judgment

The final determination of any matter heard by the Tax Court shall be by a judgment signed by the Court or by the Tax Court Administrator acting under the Court's direction. An interlocutory determination shall be by an order signed by the Court. Where a standard form of judgment is in use by the Tax Court, the judgment shall be in accordance with the form unless a party shall request a change in the form prior to the issuance of the judgment, in which case the form shall be settled and then submitted to the Court in accordance with R. 4:42-1.

8:9-2. Costs

Taxed costs shall not be allowed. Out-of-pocket costs may be allowed in special cases at the discretion of the Court for good cause shown.

8:9-3. Agreed Computations

Where a judge of the Tax Court has rendered an opinion, entry of judgment may be withheld to allow the parties to submit computations pursuant to the determination of the issues showing the correct amount of assessment deficiency, overpayment or underpayment. If the parties are in agreement as to the amount of the assessment deficiency, overpayment or underpayment to be incorporated in the judgment, they shall submit the agreed computations to the Court.

8:9-4. Failure to Agree on Computations

If the parties are unable to agree as to the amount of the assessment deficiency, overpayment or underpayment, the parties shall, on notice to the adverse party, submit proposed computations to the Court. The Court may then rule on the submissions or place the matter upon the motion calendar for disposition.

8:9-5. Judgment Pursuant to Stipulation

Judgment in a local property tax matter may be entered upon stipulation of the parties supported by such proof as the Court may require.

RULE 8:10. NEW TRIALS; AMENDMENT OF FINDINGS OR JUDGMENTS

The provisions of R. 1:7-4, R. 4:49-1 and R. 4:49-2 (Motion for New Trial and Motion to Alter or Amend a Judgment) shall apply to Tax Court matters except that all such motions shall be filed and served not later than 20 days after the conclusions of the court are announced orally or in writing, with respect to R. 1:7-4 and R. 4:49-1, and after the date of the judgment or order, with respect to R. 4:49-2.

RULE 8:11. SMALL CLAIMS DIVISION; PRACTICE AND PROCEDURE

(a)(1) The small claims division will hear all state tax cases in which the amount of refund claimed or the taxes or additional taxes sought to be set aside with respect to any year for which the amount in controversy as alleged in the complaint does not exceed the sum of \$2,000 exclusive of interest and penalties.

(2) The small claims division will hear all local property tax cases in which the property at issue is a class 2 property (1-4 family residence) or a class 3A farm residence. Local property tax cases in the small claims division shall be assigned to the small claims track.

(b) The general rules of practice and procedure in the Tax Court shall apply to the small claims division, except as otherwise provided in Part VIII. A pretrial conference may be held at the time that the case is scheduled for a hearing. The pretrial conference and the hearing shall be informal and the court may hear such testimony and receive such evidence as it deems necessary or desirable for a just and equitable determination of the case. All testimony shall be given under oath and a verbatim record shall be made of the proceeding.

(c) A complaint for review of a local property tax assessment on property that is in common ownership with and contiguous to other property will be regarded as a small claims complaint for all purposes, including assignment and filing fee calculation, only if each of the separately assessed parcels included in the complaint is within the jurisdiction of the small claims division. If one or more of the separately assessed parcels is outside the jurisdiction of the small claims division, the complaint shall not be regarded as a small claims complaint.

(d) In state tax cases, if it appears at any time before the close of proofs that the amount of refund claimed or the taxes or additional taxes sought to be set aside or amount in controversy exceeds the jurisdictional amount of the small claims division, the relief to be granted need not be limited to such jurisdictional amount, and the court may in its discretion retain the matter in the small claims division or transfer the matter to the general calendar.

(e) In local property tax cases, if it appears at any time before the close of proofs that a parcel of property under appeal is neither a class 2 property (1-4 family residence) nor a class 3A farm residence, and therefore not within the jurisdiction of the small claims division, the court may in its discretion retain the matter in the small claims track or transfer the matter to the standard track.

RULE 8:12. FILING FEES

(a) General. A fee of \$200 payable to the Treasurer, State of New Jersey shall be collected by the Tax Court on the filing of a complaint or counterclaim except as hereinafter provided.

(b) Small Claims. A fee of \$35 payable to the Treasurer, State of New Jersey shall be collected by the Tax Court on the filing of a complaint or counterclaim when the case is alleged to be within the small claims jurisdiction pursuant to Rule 8:11. The small claims fee shall promptly be supplemented, whenever notice is given by the court that the matter is not within the small claims jurisdiction, so that the total fee paid is as set forth in paragraph (a) of this rule.

(c) Multiple Causes of Action in a Single Complaint or Counterclaim.

(1) Real Property in Common Ownership. If a complaint or counterclaim in an action to review a real property tax assessment includes more than one separately assessed parcel of property in common ownership pursuant to Rule 8:3-5(a)(2), (3) and (4), the filing fee shall be \$200 for the first separately assessed parcel of property included in the complaint and \$50 for each additional separately assessed parcel of property of said property owner included in the complaint.

(2) Condominiums.

(i) Condominiums in Common Ownership. As permitted by Rule 8:3-5(a)(4), when properties are in the same ownership and part of the same master deed, if a complaint or counterclaim in an action to review a real property tax assessment includes more than one parcel of real property separately assessed pursuant to the provisions of N.J.S.A. 46:8A-26 (Horizontal Property Act) or N.J.S.A. 46:8B-19 (Condominium Act), the filing fee shall be \$200 for the first separately assessed parcel of property of the property owner and \$50 for each additional separately assessed parcel of property of said property owner included in the complaint, or if all of the parcels of the property owner are within the jurisdiction of the small claims division, \$35 for the first separately assessed parcel of property of the property owner and \$10 for each additional separately assessed parcel of property of said property owner included in the complaint.

(ii) Condominiums in Separate Ownership. Pursuant to Rule 8:3-5(a)(4), when property has been assessed separately pursuant to the provisions of N.J.S.A. 46:8A-26 (Horizontal Property Act) or N.J.S.A. 46:8B-19 (Condominium Act), separately assessed properties that are not in common ownership may not be combined in one complaint or counterclaim. The filing fee for each such complaint or counterclaim shall be \$200 or if such complaint or counterclaim is within the jurisdiction of the small claims division, the filing fee shall be \$35.

(3) *State Taxes.* If a complaint in an action to review a state tax, such as sales tax, gross income tax, corporation business tax or others, includes more than one separate state tax pursuant to Rule 8:3-5(b), the filing fee shall be \$200 for the first separate state tax and \$50 for each additional state tax included in the complaint.

(4) *Small Claims.* If a matter is within the small claims jurisdiction the filing fee shall be \$35 for the first state tax or separately assessed parcel of property and \$10 for each additional state tax or separately assessed contiguous parcel of property having the same ownership included in the complaint.

(d) Matters Exempt from fee.

(1) No fee shall be paid upon the filing of a complaint within the small claims jurisdiction in an action where the sole issue is eligibility for any homestead credit, rebate, or refund program administered by the Division of Taxation or a senior citizen's or veteran's exemption or deduction.

(2) No fee shall be paid by a taxing district upon the filing of a counterclaim or any responsive pleading.

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