

Rules Governing the Taxation Section of the Maryland State Bar Association

Tax Court Pro Bono Program

1. Goals

The goals of the Tax Court Pro Bono Program (the "Pro Bono Program") of the Taxation Section of the Maryland State Bar Association (the "Section") include the following:

- (a) To assist in the administration of justice in cases in the United States Tax Court by providing legal instruction to *pro se* petitioners in the small case sessions of the United States Tax Court;
- (b) To provide a way in which an individual can be referred to a lawyer participating in the Pro Bono Program;
- (c) To provide information about the availability of legal help that will aid *pro se* taxpayer in either settling or trying his case in the United States Tax Court; and
- (d) To provide general and legal information needed by the public.

2. Administration

(a) The Pro Bono Program shall be operated under these Rules, as amended from time to time. The Pro Bono Program shall be administered by the Pro Bono Committee of the Section (the "Pro Bono Committee"). The Pro Bono Committee shall have full authority to make or delegate all administrative decisions necessary in the operation of the Program.

(b) The Pro Bono Committee shall be composed of at least three (3) members. The Chair of the Pro Bono Committee will be selected by the Section Officers. The Chair of the Section will serve as an advisor to the Pro Bono Committee.

(c) The Chair of the Pro Bono Committee will designate a Pro Bono Program Coordinator, who must be a member of the Section and admitted to practice before the U.S. Tax Court. The Pro Bono Program Coordinator must attend each U.S. Tax Court session in Baltimore, Maryland or, in their absence, appoint a delegate to fulfill his or her responsibilities. The delegate must be a member of the Section and admitted to practice before the U.S. Tax Court.

(d) A quorum of two (2) or more members of the Pro Bono Committee must be present to conduct Pro Bono Committee business.

(e) The Pro Bono Committee shall have the responsibility of regularly reviewing the operation of the Pro Bono Program on at least an annual basis.

(f) The Pro Bono Committee shall meet at least once every six (6) months and, additionally, at the special call of the Chair of the Pro Bono Committee.

(g) The Pro Bono Committee shall periodically review these rules and make such additions and changes as may be deemed appropriate. Any changes recommended by the Pro Bono Committee shall be subject to the approval of the Council of the Section.

3. Participating Attorneys

(a) Participation in the Pro Bono Program shall be open to any member of the Section who has offices within the State and who satisfies the application requirements set forth herein. Such persons shall be referred to hereinafter as an "Applicant" and, once accepted, as a "Participating Attorney."

(b) Each Applicant shall submit his or her name to the Pro Bono Program Coordinator prior to each session of United States Tax Court in the State of Maryland. Each Applicant shall agree to do the following:

(i) Personally participate at the calendar call of the United States Tax Court for consultation that day, free of charge, to any person referred by the Pro Bono Program at the calendar call, unless he or she is unable to do so for ethical reasons;

(ii) Not solicit for hire the services of the Participating Attorney;

(iii) Abide by these Rules, as amended from time to time, and any rules relative to lawyer referral services in the State of Maryland; and

(iv) Waive any and all claims against the State Bar of Maryland, its Council, officers, Governors, members; or employees and against the Pro Bono Committee and its members from any liability for loss as a result of participation in the Pro Bono Program.

(c) The Program shall be operated through a solicitation of Participating Attorneys via e-mail request prior to a United State Tax Court calendar call.

(d) To qualify for participation, an Applicant must be admitted to practice before (or have filed an application to be admitted to practice before) the United States Tax Court at the time the Applicant volunteers.

(e) An Applicant shall be refused participation upon failure to meet any one or more of the requirements set forth herein. Rejected Applicants must be fully advised of the grounds of rejection.

4. Referral Procedure

(a) Assignment of *pro se* persons for advice shall be at the discretion of the Pro Bono Program Coordinator or his or her delegate, who shall strive to be impartial in the appointment process. The individual assigning *pro se* persons for advice shall, in all circumstances, consider referral of cases with non-English speaking *pro se* petitioners to a Participating Attorney who speaks the client's language.

(b) In the event that the Participating Attorney is unable to handle a matter due to conflict of interest, unfamiliarity with the subject matter, or other reasons that render it likely that a second referral may be appropriate, or if it is the Participating Attorney's opinion that representation of the client will not serve the purpose stated in paragraph 1(a) above, the Participating Attorney shall refer the client back to the Pro Bono Program Coordinator or his or her delegate, who will make a second referral (if appropriate).

(c) Each Participating Attorney is expected to handle *pro se* petitioners with the same courtesy and diligence as fee-based clients.

(d) It shall be the obligation of each Participating Attorney to whom a *pro se* petitioner is referred to determine at the outset whether a conflict of interest exists and, if so, to immediately report such determination to the Pro Bono Program Coordinator, or his or her delegate, to facilitate a further referral.

(e) No referral shall be made or refused on the basis of race, sex, age, religion, or national origin.

5. Fees

The Participating Attorney agrees to provide legal instruction free of charge for one day at the United States Tax Court calendar call. The Participating Attorney agrees not to solicit clients for a fee beyond the one-day pro bono period. Should exceptional circumstances arise, the Participating Attorney agrees to advise the Pro Bono Program Coordinator in writing of the circumstances that would result in more than legal advice for the stated one-day period.

6. Geographical Limits

The geographical area to be serviced by the Program shall be the County where the Tax Court proceedings are held within the State of Maryland, or such portion thereof, as may, from time to time, be delimited by the Pro Bono Committee.

7. Resignation, Suspension, and Removal

(a) Any Participating Attorney may resign at any time upon written notification to the Pro Bono Program Coordinator in advance of the United State Tax Court calendar call for the date on which the attorney agreed to participate.

(b) Any Participating Attorney may be removed from any or all participation in the Pro Bono Program, or suspended therefrom for:

- (i) Failure to maintain continuous eligibility under these Rules;
- (ii) Failure to handle Program cases with professional competence and diligence;

- (iii) Charging fees to Program-referred *pro se* petitioners;
- (iv) Falsification of any material statement made in the application for participation;
- (v) Violation of the applicable State Bar Act, Business and Professions Code, or of a Rule of Professional Conduct of the State Bar;
- (vi) Conviction of a crime involving moral turpitude;
- (vii) Failure to comply with these Rules; or
- (viii) Repeated discourtesy to *pro se* petitioners or Area Counsel attorneys.

(c) Before a Participating Attorney may be removed or suspended under Rule 7(b), such member shall be given written notice of the asserted grounds for suspension or removal, which notice shall further contain the date, time, and place of hearing on said matter, and which notice shall be given no less than twenty (20) days prior to said hearing; provided, however, that said hearing may be held on less than twenty (20) days' notice if the Pro Bono Committee determines that public interest is endangered by further delay.

(d) The Pro Bono Committee shall have jurisdiction to hear all matters involving suspension or removal under Rule 7(b) and shall render its written decision in any such matter within forty-five (45) days from the date of such hearing, unless the time is extended with the Participating Attorney's consent.

(e) Any Participating Attorney may appeal the decision of the Pro Bono Committee by giving written notice of appeal to the Pro Bono Committee within ten (10) days of being notified of suspension or removal.

8. Appeals

All decisions of the Pro Bono Committee may be appealed to the Council of the Section. Such Council may take whatever action it deems appropriate in light of the facts and circumstances of the particular appeal. Action by the Council shall be conclusive.

9. Forms, Records, and Reports

(a) The Pro Bono Program shall maintain records of its operations and shall adopt the necessary forms satisfactory to the Section including the following:

- (i) Rules of the Program.
- (ii) Attorney's Application.
- (iii) Accounting records as required.

(b) The Pro Bono Committee shall periodically review such forms and records and make such changes, additions, and deletions as appear appropriate.

(c) All Pro Bono Committee records shall be available for inspection by Pro Bono Committee members, the Officers and Council Members of the Section and qualified representatives of the State Bar of Maryland, at all reasonable times, but shall otherwise be treated as confidential.

(d) Upon request of the Chair of the Section, and in any event at least annually, the Pro Bono Committee Chair shall prepare and submit to the Chair of the Section a report of the activities of the Pro Bono Program.

10. Amendments

These Rules may be amended by vote of a majority of the members of the Pro Bono Committee, present and voting, subject to the approval of the Council of the Section.

**Agreement of Pro Se Participant
In the Taxation Section of the State Bar of Maryland Pro Bono Program**

I, the undersigned, agree and understand that Participating Attorneys in the Taxation Section of the State Bar of Maryland Pro Bono Program are volunteering their time free of charge to provide legal instruction to me related to my case pending before the United States Tax Court. I further understand that said Participating Attorneys are not being hired by me and will not be entering an appearance on my behalf in my case before the United States Tax Court. I understand and agree to the following:

- 1) I will not be charged for the legal instruction given to me during the day of the calendar call of my case before the United States Tax Court.
- 2) The Participating Attorney signing below is agreeing to help me evaluate any settlement offers from Area Counsel of the Internal Revenue Service; and, if a settlement cannot be achieved, to instruct me on procedural issues related to trying my case pro se before the United States Tax Court.
- 3) The Participating Attorney will not hold any discussions with Internal Revenue Service personnel regarding my case without me being present.
- 4) I am not hiring said Participating Attorney and agree not to bring any legal action related to the pro bono legal instruction given during the day of the calendar call of my case or thereafter.

Date: _____

Printed Name of Pro Se Petitioner: _____

Signature of the Pro Se Petitioner: _____

Printed Name of Participating Attorney: _____

Signature of Participating Attorney: _____