

Note that the name of the petitioners must exactly match the name on the Tax Court's docket sheet, which can be found by consulting the Tax Court's docket inquiry web site. The respondent must always be identified in full: "COMMISSIONER OF INTERNAL REVENUE". The docket number must be correct and must **not** say "Filed Electronically."

The docket number (left justified), and a page number (centered), must appear in the header of each page of the decision after the first page.

Signature block

Below the operative parts of the decision is the signature block. Traditionally, the signature block is formatted so that the petitioner's signature block is on the left, and the respondent's signature block is on the right. There must be a signature line for each pro-se petitioner. The signature block must contain the name (traditionally all upper case), procedural title ("Petitioner"), address, and telephone number of each party, although if two or more petitioners are at the same address, the address and telephone number need only be given once. If the petitioner is represented by counsel who has entered an appearance, the signature block should reflect the name, address, and telephone number of counsel instead of the petitioner; counsel must also include a Tax Court bar number and identify himself or herself as counsel for the petitioner or petitioners, as appropriate.

The signature block for the respondent must always start with the name and title of the appointed Chief Counsel or Acting Chief Counsel¹ above the signature line; the name of the incumbent Chief Counsel or Acting Chief Counsel is usually updated through the issuance of a Chief Counsel Notice, available through the IRS FOIA Electronic Reading Room. If you are unsure of the name of the current Chief Counsel or Acting Chief Counsel, contact your local Chief Counsel office. This is required because only the Chief Counsel has statutory authority to represent the Commissioner of Internal Revenue in the Tax Court; the authority of other Chief Counsel attorneys is delegated from the Chief Counsel. Below the space for the Chief Counsel attorney's signature is the attorney's name (traditionally all upper case), title, Tax Court bar number, office street address, and telephone number.

Most trial attorneys within the Small Business/Self-Employed Division have the title "Attorney (Small Business/Self-Employed)"; field managers have the title "Associate Area Counsel (Small Business/Self-Employed)." Ask your local Chief Counsel office which attorney and title you should use.

Signature lines customarily include four blank lines between the signature line and any text above the signature line.

Here is an example of a signature block for a case involving an individual pro-se petitioner:

WILLIAM M. PAUL
Acting Chief Counsel
Internal Revenue Service

¹ An Acting Chief Counsel may be designated when there is a vacancy in the office of the Chief Counsel, or when the Chief Counsel has recused himself or herself from a particular case.

TERRY TAXPAYER
Petitioner
123 Decision Street
Anytown, AS 12345
Telephone: (202) 555-1234

By: _____
MICHAEL M. MANAGER
Associate Area Counsel
(Small Business/Self-
Employed)
Tax Court Bar No. MM9999
1040 Counsel Way
Anytown, AS 12345
Telephone: (202) 555-1040

Date: _____

Date: _____

Here is an example of a signature block for a case involving two individual pro-se petitioners residing at different addresses:

WILLIAM M. PAUL
Acting Chief Counsel
Internal Revenue Service

TERRY TAXPAYER
Petitioner
123 Decision Street
Anytown, AS 12345
Telephone: (202) 555-1234

By: _____
MICHAEL M. MANAGER
Associate Area Counsel
(Small Business/Self-
Employed)
Tax Court Bar No. MM9999
1040 Counsel Way
Anytown, AS 12345
Telephone: (202) 555-1040

Date: _____

Date: _____

SARAH TAXPAYER-SPOUSE
Petitioner
456 Joinder Way
Anytown, AS 12345
Telephone: (202) 555-1235

Date: _____

Here is an example of a signature block for two pro-se petitioners residing at the same address and having the same telephone number:

WILLIAM M. PAUL
Acting Chief Counsel
Internal Revenue Service

TERRY TAXPAYER
Petitioner

Date: _____

By: _____

MICHAEL M. MANAGER
Associate Area Counsel
(Small Business/Self-
Employed)
Tax Court Bar No. MM9999
1040 Counsel Way
Anytown, AS 12345
Telephone: (202) 555-1040

SARAH TAXPAYER-SPOUSE
Petitioner
456 Joinder Way
Anytown, AS 12345
Telephone: (202) 555-1235

Date: _____

Date: _____

Here is an example of a signature block for a case involving a corporate pro-se petitioner:

PARTY PETITIONER, INC.
Petitioner

WILLIAM M. PAUL
Acting Chief Counsel
Internal Revenue Service

By: _____
OLIVER OFFICER
its President
123 Decision Street
Anytown, AS 12345
Telephone: (202) 555-1234

By: _____
MICHAEL M. MANAGER
Associate Area Counsel
(Small Business/Self-
Employed)
Tax Court Bar No. MM9999
1040 Counsel Way
Anytown, AS 12345
Telephone: (202) 555-1040

Date: _____

Date: _____

Here is an example of a signature block where the petitioner is represented by counsel:

WILLIAM M. PAUL
Acting Chief Counsel
Internal Revenue Service

ANITA ATTORNEY
Counsel for Petitioner
Tax Court Bar No. AA9999
123 Decision Street
Anytown, AS 12345
Telephone: (202) 555-1234

By: _____
MICHAEL M. MANAGER
Associate Area Counsel
(Small Business/Self-
Employed)
Tax Court Bar No. MM9999
1040 Counsel Way
Anytown, AS 12345
Telephone: (202) 555-1040

Date: _____

Date: _____

Note: proposed decisions from LITCs must be signed and dated by the petitioner(s) or counsel who have already appeared in the case on the petitioners' behalf. Chief Counsel attorneys will not execute decisions and return them to an LITC or petitioner for execution and filing.

Apart from the signature, a decision must contain no handwritten notations, interlineations, or corrections (**including the use of correction tape or fluid**).

The Above-the-Line Decision

As discussed above, the portion above the judge's signature line must determine every deficiency in tax, addition to tax, and penalty shown in the notice of deficiency (in the absence of a jurisdictional defect as to any item shown in the notice of deficiency, which goes beyond the scope of this guide). The first sentence of the decision (which follows the caption, discussed above) informs the court of the basis of the entry of the decision. Settled cases without an extrinsic stipulation (which would go beyond the scope of this guide) always start with a paragraph, indented one-half inch on the first line, with the text "Pursuant to the agreement of the parties in this case, it is" followed by a new paragraph, also indented one-half inch on the first line, the words "ORDERED AND DECIDED", and a colon:

Pursuant to the agreement of the parties in this case, it
is

ORDERED AND DECIDED:

Immediately following the colon is a capitalized phrase beginning with the word “That” describing the amount agreed to be due from the petitioner(s) for tax (identifying the tax type), additions to tax, or penalties, as the case may be, and referring to additions to tax and penalties by code section number. The item being determined must identify the year at issue. Deficiencies, additions to tax (by section number) and penalties must be stated in separate paragraphs.

Where the settlement reflects that there is no deficiency in tax, it states as much, and also states that there is no overpayment due either:

ORDERED AND DECIDED: That there is no deficiency in income tax due from, nor overpayment due to, petitioner for the taxable year 2013.

If the settlement reflects a deficiency, state the amount at the end of the paragraph:

ORDERED AND DECIDED: That there is a deficiency in income tax due from petitioner for the taxable year 2013 in the amount of \$1,234.00.

If there are deficiencies for multiple years, you can include them in the same paragraph, listing the years and amounts, respectively:

ORDERED AND DECIDED: That there are deficiencies in income tax due from petitioner for the taxable years 2012, 2013, and 2014, in the amounts of \$1,234.00, \$2,345.00, and \$3,456.00, respectively.

Where multiple paragraphs are needed, end each paragraph (other than the final paragraph) with a semicolon instead of a period, end the second-to-last paragraph with “and”, and begin each paragraph beginning with a capitalized “That”:

ORDERED AND DECIDED: That there are deficiencies in income tax due from petitioner for the taxable years 2012 and 2013 in the amounts of \$1,234.00 and \$2,345.00, respectively;

That there are additions to tax due from petitioner for the taxable years 2012 and 2013, under the provisions of I.R.C. § 6651(a)(1), in the amounts of \$234.56 and \$345.67, respectively; and

That there are additions to tax due from petitioner for the taxable years 2012 and 2013, under the provisions of I.R.C. § 6651(a)(2), in the amounts of \$123.45 and \$234.56, respectively.

This is true even where the settlement reflects no deficiency and no penalty:

ORDERED AND DECIDED: That there is no deficiency in income tax due from, nor overpayment due to, petitioner for the taxable years 2012 and 2013; and

That there is no penalty due from petitioner, under the provisions of I.R.C. § 6662(a), for the taxable years 2012 and 2013.

Things to watch out for:

- Dollar amounts always begin with a dollar sign.
- Dollar amounts include separator commas every three digits (\$1,234,567.89)
- Dollar amounts always identify cents, even when there are no cents (\$1,234.00).
- Where there are three or more years or amounts, put a comma (the “Oxford comma”) before the “and” before the final item in the list.
- Sections 6651, 6654, and 6656 impose “additions to tax,” never “penalties.” Section 6662 imposes a “penalty.”
- Cite sections of the Internal Revenue Code as “I.R.C.” (with periods between the letters and no spaces between periods and letters), then a space, then the section symbol (Ctrl-Shift-Alt-S in Microsoft Word for Windows), then another space, then the section number, subsection, and paragraph where needed: “I.R.C. § 6651(a)(1)”
- Identify code sections for additions to tax and penalties as shown in the notice of deficiency.
 - For late-filing and late-payment additions to tax, always include the paragraph of subsection 6651(a): “I.R.C. § 6651(a)(1)”.
 - For the general accuracy-related penalty, specify the subsection: “I.R.C. § 6662(a)”.
 - For the addition to tax for underpayment of estimated tax, the section number is sufficient: “I.R.C. § 6654”.
- Self-employment tax under section 3401 and the additional tax on deferred income under section 72(t) are both considered deficiencies in income tax; do not list them separately.

Calculating additions to tax and penalties:

Late filing (I.R.C. § 6651(a)(1)): The addition to tax for failure to timely file a return is 5% of the tax shown on the return per month or fraction of a month that the return is late, up to a maximum of 25% (but see below). If an extension was filed timely, use the extended due date rather than the original due date. If no return was filed, use the amount of the settlement as the amount of tax required to be shown on the return.

For any month in which both the late-filing and late-payment additions to tax apply, the additions net out, so the late-filing addition to tax accrues at only 4.5% in those months (with the other 0.5% attributed to the late-payment addition to tax). This reduction applies after the 25% maximum accrual, so in any case where both the late-filing and late-payment additions to tax apply, the maximum percentage of the late-filing addition to tax is actually 22.5%.

Late payment (I.R.C. § 6651(a)(2)): The addition to tax for failure to pay tax timely is 0.5% of the tax shown on the return (or required to be shown on the return, if no return was filed) per month or fraction of a month, up to a maximum of 25%. An extension of time to file does not extend the time to pay the tax; use the due date of the return, without extensions, to compute the addition to tax.

For most cases, the late-payment addition to tax reaches the 25% maximum after 50 months. For returns due April 15 in Year 1, the late-payment addition to tax reaches its maximum on June 15 of Year 5, 50 months after the due date. If the decision is proposed for filing before the fiftieth month, indicate that the amount continues to accrue until payment or the 25% maximum is reached. If the petitioner is conceding the case in full, you need only reference the original deficiency:

That there is an addition to tax due from petitioner, under the provisions of I.R.C. § 6651(a)(2), of 0.5% of the amount of \$1,234.00 commencing on the due date of petitioner's return and accruing for each month or fraction thereof during which petitioner fails to pay, not exceeding 25% in the aggregate.

If the petitioner is proposing to settle for a reduced deficiency, reference the reduced deficiency with additional language: That there is an addition to tax due from petitioner, under the provisions of I.R.C. § 6651(a)(2), of 0.5% of the amount of the income tax required to be shown on the return, \$1,234.00, commencing on the due date of petitioner's return and accruing for each month or fraction thereof during which petitioner fails to pay, not exceeding 25% in the aggregate.

Estimated tax (I.R.C. §§ 6654, 6656): You can compute the penalty for underpayment of estimated taxes using IRS Form 2210 (for individuals) or 2220 (for corporations).

Accuracy-related penalty (I.R.C. § 6662(a)): The accuracy-related penalty is 20% of the underpayment of tax. The underpayment is the amount of the deficiency; that is, the difference between the correct tax per settlement and the tax already assessed (reduced by rebates made), treating refundable credits as negative amounts of tax. See section 6664(a).

Judge's signature block: Below the final operative paragraph of the decision is a minimum of **seven blank lines**, then the word "Judge." with a final period, aligned four inches from the left-hand side of the page (three inches from the inside of a one-inch left margin).

We emphasize the need for adequate space for the judge's signature. The clerk's office will return ("bounce") decisions that lack adequate space.

Below the line with the word "Judge." is a blank line, then the capitalized word "Entered" followed by a colon for the date on which the decision is entered by the clerk. Another blank line follows this line, then the five centered asterisks separating the operative part of the decision from the stipulations between the parties (discussed above):

ORDERED AND DECIDED: That there is no deficiency in income tax due from, nor overpayment due to, petitioner for the taxable years 2012 and 2013.

Judge.

Entered:

* * * * *

The Below-the-Line Stipulation

Stipulation paragraphs following the judge’s signature start with the words “It is [hereby/further] stipulated” The portion of the stipulated decision below the judge’s signature block must include at least one paragraph stipulating that the court may enter the decision:

* * * * *

It is hereby stipulated that the Court may enter the foregoing decision in this case.

Where a proposed settlement reflects a deficiency, addition to tax, or penalty due from the petitioner, it is customary for the petitioner to waive restrictions on assessment, and to articulate the parties’ understanding that interest will continue to accrue on any amounts due from the petitioner under the decision:

* * * * *

It is hereby stipulated that the Court may enter the foregoing decision in this case.

It is further stipulated that interest will accrue and be assessed as provided by law on the deficiency, additions to tax, and penalty due from petitioner.

It is further stipulated that, effective upon the entry of this decision by the Court, petitioner waives the restrictions contained in I.R.C. § 6213(a) prohibiting assessment and collection of the deficiency, additions to tax, and penalty

(plus statutory interest) until the decision of the Tax Court becomes final.

List “additions to tax” and “penalties” as appropriate for your case. Note that it is Chief Counsel’s policy to require a waiver paragraph in all cases in which a deficiency or other liability is determined, absent a particularized need to delay assessment and collection that will adequately protect the government’s interest.

In some cases, there may be prepayment credits that the taxpayer was entitled to claim on his or her return, but didn’t. One common example of this is where the taxpayer omits W-2 income and has unclaimed income-tax withholding; the taxpayer has a deficiency for the unreported income, but is entitled to a credit for the withheld income tax. Those credits often don’t appear in the computation of tax due; the Tax Court lacks jurisdiction over the computation of these credits because they are not included in the statutory definition of a deficiency. However, the parties may stipulate that there is an unclaimed prepayment credit that will be applied to the petitioner’s account, and that the deficiency does not include this prepayment credit.

It is further stipulated that there is a prepayment credit for the taxable year 2014 in the amount of \$123.45. It is stipulated that the deficiency for the taxable year 2014 is computed without considering the prepayment credit of \$123.45.

The parties’ signature block (discussed above) should follow the last paragraph of the below-the-line stipulation. The signature block should be on the same page as at least one line of the operative part of the stipulation; this may require inserting blank lines between paragraphs of the stipulation, or changing the order of the stipulation paragraphs. If blank lines are added to any page, the blank lines should be crossed out or otherwise marked to prevent the addition of language to a signed document.

Checklist for decision documents for LITCs:

Does your proposed decision:

- ✓ Have a properly formatted caption?
- ✓ Have proper margins, font, and font size under the Tax Court Rules?
- ✓ Correctly show the name of the petitioner(s) as shown on the docket sheet?
- ✓ Correctly show the name of the respondent as COMMISSIONER OF INTERNAL REVENUE?
- ✓ Show the correct docket number, including any S suffix?
- ✓ Show the docket number and page number at the top of each page after the first page?
- ✓ Identify itself as a DECISION?
- ✓ Show a determination for every deficiency in income tax, addition to tax, and penalty shown in the notice of deficiency?
- ✓ Properly compute the deficiency, additions to tax, and penalties, if any?
- ✓ Refer to additions to tax under sections 6651, 6654, and 6656 as additions to tax and not penalties?
- ✓ Refer to penalties under section 6662 as penalties and not additions to tax?
- ✓ Leave at least **SEVEN BLANK LINES** for the judge's signature?
- ✓ Have a centered row of five asterisks, separated by five spaces, below the space for the date of entry of the decision?
- ✓ Include a below-the-line stipulation that the court may enter the foregoing decision?
- ✓ Include a below-the-line stipulation waiving restrictions on assessment and collection (only if the decision determines a deficiency or addition to tax/penalty due)?
- ✓ Include a below-the-line stipulation acknowledging that interest will accrue and be assessed on the amounts due from the petitioner (only if the decision determines a deficiency or addition to tax/penalty due)?
- ✓ Have signature blocks for the signature of each petitioner or counsel?
- ✓ Have the proper name and title of the Chief Counsel/Acting Chief Counsel?
- ✓ Have the correct name, title, bar number, and telephone number for respondent's counsel?
- ✓ Lack any handwritten notations or interlineations, other than the signatures of the parties?