

Notice

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August 25, 2005

Subject: Guidance regarding the use of the
Tax Court's Electronic (North)
Courtroom located in the Tax Court
building in Washington, D.C. **Cancel Date:** Upon incorporation
into CCDM

PURPOSE

On May 17, 2004, the Tax Court announced the availability of its electronic courtroom for conducting court proceedings beginning on or after June 1, 2004. This notice provides information regarding the use of the United States Tax Court's Electronic (North) Courtroom located in the Tax Court building in Washington, D.C.

BACKGROUND

The electronic courtroom's technology equipment allows for digital evidence presentations providing attorneys random access of documents, photos, charts and graphics. Once accessed, these documents can be displayed for presentation via flat panel data monitors and a 42" plasma screen. In addition, these images may be annotated using touch screen monitors located at the podium and witness stand. The electronic courtroom's technology provides audio and video connections for laptop computers and allows for remote testimony and argument by videoconferencing. At this time, the parties may use videoconferencing only for point to point, not multiple point, videoconferences. Point to point videoconferencing creates a face-to-face connection between participants at two different physical locations.

The Tax Court issued Guidelines for Use of the Electronic (North) Courtroom, which may be viewed, along with full descriptions of the courtroom's technological equipment, online on the Tax Court's web site at www.ustaxcourt.gov.

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DISCUSSION

I. Eligibility for Use

The electronic courtroom may be used for any proceeding before the court, including trials, hearings, conferences, or oral status reports for which a calendar is issued and which are recorded and transcribed. The electronic courtroom should only be used in cases in which the technology equipment is appropriate for the proceedings to be conducted, whether the parties seek to use the electronic courtroom's point to point videoconferencing capabilities or to use the technology equipment on-site. In considering whether to seek permission to use the electronic courtroom, the effectiveness and costs of using the technology equipment should be considered.

For example, the parties might consider using videoconferencing to offer the testimony of a witness in a remote location to promote efficiency and reduce the costs of travel. The parties might consider videoconferencing if a witness cannot attend a trial due to physical limitations or incarceration, or if the court leaves the record open to take the testimony of a witness who was not available to testify at the trial. The parties should consider the Tax Court's trial calendar schedule before requesting videoconferencing. If the court has scheduled a calendar at the designated place of trial in the near future or the proceeding involves an issue that can await resolution until the next calendar, videoconferencing might not be appropriate. Additionally, videoconferencing might not be the best choice if the court must determine the witness' credibility because quality of the electronic image may not convey the witness' demeanor as effectively as face-to-face testimony.

The court's on-site technology equipment may be appropriate for use in motions or trials requiring extensive use of demonstrative evidence and the technology would improve presentation of that evidence. On the other hand, use of the court's on-site technology equipment may not be appropriate in situations in proceedings with insufficient complexity to justify the costs involved.

Only persons who have been trained by the technology staff of the Tax Court's Office of Information Systems (OIS) may use the electronic courtroom's on-site technology equipment. Any person planning to use the equipment must contact OIS to schedule the required training, in advance of a court proceeding, unless the presiding judicial officer gives prior approval for OIS to provide the training on the first day of a court proceeding.

If the parties only intend to use the court's videoconferencing capabilities, training on the on-site technology equipment may not be necessary. Facilities used in point to point videoconferencing may require training at the remote site.

II. Scheduling Procedure

Parties who wish to have a court proceeding conducted either by videoconference or by using the court's electronic technology must file a written "Joint Motion to Calendar in the Electronic (North) Courtroom." Alternatively, in a case assigned to a judge or special trial judge, or in which a judge has retained jurisdiction, the parties may orally request that the court conduct the proceedings in the electronic courtroom. The joint motion or request should state why the parties believe the technology equipment is appropriate for the proceedings. When requesting videoconferencing, the parties should include recommendations for remote site facilities. The motion or request should address the anticipated costs, if any, and describe how the parties intend to allocate the costs.

As discussed below, the court requires the parties to perfect their request to use the electronic courtroom no later than 30 days before the requested court proceeding. In order to comply with this timeframe, particularly for motions hearings, the motion or oral request to use the electronic courtroom should be made as early as possible. In the case of a hearing on a motion, the motion or request to use the electronic courtroom should be made contemporaneously with the filing of the motion expected to be calendared for hearing. In the alternative, the motion or request may be made as soon as practicable after the filing of the response to the motion. If the court has already calendared the underlying motion for hearing on a motions calendar in Washington, D.C., the motion or request to use the electronic courtroom should be accompanied by a separate motion to continue the previously scheduled hearing.

Prior to filing a motion or making an oral request that the court calendar a proceeding in the electronic courtroom or use the court's videoconferencing capabilities, a draft motion or, in the case of an oral request, a memorandum describing the background of the case should be sent to the Administrative Provisions and Judicial Practice Division, Branch 3 for review and approval. The motion or memorandum should include information concerning the nature of the proceeding and the use of the electronic courtroom proposed. If the parties wish to use the courtroom's on-site technology equipment, the memorandum must also identify the individual attorneys involved and describe their experience with Summation (Chief Counsel's evidence database software), Sanctions (Chief Counsel's courtroom presentation software), PowerPoint, or similar software.

If the court grants a joint request to conduct proceedings in the electronic courtroom, the court will issue an order to calendar the proceeding after the assigned judge reserves the courtroom.

The parties or counsel who will use the electronic courtroom must complete a Technology Equipment Request Form and fully comply with all the directions and deadlines specified on that form. A copy of the Technology Equipment Request Form will be attached to the order calendaring the proceeding. This form requests general information about the case, contact information for persons using the court's technology

equipment, the start time and approximate duration of the proceeding and a brief description of all electronic equipment the parties will bring into the electronic courtroom, if any. If the parties plan to use videoconferencing equipment, the form requires that the parties supply the location and telephone number of the remote site along with the contact name and telephone number of the person operating the equipment at that site. Finally, this form includes information regarding scheduling the required training. Unless otherwise permitted by the Chief Judge, the Technology Equipment Request Form must be received by the court no less than 30 days before the first day of the court proceeding. Parties or counsel who fail to timely submit this form and persons who fail to schedule and complete required training may not use the equipment.

III. Available Facilities

Many facilities throughout the United States have point to point videoconferencing technology. Federal district courts and other facilities that have this capability may offer differing types of technological equipment. Questions regarding possible remote video conferencing locations should be directed to APJP, Branch 3, which has a list of potential locations with point to point videoconferencing capabilities. Additionally, the Courtroom Information Project, located at the College of William and Mary Law School, maintains a database of courtrooms with various technological capabilities, including point to point video conferencing. This database may be viewed on the web at www.courtroominformationproject.org.

In investigating the viability of the use of the electronic courtroom's point to point video conferencing capabilities on a particular case, the location and cost of potential remote facilities should be identified. Arrangements for the use of these facilities in any particular case, however, should not be made by the parties. If the Tax Court grants the request for videoconferencing, the court will make the appropriate arrangements for the use of the remote facility.

Questions concerning this notice should be directed to Branch 3, Administrative Provisions & Judicial Practice Division, Procedure and Administration, at 202-622-7950.

/s/

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