891, 26 U.S.C. §7483, provides that review of a Tax Court decision may be obtained by filing a petition for review. The subdivision provides for review by the filing of the simple and familiar notice of appeal used to obtain review of district court judgments; (2) Section 7483, *supra*, requires that a petition for review be filed within 3 months after a decision is rendered, and provides that if a petition is so filed by one party, any other party may file a petition for review within 4 months after the decision is rendered. In the interest of fixing the time for review with precision, the proposed rule substitutes ''90 days'' and ''120 days'' for the statutory ''3 months'' and ''4 months'', respectively. The power of the Court to regulate these details of practice is clear. Title 28 U.S.C. §2072, as amended by the Act of November 6, 1966, 80 Stat. 1323 (1 U.S. Code Cong. & Ad. News, p. 1546 (1966)), authorizes the Court to regulate ''. . . practice and procedure in proceedings for the review by the courts of appeals of decisions of the Tax Court of the United States. . . .''

The second paragraph states the settled teaching of the case law. See *Robert Louis Stevenson Apartments, Inc. v. C.I.R.*, 337 F.2d 681, 10 A.L.R.3d 112 (8th Cir., 1964); *Denholm & McKay Co. v. C.I.R.*, 132 F.2d 243 (1st Cir., 1942); *Helvering v. Continental Oil Co.*, 63 App.D.C. 5, 68 F.2d 750 (1934); *Burnet v. Lexington Ice & Coal Co.*, 62 F.2d 906 (4th Cir., 1933); *Griffiths v. C.I.R.*, 50 F.2d 782 (7th Cir., 1931).

Subdivision (b). The subdivision incorporates the statutory provision (Title 26, U.S.C. §7502) that timely mailing is to be treated as timely filing. The statute contains special provisions respecting other than ordinary mailing. If the notice of appeal is sent by registered mail, registration is deemed prima facie evidence that the notice was delivered to the clerk of the Tax Court, and the date of registration is deemed the postmark date. If the notice of appeal is sent by certified mail, the effect of certification with respect to prima facie evidence of delivery and the postmark date depends upon regulations of the Secretary of the Treasury. The effect of a postmark made other than by the United States Post Office likewise depends upon regulations of the Secretary. Current regulations are found in 26 CFR §301.7502–1.

NOTES OF ADVISORY COMMITTEE ON RULES—1979 AMENDMENT

The proposed amendment reflects the change in the title of the Tax Court to ''United States Tax Court.'' See 26 U.S.C. §7441.

NOTES OF ADVISORY COMMITTEE ON RULES—1994 AMENDMENT

Subdivision (a). The amendment requires a party filing a notice of appeal to provide the court with sufficient copies of the notice for service on all other parties.

COMMITTEE NOTES ON RULES—1998 AMENDMENT

The language and organization of the rule are amended to make the rule more easily understood. In addition to changes made to improve the understanding, the Advisory Committee has changed language to make style and terminology consistent throughout the appellate rules. These changes are intended to be stylistic only.

COMMITTEE NOTES ON RULES—2013 AMENDMENT

Rules 13 and 14 are amended to address the treatment of permissive interlocutory appeals from the Tax Court under 26 U.S.C. §7482(a)(2). Rules 13 and 14 do not currently address such appeals; instead, those Rules address only appeals as of right from the Tax Court. The existing Rule 13—governing appeals as of right—is revised and becomes Rule 13(a). New subdivision (b) provides that Rule 5 governs appeals by permission. The definition of district court and district clerk in current subdivision (d)(1) is deleted; definitions are now addressed in Rule 14. The caption of Title III is amended to reflect the broadened application of this Title.

Changes Made After Publication and Comment. No changes were made after publication and comment.

REFERENCES IN TEXT

Section 7502 of the Internal Revenue Code, referred to in subd. (b), is classified to section 112 of Title 26, Internal Revenue Code.

Rule 14. Applicability of Other Rules to Appeals from the Tax Court

All provisions of these rules, except Rules 4, 6–9, 15–20, and 22–23, apply to appeals from the Tax Court. References in any applicable rule (other than Rule 24(a)) to the district court and district clerk are to be read as referring to the Tax Court and its clerk.

(As amended Apr. 24, 1998, eff. Dec. 1, 1998; Apr. 16, 2013, eff. Dec. 1, 2013.)

NOTES OF ADVISORY COMMITTEE ON RULES—1967

The proposed rule continues the present uniform practice of the circuits of regulating review of decisions of the Tax Court by the general rules applicable to appeals from judgments of the district courts.

COMMITTEE NOTES ON RULES—1998 AMENDMENT

The language of the rule is amended to make the rule more easily understood. In addition to changes made to improve the understanding, the Advisory Committee has changed language to make style and terminology consistent throughout the appellate rules. These changes are intended to be stylistic only.

COMMITTEE NOTES ON RULES—2013 AMENDMENT

Rule 13 currently addresses appeals as of right from the Tax Court, and Rule 14 currently addresses the applicability of the Appellate Rules to such appeals. Rule 13 is amended to add a new subdivision (b) treating permissive interlocutory appeals from the Tax Court under 26 U.S.C. §7482(a)(2). Rule 14 is amended to address the applicability of the Appellate Rules to both appeals as of right and appeals by permission. Because the latter are governed by Rule 5, that rule is deleted from Rule 14's list of inapplicable provisions. Rule 14 is amended to define the terms ''district court'' and ''district clerk'' in applicable rules (excluding Rule 24(a)) to include the Tax Court and its clerk. Rule 24(a) is excluded from this definition because motions to appeal from the Tax Court in forma pauperis are governed by Rule 24(b), not Rule 24(a).

Changes Made After Publication and Comment. No changes were made after publication and comment.

TITLE IV. REVIEW OR ENFORCEMENT OF AN ORDER OF AN ADMINISTRATIVE AGENCY, BOARD, COMMISSION, OR OFFICER

Rule 15. Review or Enforcement of an Agency Order—How Obtained; Intervention

(a) PETITION FOR REVIEW; JOINT PETITION.

(1) Review of an agency order is commenced by filing, within the time prescribed by law, a petition for review with the clerk of a court of appeals authorized to review the agency order. If their interests make joinder practicable, two or more persons may join in a petition to the same court to review the same order.

(2) The petition must:

(A) name each party seeking review either in the caption or the body of the petition—using such terms as ''et al.,'' ''petitioners,'' or ''respondents'' does not effectively name the parties;

(B) name the agency as a respondent (even though not named in the petition, the United States is a respondent if required by statute); and

(C) specify the order or part thereof to be reviewed.

(3) Form 3 in the Appendix of Forms is a suggested form of a petition for review.

(4) In this rule ''agency'' includes an agency, board, commission, or officer; ''petition for review'' includes a petition to enjoin, suspend, modify, or otherwise review, or a notice of appeal, whichever form is indicated by the applicable statute.

(b) APPLICATION OR CROSS-APPLICATION TO ENFORCE AN ORDER; ANSWER; DEFAULT.

(1) An application to enforce an agency order must be filed with the clerk of a court of appeals authorized to enforce the order. If a petition is filed to review an agency order that the court may enforce, a party opposing the petition may file a cross-application for enforcement.

(2) Within 21 days after the application for enforcement is filed, the respondent must serve on the applicant an answer to the application and file it with the clerk. If the respondent fails to answer in time, the court will enter judgment for the relief requested.

(3) The application must contain a concise statement of the proceedings in which the order was entered, the facts upon which venue is based, and the relief requested.

(c) SERVICE OF THE PETITION OR APPLICATION. The circuit clerk must serve a copy of the petition for review, or an application or cross-application to enforce an agency order, on each respondent as prescribed by Rule 3(d), unless a different manner of service is prescribed by statute. At the time of filing, the petitioner must:

(1) serve, or have served, a copy on each party admitted to participate in the agency proceedings, except for the respondents;

(2) file with the clerk a list of those so served; and

(3) give the clerk enough copies of the petition or application to serve each respondent.

(d) INTERVENTION. Unless a statute provides another method, a person who wants to intervene in a proceeding under this rule must file a motion for leave to intervene with the circuit clerk and serve a copy on all parties. The motion—or other notice of intervention authorized by statute—must be filed within 30 days after the petition for review is filed and must contain a concise statement of the interest of the moving party and the grounds for intervention.

(e) PAYMENT OF FEES. When filing any separate or joint petition for review in a court of appeals, the petitioner must pay the circuit clerk all required fees.

(As amended Apr. 22, 1993, eff. Dec. 1, 1993; Apr. 24, 1998, eff. Dec. 1, 1998; Mar. 26, 2009, eff. Dec. 1, 2009.)

NOTES OF ADVISORY COMMITTEE ON RULES—1967

General Note. The power of the Supreme Court to prescribe rules of practice and procedure for the judicial review or enforcement of orders of administrative agencies, boards, commissions, and officers is conferred by 28 U.S.C. §2072, as amended by the Act of November 6, 1966, §1, 80 Stat. 1323 (1 U.S. Code Cong. & Ad. News, p. 1546 (1966)). Section 11 of the Hobbs Administrative Orders Review Act of 1950, 64 Stat. 1132, reenacted as 28 U.S.C. §2352 (28 U.S.C.A. §2352 (Suppl. 1966)), repealed by the Act of November 6, 1966, §4, *supra*, directed the courts of appeals to adopt and promulgate, subject to approval by the Judicial Conference rules governing practice and procedure in proceedings to review the orders of boards, commissions and officers whose orders were made reviewable in the courts of appeals by the Act. Thereafter, the Judicial Conference approved a uniform rule, and that rule, with minor variations, is now in effect in all circuits. Third Circuit Rule 18 is a typical circuit rule, and for convenience it is referred to as the uniform rule in the notes which accompany rules under this Title.

Subdivision (a). The uniform rule (see General Note above) requires that the petition for review contain ''a concise statement, in barest outline, of the nature of the proceedings as to which relief is sought, the facts upon which venue is based, the grounds upon which relief is sought, and the relief prayed.'' That language is derived from Section 4 of the Hobbs Administrative Orders Review Act of 1950, 64 Stat. 1130, reenacted as 28 U.S.C. §2344 (28 U.S.C.A. §2344 (Suppl. 1966)). A few other statutes also prescribe the content of the petition, but the great majority are silent on the point. The proposed rule supersedes 28 U.S.C. §2344 and other statutory provisions prescribing the form of the petition for review and permits review to be initiated by the filing of a simple petition similar in form to the notice of appeal used in appeals from judgments of district courts. The more elaborate form of petition for review now required is rarely useful either to the litigants or to the courts. There is no effective, reasonable way of obliging petitioners to come to the real issues before those issues are formulated in the briefs. Other provisions of this subdivision are derived from sections 1 and 2 of the uniform rule.

Subdivision (b). This subdivision is derived from sections 3, 4 and 5 of the uniform rule.

Subdivision (c). This subdivision is derived from section 1 of the uniform rule.

Subdivision (d). This subdivision is based upon section 6 of the uniform rule. Statutes occasionally permit intervention by the filing of a notice of intention to intervene. The uniform rule does not fix a time limit for intervention, and the only time limits fixed by statute are the 30–day periods found in the Communications Act Amendments, 1952, §402(e), 66 Stat. 719, 47 U.S.C. §402(e), and the Sugar Act of 1948, §205(d), 61 Stat. 927, 7 U.S.C. §1115(d).

NOTES OF ADVISORY COMMITTEE ON RULES—1993 AMENDMENT

Subdivision (a). The amendment is a companion to the amendment of Rule 3(c). Both Rule 3(c) and Rule 15(a) state that a notice of appeal or petition for review must name the parties seeking appellate review. Rule 3(c), however, provides an attorney who represents more than one party on appeal the flexibility to describe the parties in general terms rather than naming them individually. Rule 15(a) does not allow that flexibility; each petitioner must be named. A petition for review of an agency decision is the first filing in any court and, therefore, is analogous to a complaint in which all parties must be named.

Subdivision (e). The amendment adds subdivision (e). Subdivision (e) parallels Rule 3(e) that requires the payment of fees when filing a notice of appeal. The omission of such a requirement from Rule 15 is an apparent oversight. Five circuits have local rules requiring the payment of such fees, *see, e.g.*, Fifth Cir. Loc. R. 15.1, and Fed. Cir. Loc. R. 15(a)(2).

COMMITTEE NOTES ON RULES—1998 AMENDMENT

The language and organization of the rule are amended to make the rule more easily understood. In addition

to changes made to improve the understanding, the Advisory Committee has changed language to make style and terminology consistent throughout the appellate rules. These changes are intended to be stylistic only.

COMMITTEE NOTES ON RULES—2009 AMENDMENT

Subdivision (b)(2). The time set in the former rule at 20 days has been revised to 21 days. See the Note to Rule 26.

Rule 15.1. Briefs and Oral Argument in a National Labor Relations Board Proceeding

In either an enforcement or a review proceeding, a party adverse to the National Labor Relations Board proceeds first on briefing and at oral argument, unless the court orders otherwise.

(As added Mar. 10, 1986, eff. July 1, 1986; amended Apr. 24, 1998, eff. Dec. 1, 1998.)

NOTES OF ADVISORY COMMITTEE ON RULES—1986

This rule simply confirms the existing practice in most circuits.

COMMITTEE NOTES ON RULES—1998 AMENDMENT

The language of the rule is amended to make the rule more easily understood. In addition to changes made to improve the understanding, the Advisory Committee has changed language to make style and terminology consistent throughout the appellate rules. These changes are intended to be stylistic only.

Rule 16. The Record on Review or Enforcement

(a) COMPOSITION OF THE RECORD. The record on review or enforcement of an agency order consists of:

(1) the order involved;

(2) any findings or report on which it is based; and

(3) the pleadings, evidence, and other parts of the proceedings before the agency.

(b) OMISSIONS FROM OR MISSTATEMENTS IN THE RECORD. The parties may at any time, by stipulation, supply any omission from the record or correct a misstatement, or the court may so direct. If necessary, the court may direct that a supplemental record be prepared and filed.

(As amended Apr. 24, 1998, eff. Dec. 1, 1998.)

NOTES OF ADVISORY COMMITTEE ON RULES—1967

Subdivision (a) is based upon 28 U.S.C. §2112(b). There is no distinction between the record compiled in the agency proceeding and the record on review; they are one and the same. The record in agency cases is thus the same as that in appeals from the district court—the original papers, transcripts and exhibits in the proceeding below. Subdivision (b) is based upon section 8 of the uniform rule (see General Note following Rule 15).

COMMITTEE NOTES ON RULES—1998 AMENDMENT

The language and organization of the rule are amended to make the rule more easily understood. In addition to changes made to improve the understanding, the Advisory Committee has changed language to make style and terminology consistent throughout the appellate rules. These changes are intended to be stylistic only.

Rule 17. Filing the Record

(a) AGENCY TO FILE; TIME FOR FILING; NOTICE OF FILING. The agency must file the record with the circuit clerk within 40 days after being served with a petition for review, unless the statute authorizing review provides otherwise, or within 40 days after it files an application for enforcement unless the respondent fails to answer or the court orders otherwise. The court may shorten or extend the time to file the record. The clerk must notify all parties of the date when the record is filed.

(b) FILING—WHAT CONSTITUTES.

(1) The agency must file:

(A) the original or a certified copy of the entire record or parts designated by the parties; or

(B) a certified list adequately describing all documents, transcripts of testimony, exhibits, and other material constituting the record, or describing those parts designated by the parties.

(2) The parties may stipulate in writing that no record or certified list be filed. The date when the stipulation is filed with the circuit clerk is treated as the date when the record is filed.

(3) The agency must retain any portion of the record not filed with the clerk. All parts of the record retained by the agency are a part of the record on review for all purposes and, if the court or a party so requests, must be sent to the court regardless of any prior stipulation.

(As amended Apr. 24, 1998, eff. Dec. 1, 1998.)

NOTES OF ADVISORY COMMITTEE ON RULES—1967

Subdivision (a). This subdivision is based upon section 7 of the uniform rule (see General Note following Rule 15). That rule does not prescribe a time for filing the record in enforcement cases. Forty days are allowed in order to avoid useless preparation of the record or certified list in cases where the application for enforcement is not contested.

Subdivision (b). This subdivision is based upon 28 U.S.C. §2112 and section 7 of the uniform rule. It permits the agency to file either the record itself or a certified list of its contents. It also permits the parties to stipulate against transmission of designated parts of the record without the fear that an inadvertent stipulation may ''diminish'' the record. Finally, the parties may, in cases where consultation of the record is unnecessary, stipulate that neither the record nor a certified list of its contents be filed.

COMMITTEE NOTES ON RULES—1998 AMENDMENT

The language and organization of the rule are amended to make the rule more easily understood. In addition to changes made to improve the understanding, the Advisory Committee has changed language to make style and terminology consistent throughout the appellate rules. These changes are intended to be stylistic only; a substantive change is made, however, in subdivision (b).

Subdivision (b). The current rule provides that when a court of appeals is asked to review or enforce an agency order, the agency must file either ''the entire record or such parts thereof as the parties may designate by stipulation filed with the agency'' or a certified list describing the documents, transcripts, exhibits, and other material constituting the record. If the agency is not filing a certified list, the current rule requires the agency to file the entire record unless the parties file a ''stipulation'' designating only parts of the record. Such a ''stipulation'' presumably requires agreement of the parties as to the parts to be filed. The amended language in subparagraph (b)(1)(A) permits the agency to file the entire record or ''parts designated by the parties.'' The new language permits the filing of less than the entire record even when the parties do not agree as to which parts should be filed. Each party can des-