February 2, 2006

The Honorable Joel Gerber  
Chief Judge  
United States Tax Court  
400 Second Street, N.W.  
Washington, D.C. 20217

Re: Privacy Protection for Filings Made with the Court

Dear Chief Judge Gerber:

Thank you for including members of the American Bar Association (“ABA”) Section of Taxation Court Procedure & Practice Committee in recent discussions regarding legitimate privacy concerns raised by petitioners in Tax Court proceedings and inviting the submission of creative solutions to the problem. These comments are submitted on behalf of the American Bar Association Section of Taxation and have not been approved by the House of Delegates or Board of Governors of the American Bar Association. Accordingly, they should not be construed as representing the position of the American Bar Association.

The specific issue of concern is the inclusion of a taxpayer’s social security number on Court filings. You proposed that a petitioner’s social security number be partially redacted, leaving only the last four digits in Court filings.

In a letter dated December 6, 2005, the Associate Chief Counsel (Procedure & Administration) of the Internal Revenue Service, Deborah Butler, expressed agreement with your proposal, so long as the copy of the petition served on the Service and all attachments thereto include the petitioner’s full social security number and remain complete and unredacted. She stated that this proposal strikes a balance between the Court’s legitimate concern about protecting the personal information of its litigants against identity theft and other illegal or inappropriate uses and the Commissioner’s need for the complete, unredacted social security number or taxpayer identification number to comply with the statutory restrictions on assessment and collection with respect to cases before the Tax Court. In addition, this proposal allows the Service to retrieve its administrative file efficiently. The ABA Section of Taxation agrees with the Service and would support this proposal.

We also have one alternative that we offer for the Court’s consideration. When a complaint is filed in district court, including the United States Court of Federal Claims, a cover sheet is attached that contains certain information, including the name of the petitioner and the nature of the suit. The Tax Court does not currently require that a similar cover sheet be included with the filing of a Tax Court petition.
We propose requiring that all petitions filed with the Tax Court include a cover sheet containing information pertinent to the Tax Court, including the taxpayer’s social security or employer identification number. The cover sheet would be included as part of the copy served on the Service but would not be made public. This alternative would make the social security or employer identification number unnecessary in the petition itself and the attachments thereto.

We believe that our proposal accommodates both the Court’s goal of protecting the privacy of taxpayers who petition the Court and the Service’s goal of continuing to have access to a taxpayer’s full social security or employer identification number to allow it to comply with the statutory restrictions on assessment and collection and to facilitate the efficient retrieval of its administrative file regarding the petitioner.

We would be happy to discuss this and other proposals further with you and the Service. If you have any questions regarding this letter, you may contact Mary McNulty at Thompson & Knight L.L.P., 1700 Pacific Avenue, Suite 3300, Dallas, Texas, 75201 (214-969-1187). Thank you for the opportunity to offer our input.

Very truly yours,

Dennis B. Drapkin
Chair,
ABA Section of Taxation

cc: Deborah A. Butler, Internal Revenue Service, Associate Chief Counsel (Procedure & Administration)
    The Honorable Michael Thornton, Judge, United States Tax Court

Principal responsibility for these comments was exercised by Mark Allison, William F. Colgin, Jr., Elizabeth A. Copeland, Mary McNulty, and Richard Nessler, members of the Court Procedure and Practice Committee of the Section of Taxation of the American Bar Association. These comments were also reviewed by Robert B. Haines on behalf of the Section of Taxation’s Committee on Government Submissions; and by Charles A. Pulaski, Jr., Council Director for the Court Procedure and Practice Committee.