

## **Rule 8:3. COMMENCEMENT OF ACTION; PLEADINGS**

### **8:3-1. Commencement of Action**

(a) An action is commenced by filing a complaint with the Clerk of the Tax Court. Pursuant to R. 1:32-2A, the Supreme Court has approved the mandatory use of eCourts Tax by attorneys to commence all local property tax matters in the Tax Court. All State tax matters are commenced through the filing of a paper complaint.

(b) In local property tax cases a separate complaint must be filed for each separately assessed property except as hereinafter provided in R. 8:3-5(a)(2), (3) and (4).

(c) In local property tax cases, a separate complaint must be filed for each tax year for each separately assessed property, and a separate complaint must be filed each tax year for a group of properties permitted to be included in a single complaint as provided by R. 8:3-5(a)(2), (3) and (4). This requirement does not apply either to a complaint made pursuant to N.J.S.A. 54:51A-7 to correct an error affecting more than one tax year or to a complaint made pursuant to N.J.S.A. 54:4-23.8 relating to the imposition of the farmland rollback tax.

**Note:** Adopted June 20, 1979 to be effective July 1, 1979. Former rule redesignated as paragraph (a) and paragraph (b) adopted July 22, 1983 to be effective September 12, 1983; new paragraph (c) adopted July 28, 2004 to be effective September 1, 2004; paragraph (a) amended July 27, 2018 to be effective September 1, 2018.

### **8:3-2. Pleadings Allowed**

(a) Generally. Pleadings shall consist of the complaint and such responsive pleadings as shall be filed in the action. A case information statement in a form prescribed in these rules shall be attached to the complaint. A complaint that fails to include a case information statement shall be treated as a nonconforming paper that shall be returned stamped "Received but not filed (date)" as provided in R. 1:5-6(c).

(b) Local Property Tax Cases. In local property tax cases, every defendant may but need not file an answer. There may be a counterclaim and an answer to a counterclaim denominated as such. Unless by order of the court, no other pleading is allowed, except in response to amended and supplementary pleadings.

(c) State Tax Cases. In state tax cases (other than cases governed by R. 8:11 (Small Claims)), there shall be a complaint and an answer. Unless by order of the court, no other pleading is allowed, except in response to amended and supplementary pleadings.

**Note:** Adopted June 20, 1979 to be effective July 1, 1979; amended July 16, 1981 to be effective September 14, 1981; text allocated into paragraphs (a) and (b) and amended, paragraph (a) and (b)

captions adopted, and new paragraph (c) adopted July 9, 2008 to be effective September 1, 2008; paragraph (a) amended July 23, 2010 to be effective September 1, 2010.

### **R. 8:3-3. General Form of Pleading; Appearances in Court**

In addition to the special pleading requirements prescribed by these rules all pleadings shall generally accord as to form with the rules governing pleadings in the Superior Court. A pleading shall be signed by the attorney of record or, if not represented by an attorney, by the party. If a party is not represented by an attorney the pleading shall include the name, residence address and telephone number of the party. Except as provided by R. 1:21-1(c), an entity, however formed and for whatever purpose, other than a sole proprietorship shall neither appear nor file any paper in any action in the Tax Court except through an attorney authorized to practice in this State.

**Note:** Adopted June 20, 1979 to be effective July 1, 1979. Amended July 22, 1983 to be effective September 12, 1983; amended July 13, 1994 to be effective September 1, 1994; caption and text amended July 31, 2020 to be effective September 1, 2020.

### **8:3-4. Contents of Complaint, Generally**

(a) Complaints Generally. The complaint shall set forth the claim for relief and a statement of the facts on which the claim is based and shall conform to the requirements of R. 8:3-5 and R. 4:5-7. The Clerk of the Tax Court shall make sample forms available to litigants on request. The wording of any sample form may be modified to conform to the claim made and relief sought in a particular case.

(b) State Tax Complaints. Complaints filed in State Tax cases shall set forth clear and concise allegations in separately numbered paragraphs. Each allegation shall be stated in simple, concise and direct terms.

(c) Claim for Relief. A pleading which sets forth a claim for relief shall briefly state the factual basis of the claim and the relief sought. Each claim for relief shall be set forth in simple, concise and direct terms. Relief in the alternative may be demanded. A request may be made for a change in real property tax assessment without specifying the amount of such change. A claim for exemption shall be specifically pleaded.

(d) Small Claims Classification.

(1) In state tax cases, the complaint shall state whether the amount in Controversy exceeds the jurisdictional amount in R. 8:11(a)(1).

(2) In local property tax cases, the complaint shall state whether each separately assessed parcel of property under appeal is a class 2 property (1-4 family residence) or a class 3A farm residence or, if small claims jurisdiction is based on the prior year's taxes, there shall be included with the complaint a copy of the prior year's final tax bill or the current year's notice of assessment or a statement certifying the prior year's taxes. Where small claims jurisdiction is based on the prior year's taxes, a

complaint that fails to confirm the prior year's taxes as specified in this subparagraph shall be treated as a nonconforming paper that shall be returned stamped "Received but not filed (date)" as provided in R. 1:5-6(c).

(e) Claim of Discrimination. If discrimination is claimed, the complaint shall so state.

(f) Separately Assessed Parcels in Common Ownership. If a complaint or counterclaim in an action to review a real property tax assessment includes more than one separately assessed parcel of property contiguous and in common ownership pursuant to R. 8:3-5(a)(2) or (3), or in common ownership pursuant to R. 8:3-5(a)(4), the complaint shall so state.

**Note:** Adopted June 20, 1979 to be effective July 1, 1979. Paragraphs (a) and (d) amended July 15, 1982 to be effective September 13, 1982; paragraph (e) adopted November 5, 1986 to be effective January 1, 1987; paragraphs (b) and (c) amended July 5, 2000 to be effective September 5, 2000; subparagraphs (c)(1) and (c)(2) amended July 23, 2010 to be effective September 1, 2010; paragraph (a) caption and text amended, new paragraph (b) adopted, former paragraph (b) redesignated as paragraph (c) and amended, paragraphs (c), (d), and (e) redesignated as paragraphs (d), (e), and (f) July 22, 2014 to be effective September 1, 2014; paragraph (d)(1) amended August 1, 2016 to be effective September 1, 2016.

### **8:3-5. Contents of Complaint; Specific Actions**

(a) Local Property Tax Cases.

(1) The first paragraph of every complaint and counterclaim shall set forth the block, lot and street address of the property. A Case Information Statement in the form specified by the Tax Court shall be attached to the face of the complaint or counterclaim, and a copy of the County Board of Taxation judgment and memorandum of judgment or order or determination to be reviewed shall be attached to the complaint, except in matters to be directly reviewed by the Tax Court pursuant to N.J.S.A. 54:3-21. The complaint shall include the name of the owner, the name of the plaintiff if other than the owner and the relationship of the plaintiff to the owner, the assessment, the type of property, the prior year(s) for which action is pending in the Tax Court for the same property and whether exemption or farmland qualification is claimed.

(2) The complaint may include, in separate counts, each of the separately Assessed contiguous properties in common ownership in the same or different taxing districts, for which review is sought. If separately assessed properties are in common ownership, they will be deemed to be contiguous for the purpose of this rule even if separated by a road, right of way or similar passageway for the passage of vehicles or pedestrians.

(3) In cases of direct review by the Tax Court pursuant to N.J.S.A. 54:3-21, the complaint shall contain an allegation that the assessed valuation of the property for which direct review is sought exceeds \$1,000,000. A complaint for direct review may include in separate counts separately assessed, contiguous properties in common

ownership, in the same or different taxing districts, provided that the assessed valuation of one of such separately assessed, contiguous properties exceeds \$1,000,000.

(4) Property assessed separately pursuant to the provisions of N.J.S.A. 46:8A 26 (Horizontal Property Act) or N.J.S.A. 46:8B-19 (Condominium Act) that is part of the same condominium complex may be combined in one complaint only if the separately assessed properties are in the same ownership and are part of the same master deed, provided that each separate assessment is listed on an attached schedule setting forth the name of the owner, the block, lot and assessment. Such properties will be deemed to be contiguous for the purpose of this rule if in common ownership and part of the same master deed even if separated by a road, right of way, or similar passageway for the passage of vehicles or pedestrians.

(b) State Tax Cases.

(1) A Case Information Statement in the form specified by the Tax Court shall be attached to the face of the complaint, and a copy of the action, determination or deficiency notice of the Director of the Division of Taxation or of any other state agency or officer (including the Motor Vehicle Commission) with respect to a tax matter, or of a county recording officer with respect to the realty transfer tax, if any to be reviewed shall be attached to the complaint. The complaint may include in separate counts allegations with respect to separate taxes or assessments.

(2) A complaint by a taxpayer seeking review of a Certificate of Debt shall Have attached thereto, where available, copies of the Certificate of Debt and the underlying tax assessment. The complaint shall state whether the issuance of the Certificate of Debt or the underlying tax assessment is being challenged. A challenge to the tax assessment may be reviewed only if the applicable period for filing a complaint to challenge this assessment had not previously expired.

(c) Review of Equalization Table. A complaint seeking the inclusion or exclusion of a specific sale or sales in the analysis of sales upon which an equalization table is based, shall set forth and identify the sale or sales and, if available, each Form SR1A identification number of the Division of Taxation and the reasons alleged for inclusion or exclusion from the table, and a Case Information Statement in the form specified by the Tax Court shall be attached to the face of the complaint.

**Note:** Adopted June 20, 1979 to be effective July 1, 1979. Paragraphs (a)(1), (2) and (3) amended July 8, 1980 to be effective July 15, 1980; paragraphs (a)(1) and (3) amended July 15, 1982 to be effective September 13, 1982; paragraph (a)(4) amended July 22, 1983 to be effective September 12, 1983; paragraph (b) amended November 1, 1985 to be effective January 2, 1986; paragraphs (a)(1), (2) and (4) amended November 5, 1986 to be effective January 1, 1987; paragraph (b)(2) amended November 7, 1988 to be effective January 2, 1989; paragraphs (a)(1), (b)(1) and (c) amended July 14, 1992 to be effective September 1, 1992; paragraph (a)(4) amended July 10, 1997 to be effective September 1, 1997; paragraph (b)(1) amended July 9, 2008 to be effective September 1, 2008; paragraph (a)(3) amended February 9, 2010 to be effective immediately; subparagraph (a)(1) amended July 27, 2018 to be effective September 1, 2018.

### **8:3-6. Answers**

If an answer is filed, it shall conform to the requirements of R. 4:5-3.

**Note:** Adopted June 20, 1979 to be effective July 1, 1979.

### **8:3-7. Counterclaim in Real Property Tax Cases**

A counterclaim shall accord, as to form, with R. 8:3-3; as to contents, with R. 8:3-4 and R. 8:3-5 and as to service, with R. 8:5-2 through 5 inclusive.

**Note:** Adopted June 20, 1979 to be effective July 1, 1979. Amended July 22, 1983 to be effective September 12, 1983.

### **8:3-8. Amended and Supplemental Pleadings; Deletion of Documents and Correction of Data**

(a) Amendments Generally. A party may, upon notice to all parties and proof of notice, amend pleadings at any time prior to the completion of the pretrial conference or, if there is no pretrial conference, at any time prior to the receipt of notice of the first date fixed for trial. The amendments in the amended pleadings shall be underlined. Unless the court and the proponent of the amendment are notified of objections within 20 days after service, the amendment shall be accepted. If objection is made, the matter may be listed for hearing in the discretion of the court. Amendment of the pleadings may be made thereafter only by motion for good cause shown. Amendments to conform to the evidence may be permitted in accordance with R. 4:9-2.

(b) State Tax Cases-Additional Deficiency Notices and Claims. Provided that the statute of limitations period has not expired, a complaint may be amended at any time prior to the close of proofs to include either:

(1) An additional deficiency notice issued by the Director of the Division of Taxation or other state agency or official during the pendency of an action to review a deficiency notice for the same tax or

(2) Any additional claim for refund for the same tax.

(c) Relation Back.

(1) Local Property Tax: Amendments to pleadings in local property tax cases relate back to the date of the original pleading provided that no party is significantly prejudiced by said amendment.

(2) To the extent that R. 8:3-8 and R. 4:9-3 are not consistent, R. 8:3-8 governs.

(d) Filing. The amendment of the complaint permitted under R. 8:3-8(b) shall be

made by filing the amended complaint with the Tax Court and serving a copy upon all parties without the necessity of a motion.

(e) Deletion of Documents and Correction of Data. An order for deletion of a document or for correction of data in eCourts or an associated database, shall be submitted either by motion on notice to the other parties in the case or by consent order. Such orders may also be issued sua sponte by the court.

**Note:** Adopted June 20, 1979 to be effective July 1, 1979. Paragraph (a) amended July 8, 1980 to be effective July 15, 1980; paragraph (b) amended and paragraph (c) adopted July 16, 1981 to be effective September 14, 1981; paragraphs (a) and (b) amended July 13, 1994 to be effective September 1, 1994; paragraph (a) amended July 10, 1998 to be effective September 1, 1998; new paragraph (c) adopted and former paragraph (c) redesignated as paragraph (d) July 22, 2014 to be effective September 1, 2014; caption amended and new paragraph (e) adopted July 31, 2020 to be effective September 1, 2020.

### **8:3-9. Withdrawal**

Whether or not a responsive pleading has been filed, a complaint or a counterclaim may be withdrawn at any time prior to the close of the proofs before the Tax Court and thereafter with leave of Court.

**Note:** Adopted June 20, 1979 to be effective July 1, 1979.