

NOTICE TO THE BAR

PROPOSAL TO PERMIT SUPERVISED LAW STUDENTS TO PROVIDE PRO BONO LEGAL SERVICES IN STATE TAX MATTERS; AMENDMENTS TO RULE 1:21-3(b) – REQUEST FOR PUBLIC COMMENT

The Supreme Court invites written comments on a proposal to allow second-year and third-year law students to provide pro bono legal assistance in state tax matters under the supervision of a New Jersey licensed attorney.

Background

The Court in its [August 16, 2021](#) second annual Action Plan for Ensuring Equal Justice committed to explore legal representation at all levels of the courts. Consistent with that pledge, this proposal would expand access to legal assistance in state tax matters for lower-income individuals, including those on fixed incomes, with language access needs, and others who may struggle to understand and comply with Tax Court procedural requirements.

In monetary disputes in civil dockets, qualifying individuals can seek assistance from Legal Services of New Jersey and other organizations. In federal tax court cases, indigent and low-income individuals can request representation from the Federal Tax Law Clinic at Rutgers University School of Law. However, although both Rutgers Law School and Seton Hall Law School offer courses in State and Local Tax, there are at present no known clinical programs or other options for free legal representation in state tax matters.

Accordingly, this proposal is intended to bridge an identified gap in available free legal services. It would also provide a way for tax practitioners to expand their pro bono contributions and to mentor students interested in gaining practical knowledge of state tax practice.

Proposed Amendments to Rule 1:21-3(b)

The Court thus invites comments on the following proposed amendments to Rule 1:21-3(b) (“Appearance by Law Students and Graduates”):

(b) Appearance by Law Students and Graduates. A third year-law student at, or a graduate of, a law school approved by the American Bar Association may appear before the Appellate Division, a trial court or an agency in conjunction with a legal services or public interest organization or law school clinical or pro bono program

certified under R. 1:21-11(b)(1) or (b)(3), or an agency of municipal, county or state government certified under R. 1:21-11(b)(3). **A second-year or third-year law student at a law school approved by the American Bar Association may appear before the Tax Court in state tax cases (i.e., cases involving taxes administered by the New Jersey Division of Taxation), under the supervision of a licensed New Jersey attorney.** Permission to appear pursuant to this paragraph by a law graduate who has not passed the New Jersey bar examination shall terminate upon the graduate's failure to pass the bar examination for the third time, or after two years of employment following graduation, whichever is sooner.

The Court in its [November 18, 2021](#) Order ("Future of Court Operations" order) authorized routine motion arguments, case management conferences, and settlement conferences in the Tax Court to proceed in a virtual format absent an individualized reason to proceed in person. Based on that framework, the expectation is that the supervising attorney could both oversee the law student in pre-court events (that in many cases are expected to resolve disputes without court appearances) and be present during virtual court proceedings as needed.

Please send any comments on the proposed amendments to Rule 1:21-3(b) in writing by January 14, 2022 to:

Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
Comments on Proposed Amendments to Rule 1:21-3(b) (Tax Court)
Hughes Justice Complex; P.O. Box 037
Trenton, New Jersey 08625-0037

Comments may also be submitted via email to: Comments.Mailbox@njcourts.gov.

The Supreme Court will not consider comments submitted anonymously. Thus, those submitting comments by mail should include their name and address (and those submitting comments by email should include their name and email address). Comments are subject to public disclosure upon receipt.



Hon. Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts

Dated: December 7, 2021