

CC-2004-21

June 16, 2004

Subject: Tax Court Brief Bank

Cancel Date: Upon incorporation
into CCDM

Purpose

This Notice announces the availability of the Office of Chief Counsel Tax Court Brief Bank and sets forth procedures to be followed by Chief Counsel personnel in establishing and maintaining a searchable electronic library of briefs and motions for summary judgment filed in the United States Tax Court.

Background

There have been many requests to create a brief bank of Tax Court briefs to be used as a starting research tool when preparing briefs or other documents to be filed with the Tax Court. Starting in 2002, we have worked with CISO to develop a brief bank system that will be easy to manage and use but which will be consistent with the limitations on the use of tax return information under section 6103. As of today, the Tax Court Brief Bank is available for use by all attorneys and paralegals in the Office of Chief Counsel. The Brief Bank contains briefs and motions for summary judgment that were subject to review by the National Office and filed with the Tax Court after January 1, 2003. As of the date of this Notice, the brief bank contains approximately 240 documents.

Briefs and motions for summary judgment directly filed with the Tax Court and on the public record in the Tax Court will be added to the Brief Bank in a subsequent phase of the Brief Bank implementation.

Section 7461(a) provides that all reports of the Tax Court and all evidence received by the Tax Court, including transcripts of the hearings, shall be public records open to the inspection of the public. Similarly, briefs and motions for summary judgment become a matter of public record when they are filed with, and accepted by, the Tax Court. If there is a procedural defect, the Tax Court may not file a document and the document

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NO: Circulate ___ Distribute X to: All Personnel X Attorneys ___ In: _____

Other _____

Electronic Filename: CC-2004-021.pdf Original signed copy in: CC:FM:PM:P

then will not become part of the public Tax Court record. The Tax Court may also order that documents be placed under seal in accordance with section 7461(b)(1) and, therefore, those documents will not be a matter of public record. A document will not be added to the Brief Bank until it has been verified that it has been filed and placed on the public Tax Court record.

Submitting and Certifying Documents

A description of the process for electronically submitting documents to the Brief Bank and certifying that the documents are on the public Tax Court record is set forth below. Step-by-step instructions for submitting and certifying documents are contained in the link "Using The Tax Court Brief Bank" from the Brief Bank Home Page, and are also attached to this Notice. This Notice and the instructions should be reviewed each time a document is to be included in the Brief Bank.

Attorneys should submit the brief or motion at the same time that the document is sent to the Tax Court for filing¹. Because the documents in the Brief Bank should be identical with those filed with the court, the Brief Initialed Page and any unused Certificate of Service Page should be deleted before submitting documents to the Brief Bank. The "Purge" feature in Word should also be used to eliminate comments in the margin of a document and any other extraneous elements. A motion for summary judgment and its corresponding memorandum of law should be merged into a single Word document.

1. Once the brief or motion is ready to submit, it should be saved to a disk, hard drive or a network drive. In order to enable other users to identify the document in the brief bank, save the document with a file name that clearly identifies the name of the case and what kind of document it is:

John A. Doe_replybr
Acme Inc._msj

2. To submit the document to the Brief Bank, select the "Brief Bank" menu item on the Chief Counsel Home Page to access the Brief Bank Home Page. From the Brief Bank Home Page, select the "Submit Document Into Brief Bank" button and follow the steps to submit the document.

After the document is submitted, it is stored in the IN PROGRESS area of the Brief Bank for a period of 15 calendar days to await certification that the document has been filed and placed on the public record in the Tax Court. The system will not permit certification prior to the 15 calendar day period.

¹ A CATS trial event, TR0035 "Submit Brief to Brief Bank" has been established. CATS operators should manually create this event at the time other brief preparation events are created. This will serve as a reminder to attorneys and managers of the need to submit the brief to the Brief Bank.

3. After 15 calendar days, an email message is automatically sent to the document submitter requesting certification. After receiving this message the document submitter must confirm via online Tax Court docket entry that the document was filed in the Tax Court and is a matter of public record (e.g., it has not been rejected, placed under seal or subject to a protective order). Tax Court docket entries may be accessed via the "U.S. Tax Court" link from the Brief Bank Home Page. Tax Court docket entries are then accessed by selecting "Docket Inquiry."

4. The certification must be completed within 5 business days of receiving the message to certify. Select the button "Certify Document/Search Brief Bank" from the Brief Bank Home Page. The document submitter will then choose from the following two options.

a. If it is determined that the document is on the public record, the button "Certify Document on Public Record" should be selected. By this selection, the document submitter makes the following statement: "I certify that the attached document that was electronically submitted to the Brief Bank is identical to the one submitted to the Tax Court for filing. The Tax Court docket was checked. The document was filed and is a matter of public record."

b. If it is determined that the document is not on the public record, either because it was rejected by the Tax Court, placed under seal or subject to a protective order, the submitter should select the button "Certify Document NOT on Public Record." The document will be deleted from the IN PROGRESS area of the Brief Bank. To be included in the Brief Bank, it must be resubmitted as a new document.

If it is not clear whether either button should be selected, for example, if a document has been submitted to the Tax Court but remains lodged with the court and has not been placed on the public record within 15 days, or the document is not on the public record because of a pending motion for a protective order, or any other reason exists why neither button can be selected after this 15 day period, the Brief Bank Administrator should be contacted via the link "Contact Brief Bank Administrator" from the Brief Bank Home Page.

5. If no response has been made to the certification task within 5 business days, a message will be sent to the Brief Bank Administrator that a document is awaiting action. The Brief Bank Administrator will contact the document submitter to determine the reason for the delay and agree upon the next action.

6. Once a document has been certified as having been filed and placed on the public record in the Tax Court, the document is automatically moved to the CERTIFIED area of the Brief Bank.

7. After the document is moved to the CERTIFIED area, support personnel in the Legal Processing Division of the Office of the Associate Chief Counsel (Procedure and Administration) will enter specific document attributes to facilitate searches. Once the

Using the Tax Court Brief Bank

Step 1: Submitting a Document to Brief Bank

Only submit briefs and motions for summary judgment that are subject to national office review. You should submit the brief or motion at the same time that you send it to the Tax Court for filing. Because the documents in the Brief Bank should be identical to those filed with the court, you should delete the Brief Initialed Page and any unused Certificate of Service Page before submitting. In deleting the Brief Initialed Page, be sure to delete the entire page, including the page break, so that the document you are submitting begins at the top of the caption page. Also, use the “Purge” feature in Word to eliminate comments in the margin of a document and any other extraneous elements. If you are submitting a motion for summary judgment and its corresponding memorandum of law, merge them into a single Word document. Once the brief or motion is ready to submit, save it to a disk, your hard drive or a network drive. In order to enable other users to identify the document in the Brief Bank, save the document with a file name that clearly identifies the name of the case and what kind of document it is:

John A. Doe_replybr
Acme Inc._msj

Once you have saved the document, the next step is to enter the Brief Bank tool.

1. To load Brief Bank, click on the Brief Bank button on the Chief Counsel Intranet Home Page.
2. You will see the Brief Bank Home Page:



Welcome to the Tax Court Brief Bank. The Brief Bank contains National Office reviewed briefs and motions for summary judgment that have been filed in the Tax Court and are on the public Tax Court record.

The Brief Bank is intended to be used as a research tool at the initial stage of legal research. Each user is cautioned that the documents contained in the Brief Bank may not reflect subsequent changes in the law, or in the technical or litigating positions of the Office of the Chief Counsel. Accordingly, authorities cited should be updated, and users should ensure that the content of documents in the Brief Bank is otherwise appropriate for use in their own documents.

Submit Document Into Brief Bank
Certify Document/Search Brief Bank
Enter Document Attributes (National Office Use Only)

[U.S. Tax Court](#)
[Using the Tax Court Brief Bank](#)
[Entering Document Attributes Into the Tax Court Brief Bank](#)
[Searching the Tax Court Brief Bank](#)
[Contact Brief Bank Administrator](#)

3. From the Brief Bank Home Page, click Submit Document Into Brief Bank.
4. Enter your Login Name and Password.
Note: Your Brief Bank Login Name and Password are the same as your Outlook Login Name and Password.
5. Make sure that “briefbank” is selected in the Docbase field. If it is not, click on the down arrow and select “briefbank” from the list of available docbases.
6. In the File field, indicate the document that you want to submit to Brief Bank. To select the document, click the Browse button to locate the file on your disk, hard drive or network drive. Then click Open to enter the file name in the File field.

An example of the screen is:



The screenshot shows a web form for document submission. At the top right is the 'documentum' logo. The form fields are: Login Name: noclscl; Password: masked with asterisks; Docbase: briefbank (selected in a dropdown menu); File: John A. Doe_replybr.doc. To the right of the File field are 'Browse...' and 'Upload' buttons.

7. Click Upload.
8. After the submission process is complete, you will see the message “Document Submission Successful.” Click OK to return to the Brief Bank Home Page and exit.

Note: If, instead of Document Submission Successful, you see an error message, contact the Chief Counsel Hotline by e-mail to: Hotline, or by phone at (202) 622-8878.

Step 2: Certifying the Document

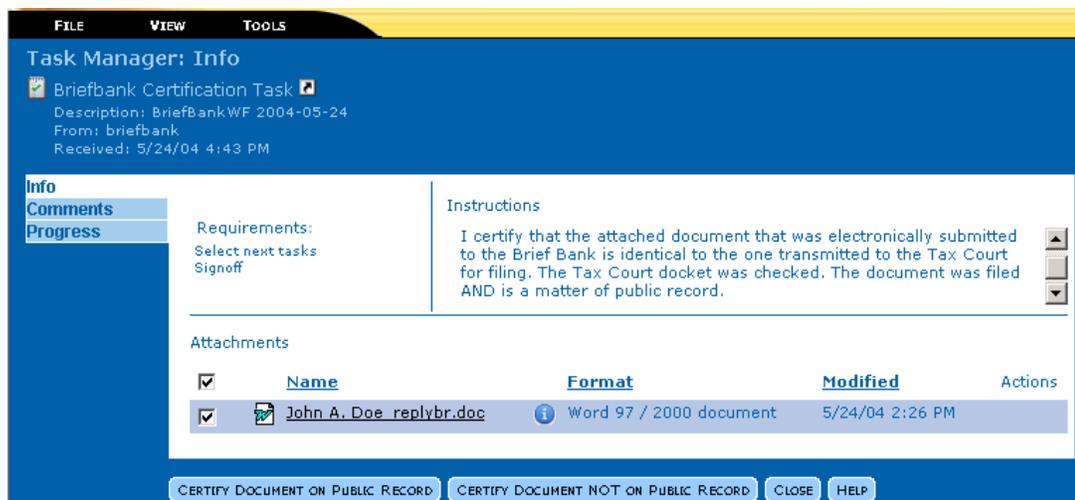
Fifteen days after you submit the document into Brief Bank, you will receive an e-mail message entitled “!!Brief Bank Certification Task” in your Outlook mailbox. The system will not permit certification prior to the fifteen day calendar period. The e-mail message states that it is time to certify whether or not the document was placed on the public Tax Court record. This certification must be completed within five business days after

receiving the message. Open and read the message, click the URL link in the first paragraph, and use the following instructions to certify the document.

1. From the Brief Bank Home Page, click on the U.S. Tax Court link to determine whether the document is on the public Tax Court record. Access Tax Court docket entries by clicking “Docket Inquiry.” When you are finished reviewing the docket, close the Tax Court window and return to the Brief Bank Home Page. If the status of the document remains uncertain, i.e., it remains lodged with the court, but has not yet been filed, please contact one of the Brief Bank Administrators for further instructions.
2. On the Brief Bank Home Page, click Certify Document/Search Brief Bank.
3. At the prompt, enter your Login Name and Password. (These are the same as your Outlook Login Name and Password.) Make sure that the Docbase is briefbank.
4. Click Login.
5. In your Brief Bank inbox, click on the message task labeled Briefbank Certification Task.



6. Click the box to the left of the document name, as shown below.



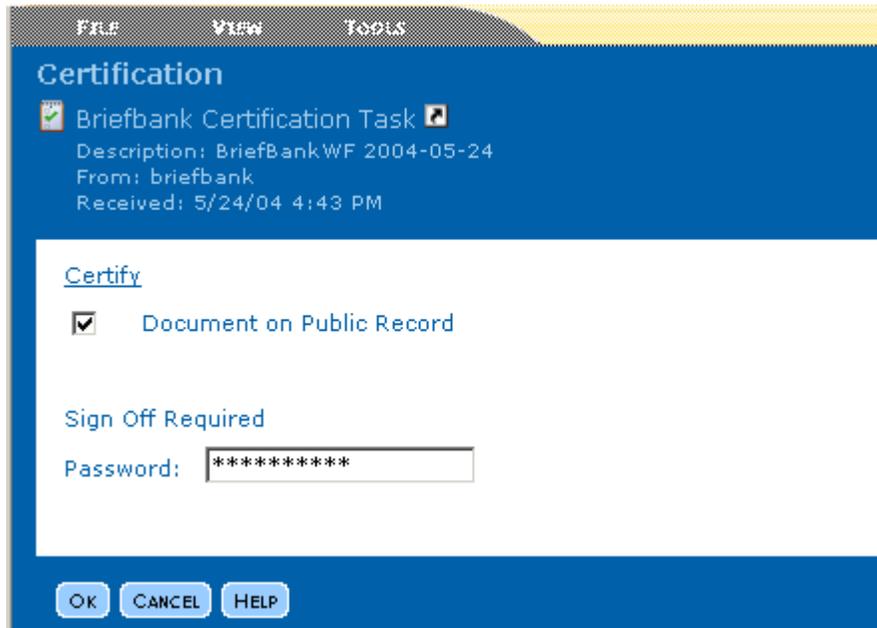
7. Read the certification statement and then at the bottom click the appropriate button to select either:

Certify Document on Public Record

or

Certify Document NOT on Public Record.

8. On the next screen click the box certifying “Document on Public Record” or “Document not on Public Record,” depending on which option you selected in step 7. Then type your password in the box labeled Password and click OK.



Note: Password entry is used to ensure that the person who certifies the document in this step is the same person who originally submitted the document into Brief Bank.

9. The document has been certified. To exit from Brief Bank, click the Logout button at the upper right corner of the screen.



Your document has been moved to the CERTIFIED area in Brief Bank. It will remain there until national office support personnel enter the document attributes to facilitate document searching. Once the attributes have been added, the document will be available for search and retrieval.

Searching the Tax Court Brief Bank

About Tax Court Brief Bank

The Tax Court Brief Bank contains briefs and motions for summary judgment that were subject to review by the national office and filed with the Tax Court after January 1, 2003.

A Brief Bank document becomes available for retrieval once it has been submitted and certified as on the public record in the U.S. Tax Court.

Searching In Brief Bank

You can perform two basic types of searches within Brief Bank:

- A full text search, or
- A properties (attribute) search.

A full text search matches your search word(s) against all text contained anywhere in the documents. A search for the word “Dean,” for example, will find documents that were authored by Darryl Dean, concern a petitioner named Dean Johnson, or mention the Dean of the Law School. This feature is especially useful for locating documents containing discussions of certain issues and arguments; for example, a search for “burden of proof” or “innocent spouse” will find all documents in the Brief Bank containing those phrases.

A properties search, on the other hand, enables you to search for all documents that have a specific value in one of the document attribute fields. The document attributes entered in the Brief Bank for each document are:

- Author(s); i.e., authoring attorney
- Office Symbols; i.e., Area Counsel Office Symbols
- Petitioner Name
- Docket Number
- Date Filed
- Code Section(s)

Using a properties search, you could search for all documents in the Brief Bank authored by a specific individual, filed by a specific Area Counsel office, involving a certain petitioner or docket number, filed on a specific date, or containing specific code sections. You can combine the attribute information to search, for example, for a document that was written by a specific individual and contains specific code provisions or to search for a document containing several code provisions. The system allows for up to five attributes to be searched simultaneously.

To summarize, full text searches cast a much wider net and are helpful if you are looking for documents that contain specific phrases or subject matter that might appear anywhere in the brief or motion. A properties search is more useful if you are searching for a specific document by name or docket number or containing certain code sections. The properties search is particularly helpful, for example, if you wish to find a document relating to a petitioner with a very common last name, e.g., “Smith” – it allows you to limit the search to those documents where “Smith” appears in the petitioner name attribute, rather than retrieving all documents where “Smith” occurs anywhere in the text.

Conducting a Brief Bank Search

1. From the Brief Bank Home Page, select Certify Document/Search Brief Bank.
2. At the prompt, enter your Login Name and Password. (These are the same as your Outlook Login Name and Password.) Make sure that the Docbase is briefbank. Click Login.
3. Click the Search button at the upper left corner of the screen.

You will see the Search screen:

4. The check boxes indicating Full Text and Properties search are both checked. Click on the type of search you **do not** want to perform to remove the check from that box.

Conducting a Full Text Search

Brief Bank searches only the criteria for which you have set values. (If you leave a field blank or unchecked, it is ignored.)

1. To search for a word or phrase in the Brief Bank documents, type your search words in the field that specifies the relationship between the search words and the document you are looking for. For example, if you know the precise phrase you are looking for, use the “With the exact phrase” field. If not, use the field “Containing all the words.” To search for words that precisely match the case (upper or lower) that you typed, check Match case.

Full Text

Find Results:

Containing all the words

With the exact phrase

With any of the words

Without the words

Match case

2. When you have finished entering your search terms, click the blue Search button at the bottom of the screen.

Conducting a Properties (Attribute) Search

1. To select the desired property, click the down arrow in the first search box, as shown below. Note that while the first property is listed as Authors, most documents will have just one author name.

Properties

Authors

Authors
Office Symbols
Petitioner Name
Docket Number
Date Filed
Code Section

2. Once you have selected the property, click the down arrow in the second search box to select the search operator, which determines the relationship to your search

value. For example, to find all files written by John J. Brown, you could specify the author *is* “John J. Brown,” or *contains* “Brown,” or *starts with* “John.”

3. In the third search box enter your search value, which is the specific attribute you are searching for. For example, in this box enter the petitioner’s name or code section.

Properties

Code Section contains 6103(h)(4)

ADD PROPERTY

SEARCH CLEAR CLOSE HELP

4. To search additional properties, click Add Property and repeat the process of defining the search term. When you click Add Property, another line appears on the screen that allows you to specify a property. You may have up to five properties specified during a single search. By using this feature, for example, you can search for multiple code sections within documents by defining the first property as Code Section, then clicking on Add Property and defining the new search term as Code Section as well. You can also use the additional properties to search by mixed types of properties, such as Petitioner Name and Date Filed. To remove a property from the search criteria, click Remove adjacent to the property you want to remove.
5. When all your criteria are set, click Search.

Evaluating the Search Results

<input type="checkbox"/>		Name	Version	Size	Modified	Path
<input type="checkbox"/>		Acme Inc. msi.doc	Complete,CURRENT,1.0	21 KB	6/7/04 2:12 PM	/Released
<input type="checkbox"/>		Jane B. Smith opbr.doc	Complete,CURRENT,1.0	21 KB	6/7/04 2:49 PM	/Released
<input type="checkbox"/>		John A. Doe replybr.doc	Complete,1.0,CURRENT	20 KB	6/9/04 2:19 PM	/Released
<input type="checkbox"/>		John Ray opbr.doc	Complete,CURRENT,1.0	21 KB	6/7/04 2:57 PM	/Released
<input type="checkbox"/>		Sal and Sally Green msi.doc	Complete,CURRENT,1.0	21 KB	6/7/04 2:55 PM	/Released
<input type="checkbox"/>		White Co. replybr.doc	Complete,CURRENT,1.0	21 KB	6/7/04 2:53 PM	/Released

- The Search Results for a Properties search appear as in the example above.

- For a Full Text search, retrieved documents are ranked in the order that they meet the terms of the search criteria. The ranking is a measure of how many times the specified word(s) or phrase occurs within each document. By clicking “Ranking” the documents are displayed in either the descending or ascending order in which they meet the criteria. Descending or ascending order is indicated by the small arrow that appears under Ranking.
- To open and review a document, double click on the document name to launch it.
- To view the document properties, click on the  icon to the right of the document name.
- To locate and highlight the search term(s) in the document, open the document and use Word’s Edit/Find function to locate each instance of the search term in the document. In Word, you can use Ctrl+F as a shortcut to the Find function.

Saving a Search

After defining and conducting a search, you can save the search definition to use later. You save a search from the Search Results page, after the first time you conduct the search.

To save a search:

1. In the Search Results page, click Save Search.
2. Type a name for the search.
3. Click Save Search.

To retrieve a saved search:

1. From the Brief Bank Home Page, select Certify Document/Search Brief Bank.
2. Enter your Login Name and Password. Make sure the Docbase is briefbank. Click Login.
3. Select the Saved Searches button.
4. From the pull-down menu, select either My Searches or All Searches.
5. Select the search you want to retrieve.

The search commences based on the criteria in the saved search but returns updated results.

Search Tips

1. When performing a properties search, it is probably better to use the “contains” feature in the second box than to use “is.” “Is” will retrieve only those documents with the attribute exactly as you specify and may result in retrieving no

documents, for example, when you enter only part of the name of the author or petitioner.

- When performing a search on the Date Filed attribute, you can use the calendar icon at the far right of the search bar to select the date to search **or** type the date manually into the search bar. If you are searching for a document filed on November 5, 2003, you could type the date in any of the following formats:

- November 5, 2003
- Nov 5, 2003
- 11/05/2003
- 11/5/03

To search for all documents filed within a specific date range, use the Add Property feature to enter two search criteria, one specifying the beginning date of the date range and one specifying the ending date. For example, the picture below illustrates how to search for all documents filed during the month of November 2003.

Properties

Date Filed is on or after Nov 1, 2003

and Date Filed is on or before Nov 30, 2003 REMOVE

ADD PROPERTY

- Be careful that you have only one box checked of the “Full Text” or “Properties” alternatives.
- If you click on a document name from the Search Results screen to open it and the screen is blank, just scroll down until the document appears. (A few documents were inadvertently added to Brief Bank with blank opening pages where the Brief Initialed Page used to be.)
- Be careful if you use the Back button to return to the search screen to modify your search from the Search Results screen. Some of the elements of your search return to their default positions but others do not. Double check that your new search contains the terms you want.