

which a motion for referral is filed shall be deferred until final action on the motion.

**(f) Failure To File Referral Motion in Specified Time.** The failure of either party to file, within the time prescribed above, a motion requesting the court to refer a pending case or any part thereof to the Surface Transportation Board may be deemed good cause for denying any such motion thereafter filed.

#### RULES COMMITTEE NOTE

Appendix E formerly appeared in these rules as Appendix C. Additionally, substantive changes have been made:

First, the word “common” has been stricken from the term “common carrier.” The term “common carrier” is no longer used in the Interstate Commerce Act 49 U.S.C. §13102. Since deregulation occurred, *see* ICC Termination Act of 1995, Pub. L. No. 104-88, §103, 109 Stat. 803, 852, carriers are no longer required to file tariffs other than for household goods and noncontiguous domestic trade. Certificates of Public Convenience and Necessity are no longer required and thus there are no “common carriers,” as the term formerly was used, as a reference to a public utility, fully regulated status.

Second, in subdivision (a)(2)(F), titled “Nature of Dispute; Statement of Issues” the term “General Accounting Office” was replaced with “General Services Administration.” The GSA Board of Contract Appeals replaced the General Accounting Office as reviewing authority in GSA transportation audit billing appeals pursuant to the Legislative Branch Appropriations Act of 1996, effective June 30, 1996, and delegations of authority granted thereunder. Also, in subdivision (a)(2)(F)(2), the term “contract terms” was added as authority relied upon by plaintiffs in their statement of issues because, with no tariff filing requirement, individual movements by contract are more common.

Third, all references to a “§22 quotation” were replaced with “government rate quotation.” Section 22 (49 U.S.C. §22 (1887)) rates were replaced by “government rates” under 49 U.S.C. §10721 (rail) and §13712 (all other modes), and as such, lower rates are not limited strictly for the use of the government.

Fourth, in subdivision (a)(2)(I)(ii)(a), the word “government” was struck in reference to a transportation request or warrant in dispute. Under the provisions of 41 CFR §102-118.175, Government Bills of Lading will no longer be used for domestic traffic and under 41 CFR §102-118.180, Government Transportation Requests will no longer be mandatory.

Fifth, in subdivision (b)(9), titled, “Relation to Pleadings, Time for Filing Answer or Counterclaim,” the statutory reference was updated.

Finally, all references to the “Interstate Commerce Commission” were stricken and replaced with the “Surface Transportation Board.” While carriers are no longer subject to full regulation, the “reasonableness requirement” on “through routes,” “divisions of joint rates,” and rates “made collectively by [any group of] carriers under agreements approved by the Surface Transportation Board,” remains intact and is subject to that body’s review.

#### APPENDIX F

##### PROCEDURE IN TAX PARTNERSHIP CASES

###### Rule 1. General

**(a) Applicability.** This Appendix sets forth the special provisions that apply to actions for readjustment of partnership items under Section 6226 of the Internal Revenue Code (Code) and actions for adjustment of partnership items under Code Section 6228. Except as otherwise provided in this Appendix, the Rules of the United States Court of Federal Claims (RCFC), to the extent pertinent, are applicable to such partnership actions.

**(b) Definitions.** As used in this Appendix—

(1) the term “partnership” means a partnership as defined in Code Section 6231(a)(1);

(2) a “partnership action” is either an “action for readjustment of partnership items” under Code Section 6226 or an “action for adjustment of partnership items” under Code Section 6228;

(3) the term “partnership item” means any item described in Code Section 6231(a)(3);

(4) the term “tax matters partner” means the person who is the tax matters partner under Code Section 6231(a)(7) or appointed tax matters partner by the court under Rule 9 of this Appendix, and who under this Appendix is responsible for keeping each partner fully informed of the partnership action (see Code Sections 6223(g) and 6230(1));

(5) a “notice of final partnership administrative adjustment” is the notice described in Code Section 6223(a)(2);

(6) the term “administrative adjustment request” means a request for an administrative adjustment of partnership items filed by the tax matters partner on behalf of the partnership under Code Section 6227(b);

(7) the term “partner” means a person who was a partner as defined in Code Section 6231(a)(2) at any time during any partnership taxable year at issue in a partnership action;

(8) the term “notice partner” means a person who is a notice partner under Code Section 6231(a)(8);

(9) the term “5-percent group” means a 5-percent group as defined in Code Section 6231(a)(11);

(10) the term “deposit” means the deposit required by Code Section 6226(e)(1); and

(11) the term “Notice of Assignment” means the notice mailed to the parties by the clerk of the court after the filing of a complaint that advises the parties of the name of the judge to whom the proceeding is assigned.

**(c) Jurisdictional Requirements.** The court does not have jurisdiction over a partnership action under this Appendix unless the following conditions are satisfied:

(1) *Actions for readjustment of partnership items:*

(A) the Commissioner of Internal Revenue (Commissioner) has issued a notice of final partnership administrative adjustment (see Code Section 6226(a) and (b));

(B) a complaint for readjustment of partnership items is filed with the court by the tax matters partner within the period specified in Code Section 6226(a), or by a notice partner (or 5 percent group) subject to the conditions and within the period specified in Code Section 6226(b); and

(C) the partner or partners filing the complaint make a deposit as required by Code Section 6226(e).

(2) *Actions for adjustment of partnership items:*

(A) the Commissioner has not allowed all or some of the adjustments requested in an administrative adjustment request (see Code Section 6228(a)); and

(B) a complaint for adjustment of partnership items is filed with the court by the tax matters partner subject to the conditions and within the period specified in Code Section 6228(a)(2) and (3).

**(d) Form and Style of Papers:** All papers filed in a partnership action shall be prepared in the