

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 form and style set forth in RCFC 5.2 and 10(a), except that the caption shall state the name of the partnership and the full name and surname of any partner filing the complaint and shall indicate whether such partner is the tax matters partner, as for example, “ABC Partnership, Mary Doe, Tax Matters Partner, Complainant” or “ABC Partnership, Richard Roe, A Partner Other Than the Tax Matters Partner, Complainant.”

Rule 2. Commencement of Partnership Action

(a) Commencement of Action. A partnership action shall be commenced by filing a complaint with the court. See RCFC 3, relating to commencement of case; RCFC 5.2 and 10, relating to form of pleadings; and RCFC 5.2(d), relating to number of copies to be filed.

(b) Contents of Complaint. Each complaint shall be titled either “Complaint for Readjustment of Partnership Items under Code Section 6226” or “Complaint for Adjustment of Partnership Items under Code Section 6228.” Each such complaint shall contain the allegations described in subdivision (c) of this Rule and the allegations described in subdivision (d) or (e) of this Rule.

(c) All Complaints: All complaints in partnership actions shall contain the following:

(1) the name and address of the complainant;

(2) the name, employer identification number, and principal place of business of the partnership and of each partner filing the complaint at the time the complaint is filed;

(3) the city and state of the office of the Internal Revenue Service with which the partnership’s return for the period in controversy was filed.

A claim for reasonable litigation costs shall not be included in the complaint in a partnership action. For the requirements as to claims for reasonable litigation costs, see RCFC 54(d)(1).

(d) Complaint for Readjustment of Partnership Items: In addition to including the information specified in subdivision (c) of this Rule, a complaint for readjustment of partnership items shall also contain the following information.