



PRACTICE NOTE NO. 11 (amended)

This note amends Practice Note No. 11, which was issued on November 30, 1998 and amended on December 21, 2006.

Pre-hearing conferences (General Procedure)

Subsections 126(1) and (2) of the *Tax Court of Canada Rules (General Procedure)* provide:

126.(1) The Court may, on its own initiative, or at the request of a party, direct counsel for the parties, either with or without the parties, and any party not represented by counsel, to appear before a judge for a pre-hearing conference to consider,

- (a) the possibility of settlement of any or all of the issues in the appeal,
- (b) appropriate means to simplify the issues and to shorten the hearing,
- (c) the possibility of obtaining admissions of fact or documents,
- (d) the advisability of amending the pleadings or defining the questions in dispute, and
- (e) any other relevant matter.

(2) A judge who conducts a pre-hearing conference shall not preside at the hearing.

At any stage of a proceeding, the Chief Justice may assign the file to a judge who will manage the appeal process. If the length of trial is expected to exceed two days, the judge will consider whether a pre-hearing conference should be held. If the answer is in the affirmative, the judge will request the Chief Justice to appoint a judge to conduct the pre-hearing conference.

While pre-hearing conferences will normally take place after undertakings given in the discovery process have been satisfied, nothing precludes such a conference from being held at any stage of a proceeding, at the request of a party or upon the direction of the Court.

The pre-hearing conference will be conducted in the presence of the parties and their counsel unless the pre-hearing conference judge directs otherwise.

The conference should take place well in advance of the trial date.

Each party shall serve and provide to the Court, at least two (2) weeks before the date of the pre-hearing conference, a brief that:

- a) reveals the theory of the party's case;
- b) indicates the facts that the party intends to prove at trial, and the evidence that will be led; and
- c) outlines the propositions of law that the party will rely on, and the authorities, identifying particular passages in support of them.

The pre-hearing briefs provided to the Court do not form part of the Court record and shall be sealed up.

Dated this 20th day of June 2008.

Donald G.H. Bowman
Chief Justice