



PRACTICE NOTE NO. 22 (amended)

Expert Panels

This Practice Note sets out, in practical terms, how the rules governing expert testimony in the *Tax Court of Canada Rules (General Procedure)* (the “Rules”) may be applied to expert panels. The conduct of the process is ultimately at the discretion of the presiding Judge. The Judge may dispense with any of the steps described below and may give additional directions to facilitate the orderly and expeditious conduct of the expert panel process. To that end,

1. The Judge may:
 - a) determine whether the *Rules* have been followed, including whether expert reports have been exchanged and whether section 145 and Schedule III of the *Rules* have been followed;
 - b) convene a *voir dire* in respect of the admissibility of any proposed expert evidence; and
 - c) direct that an expert panel be convened during the course of the trial.
2. As a general proposition, the Judge may read the report of any proposed expert witness before the hearing on written consent of the parties, regardless of whether the expert will testify as part of a panel.
3. The Judge may convene an expert panel before trial and/or during trial. If the Judge convenes an expert panel during trial, they may do so before hearing the appellant’s other evidence, after hearing the appellant’s other evidence, or after hearing the appellant’s and the respondent’s other evidence.
4. The Judge may question the expert witnesses in a panel at any time and may do so before and/or after examination in chief and cross-examination has concluded.
5. The Judge may:
 - a) prepare questions for the members of the expert panel; and
 - b) present those questions to each member of the panel – the same question in turn, back and forth between panel members, providing the Judge an opportunity to consider the answers of each expert to those questions in real time.
6. Once all judicial questions have been answered, the Judge may allow counsel to ask questions arising from the answers given. Except where the Judge orders otherwise, such

questions would generally be limited to correcting, clarifying, or elaborating on the answers given in response to the questions from the Judge.

Dated this 30th day of May, 2024.

*(Original signed by Eugene P. Rossiter
Chief Justice)*

Eugene P. Rossiter
Chief Justice