

UNITED STATES TAX COURT  
WASHINGTON, DC 20217

MICHAEL V. SHANNON & HOPE W.	)	<b>KVC</b>
SHANNON,	)	
	)	
Petitioner(s),	)	
	)	
v.	)	Docket No. 16441-12.
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent	)	
	)	
	)	
	)	
	)	

**ORDER**

This case is set for trial at a special session of the Court starting on Wednesday, September 28, 2016, in Birmingham, Alabama. There are a couple pretrial motions pending.

The first is a motion to compel responses to discovery through interrogatories and document requests. These requests seek clearly discoverable information, and the Court will grant it.

The second is a motion to review respondent’s answers to requests for admission. This is a bit more complicated. For RFAs 1, 6, and 7 respondent objected on the basis that the burden of proof is on petitioners. The Court agrees with petitioners that this is not a good ground for objection. These RFAs seek to show that respondent doesn’t know of facts to justify its litigating position on the issues described. Petitioners are not, by seeking this information, trying to shift the burden of proof; they are trying to find out if respondent has relevant information. We’ve said for forty years that this sort of simplification of pretrial preparation is one of the aims of the request-for-admissions tool. *See Estate of Allensworth*, 66 T.C. 33, 39 (1976).

In his answers to RFAs 9 and 10 respondent made the same objection but coupled it with a cross-reference to earlier denials that were sufficient. The Court will overrule the objection and require a better response to these, but recognizes that a denial-with-cross-reference might well suffice.

Respondent also objected to RFA 11 on the additional ground that it concerned how respondent made a determination that was reflected in the notice of deficiency. This is generally a good objection, *see Greenberg's Express, Inc. v. Commissioner*, 62 T.C. 324, 327 (1974), but it is an objection as to relevance. Our Rule 90(c) is clear that such an objection should be noted but "is not to be regarded as just cause for refusal to admit or deny."

ORDERED that petitioners' August 12, 2016 motion to compel discovery is granted, and respondent shall, on or before September 9, 2016 (1) serve on counsel for petitioners the documents requested on July 12, 2016 and (2) respond to the interrogatories served on him on July 12, 2016. It is also

ORDERED that petitioners' August 11, 2016 motion to review the sufficiency of the Commissioner's responses to requests for admission is granted and respondent shall, on or before September 9, 2016 serve and file responses to RFAs 1, 6, 7, and 9-11 that conform to Rule 90.

**(Signed) Mark V. Holmes**  
**Judge**

Dated: Washington, D.C.  
September 2, 2016