

**UNITED STATES TAX COURT
WASHINGTON, DC 20217**

WHISTLEBLOWER 11099-13W,)
)
 Petitioner(s),)
)
 v.) Docket No. 11099-13W.
)
 COMMISSIONER OF INTERNAL REVENUE,)
)
 Respondent)

ORDER

On June 20, 2017, the Court held a hearing to address, among other things, the following discovery motions: petitioner's motion to compel production of documents, petitioner's motion to compel responses to interrogatories, petitioner's motion to review the sufficiency of answers or objections to requests for admissions, and respondent's motion to review the sufficiency of answers or objections to requests for admissions regarding first and second set of requests for admissions.

Petitioner's motions to compel production of documents and to compel responses to interrogatories

Those two motions are deemed moot except that with respect to Item B, "Targeted IDRs", addressed in the motion to compel production of documents, the first ordered paragraph shall apply.

Petitioner's motion to review the sufficiency of answers or objections to requests for admissions

That motion has been resolved on the basis set forth in the record, except with respect to the following requests for admission, which, by agreement, have been deferred pending resolution by the parties.

Request for admission No. 52, sentence 1;
Request for admission No. 55, sentence 4;
Request for admission No. 59, sentence 3;
Request for admission No. 84, sentence 4;
Request for admission No. 86, sentence 3;
Request for admission No. 89, sentence 1;
Request for admission No. 89, sentence 4; and
Request for admission No. 94, sentence 1.

Respondent's motion to review the sufficiency of answers or objections to requests for admissions regarding first and second set of requests for admissions

That motion is resolved on the basis set forth in the record. In particular:

1. Request for Admission Nos. 1, 2, and 5:

Petitioner modified his answer to these requests by denying knowledge or information sufficient to form a belief as to whether the documents described in these requests are true and accurate copies, as petitioner did not generate these documents and the documents did not come from petitioner's files.

2. Request for Admission No. 10:

This admission request shall be held open pending resolution of the following:

On or before July 3, 2017, respondent shall provide to petitioner provision(s) of IFRS regarding the prohibition of LIFO. Petitioner shall serve an answer to Request No. 10 within 10 days after respondent provides the materials.

3. Request for Admission Nos. 62, 72, 73, 74, and 101:

Petitioner modified his answer to these requests by denying that the statements set forth in these requests were made, and noted that even if made, the alleged statements are inherently unreliable, as they are unsworn, were not subject to cross-examination, and were offered as part of informal interviews that were not transcribed.

34: 4. Request for Admission Nos. 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 33, and

Petitioner's answers to these requests were deemed sufficient.

5. Respondent's Request Nos. 23, 24, 25, 26, and 32:

Petitioner's objections to these requests were sustained.

6. Request for Admission Nos. 121 and 122:

Petitioner's answers to these requests were deemed sufficient in light of petitioner's answer to Request No. 120.

7. Request for Admission Nos. 97 and 98:

Petitioner's objections to these requests were sustained.

8. Request for Admission Nos. 102 through 106:

Petitioner modified his answer to these requests by denying the allegations set forth therein.

9. Request for Admission Nos. 115 and 116:

This admission request is held open pending resolution of the following:

On or before July 3, 2017, respondent shall provide to petitioner the materials referenced in these requests. Petitioner shall serve an answer to Request Nos. 115 and 116 within 10 days after respondent provides the materials.

10. Request for Admission Nos. 52, 53, 63, 64, 75, 82, and 83:

The parties have differing recollections about the admissions made by petitioner during the hearing. Accordingly, we will hold resolution of those requests in abeyance until each party obtains a transcript in order to confirm the statements made at the June 20, 2017 hearing with respect to these requests.

It is, therefore,

ORDERED, that respondent produce on or before July 24, 2017, any IDRS issued during respondent's examination of target for either the 04/05 or 06/07 audit cycles that evidence requests for the same or similar information as referenced in Items Nos. 4(a)-(c) and (f) of petitioner's deposition, Exhibit 37. It is further

ORDERED that, on or before July 26, 2017, the parties shall jointly or separately report on unresolved responses to petitioner's requests for admissions and respondent's requests for admissions.

**(Signed) James S. Halpern
Judge**

Dated: Washington, D.C.
June 28, 2017