Pursuant to Tax Court Rule 50(f), orders shall not be treated as precedent, except as otherwise provided.

UNITED STATES TAX COURT
WASHINGTON, DC 20217

THE COCA-COLA COMPANY AND SUBSIDIARIES,	)	**SR**
Petitioner(s),	)	
v.	)	Docket No. 31183-15.
COMMISSIONER OF INTERNAL REVENUE,	)	
Respondent	)	

O R D E R

This case is calendared for trial at a Special Session of the Court beginning on March 5, 2018, in Washington, D.C. The primary issue in this case is whether respondent's I.R.C. § 482 allocations between petitioner and seven of its controlled entities, which are referred to as the "Supply Points," should be sustained.

On May 9, 2017, respondent filed a Motion to Compel Production of Documents and a Motion to Compel Responses to Interrogatories. On May 25, 2017, petitioner provided supplemental responses supplying additional information. On May 30, 2017, the parties held a conference call with the undersigned to discuss respondent's motions. On June 13, 2017, petitioner filed responses to both motions.

With respect to the Motion to Compel Production of Documents, petitioner represents that the parties have now resolved (or expect to resolve) all matters raised in respondent's motion except one. The unresolved issue concerns respondent's effort to compel production now of "all documents and electronically stored information that petitioner may use to support any claim or defense regarding respondent's determination." Petitioner objects to this request by noting that the pretrial order lists February 12, 2018, as the date by which the parties must exchange documents which they intend to use at trial and which have not previously been stipulated or exchanged. Petitioner contends that respondent, in effect, is

SERVED Jun 29 2017

seeking to modify the pretrial order unilaterally by demanding all such documents now.

On this point we agree with petitioner. The pretrial order dated August 9, 2016, requires the parties, by February 12, 2018, to exchange: (1) "final exhibit lists (excluding trial demonstratives and documents to be used solely for impeachment)" and (2) "documents on the final exhibit lists not previously stipulated or exchanged." Discovery in this case is ongoing. Respondent has withheld a large volume of documents under claims of privilege, and petitioner has challenged those privilege claims. Expert reports and associated workpapers have not yet been exchanged. For these and other reasons, petitioner has not yet identified and is not yet in a position to identify the documents it will use at trial.

The parties negotiated, and the Court in its pretrial order accepted, February 12, 2018, as the date for the final exchange of documents not previously stipulated or exchanged. That date is three weeks before the start of trial. Petitioner represents that the stipulation process is ongoing and that it will continue to identify and exchange relevant documents with respondent as they become available, thus avoiding an inappropriate "document dump" shortly before trial. We assume that the parties will continue the stipulation process in good faith and that three weeks should afford respondent adequate time before trial to review and digest any documents it has not previously seen.

With respect to the Motion to Compel Responses to Interrogatories, petitioner represents that the parties have resolved (or expect to resolve) all matters raised in that motion except one. The unresolved issue involves several rulings that petitioner received (many years ago) from the IRS under section 367 of the Code. Respondent's Interrogatory No. 24 requests that petitioners: (1) "explain how the [section 367 rulings] relate to the errors alleged with respect to respondent's income allocations" and (2) "identify the Supply Point(s) and specify the amount of respondent's income allocation that is affected by the transactions subject to the [section 367 rulings]" for each year at issue.

Petitioner represents that it has stipulated to the identity of the entities and transactions that were the subject of the section 367 rulings. Petitioner further represents that it has provided respondent with "a clear and concise statement that places respondent on notice of how the section 367 rulings relate to the adjustments in dispute." Petitioner urges that, for discovery purposes, it is required to do no more, and that respondent is inappropriately seeking to obtain prematurely petitioner's legal arguments and the analysis of its expert witnesses.

On this point we likewise agree with petitioner. Tax Court Rule 70(b) does not require a party to disclose the legal authorities on which he relies for his positions. See Zaentz v. Commissioner, 73 T.C. 469, 477 (1979). Other courts have held that interrogatories requiring a party to disclose legal analyses and conclusions of law are impermissible. See, e.g., Perez v. KDE Equine, LLC, 2017 WL 56616 at *7 (W.D. Kentucky Jan. 4, 2017); In re Rail Freight Fuel Surcharge Antitrust Litigation, 281 F.R.D. 1, 11 (D.D.C. Nov. 17, 2011). And to the extent that respondent seeks analysis that will be reflected in the reports of petitioner's experts, that analysis will be conveyed at the times set forth in the pretrial order.

While representing that the parties have reached firm agreement on most discovery issues apart from the two matters discussed above, petitioner indicates that it has promised to make additional clarifying or supplemental responses on several subjects. Petitioner expects that those additional responses will be satisfactory, and we make the same assumption for purposes of this ruling on respondent's motions. If those responses are unsatisfactory respondent may seek appropriate intervention by the Court.

In consideration of the foregoing and for cause, it is

ORDERED that respondent's Motion to Compel Production of Documents, filed May 9, 2017, and respondent's Motion to Compel Responses to Interrogatories, also filed May 9, 2017, are denied at this time to the extent set forth above.

(Signed) Albert G. Lauber
Judge

Dated: Washington, D.C.
June 29, 2017