

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

DRC

GRECIAN MAGNESITE MINING,)	
INDUSTRIAL & SHIPPING CO., SA,)	
)	
Petitioner,)	
)	
v.)	Docket No. 19215-12.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	

ORDER

The Court issued its Division Opinion in this case on July 13, 2017. On July 17, 2017, the Court held a telephone conference with counsel for the parties to discuss an erroneous statutory citation in the opinion that petitioner’s counsel had noted on page 32--i.e., section 862(c)(3), rather than section 862(c)(2). The Court proposed a correction and invited comments from the parties. Respondent suggested an additional clarification on page 31, which we accept, and a further change that we do not. If the parties have further requests for revisions, they may make them by written motion pursuant to Rule 161. It is

ORDERED that the Court’s Division Opinion issued in this case on July 13, 2017 (149 T.C. No. 3), is hereby amended as follows:

On page 31:

The word “disputed” is added to the last sentence in the only full paragraph on page 31, so that the sentence shall read:

Accordingly, GMM’s disputed gain from the redemption of its partnership interest is gain from the sale or exchange of an indivisible capital asset--i.e., GMM’s interest in the partnership.

SERVED Jul 18 2017

On page 32:

In the last sentence of the carryover paragraph from page 31, subsection (c)(2) shall be added to the citation of section 862(c)(3), so that the sentence shall read:

“Effectively connected income” is defined in section 864(c), and it includes some income sourced within the United States, see sec. 864(c)(2) and (3), and some sourced without the United States, see sec. 864(c)(4).

In the only full paragraph on the page, the first three sentences (beginning “Broadly” and ending “U.S. trade or business”) shall be deleted and replaced with the following:

As to “gain or loss * * * from the sale or exchange of capital assets” (i.e., the type of gain relevant here), section 864(c)(2) provides that such gain may be “effectively connected with the conduct of a trade or business within the United States” (depending on factors set out in the statute); but section 864(c)(2) applies only to “gain or loss from sources within the United States”. (Emphasis added.)

**(Signed) David Gustafson
Judge**

Dated: Washington, D.C.
July 18, 2017