

UNITED STATES TAX COURT
WASHINGTON, DC 20217

DRC

WILLIAM BUDELL MARKOLF,)	
)	
Petitioner,)	
)	
v.)	Docket No. 23475-15.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	

ORDER

After multiple continuances, this case will be tried at the Court’s session in Columbia, South Carolina, beginning April 30, 2018. On March 2, 2018, respondent filed a motion to compel production of documents. We would normally order the non-movant to respond before ruling on a motion, but in the circumstances of this case--described briefly in our order of September 7, 2017, and at more length in respondent’s motion--it is

ORDERED that respondent’s motion is granted in part, in that petitioner shall produce the requested documents to respondent no later than March 21, 2018. It is further

ORDERED that respondent’s motion is denied in part without prejudice, insofar as the motion requests evidentiary sanctions. At the trial session, respondent may move for whatever evidentiary sanction is appropriate in light of the intervening events and the circumstances at trial. Petitioner is warned that exclusion at trial of evidence that petitioner offers but that that he failed to produce during discovery would seem inevitable, and that this case is one in which the Court would expect to enforce with rigor the requirements in its standing pretrial order issued in this case most recently on December 4, 2017 (e.g., “any documents or materials which a party expects to use (except solely for impeachment) if the case is tried, but which are not stipulated, shall be identified in writing and exchanged by the parties at least 14 days before the first day of the trial session.

The Court may refuse to receive in evidence any document or material that is not so stipulated or exchanged”). To repeat the instruction that we gave to petitioner’s counsel during our most recent telephone conference, petitioner should expect that any factual grounds he asserts in any request (such as for extension of time, or for relief from any order) will be disregarded unless those grounds are substantiated by convincing evidence.

**(Signed) David Gustafson
Judge**

Dated: Washington, D.C.
March 7, 2018