

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

VHC, INC. AND SUBSIDIARIES, ET AL.,)		
)		
Petitioner(s),)		
)		
v.)	Docket No. 4756-15,	21583-15.
)		
COMMISSIONER OF INTERNAL REVENUE,)		
)		
Respondent)		
)		
)		

ORDER

These cases are calendared for a special trial session to commence in Milwaukee, Wisconsin, on August 15, 2016. On January 29, 2016, petitioners filed the following four motions: motion to compel production of documents (first request); motion to compel production of documents (second request); motion to compel responses to interrogatories; and (second) motion to compel responses to interrogatories. On February 26, 2016, respondent filed a response to each of petitioners’ motions. On March 25, 2016, petitioners filed responses to respondent’s responses to petitioners’ motions.

The Court expects the parties to attempt to attain the objective of discovery through informal consultation or communication before utilizing the discovery procedures provided in its Rules. See Rule 70(a).¹ The information or response sought through discovery may concern any matter not privileged and which is relevant to the subject matter involved in the pending cases. Rule 70(b). It is not ground for objection that information sought will not be inadmissible at trial if the information appears reasonably calculated to lead to the discovery of admissible evidence. Id. A party generally may not discover documents and tangible things that are prepared in anticipation of litigation or trial by or for another party or its representative, except for experts. Rule 70(c)(3)(A). A party must show that it has substantial need for the materials to prepare its case and cannot, without undue hardship, obtain their substantial equivalent by other means. Id.

Respondent contends that respondent has already provided petitioners with a copy of its audit and appeals files through petitioners’ Freedom of Information Act request. Respondent further contends that petitioners are seeking respondent’s work product. Respondent’s responses indicate that there are no additional documents that respondent must give to petitioners especially in light of the fact that some of the documents requested are petitioners’ own documents.

¹All Rule references are to the Tax Court Rules of Practice and Procedure.

Respondent contends that petitioners' requests for interrogatories seek information that would reveal respondent's thought processes, and strengths and weakness of these cases. Petitioners contend that they have targeted their discovery requests to ascertain respondent's position in these cases. However, petitioners have not shown the substantial need for specific materials to prepare its case. Furthermore, some of petitioners' requests would result in discovery of respondent's work product.

Upon due consideration, it is

ORDERED that petitioners' motion to compel production of documents (first request), filed January 29, 2016, is denied without prejudice. It is further

ORDERED that petitioners' motion to compel production of documents (second request), filed January 29, 2016, is denied without prejudice. It is further

ORDERED that petitioners' motion to compel responses to interrogatories, filed January 29, 2016, is denied without prejudice. It is further

ORDERED that petitioners' (second) motion to compel responses to interrogatories filed January 29, 2016, is denied without prejudice.

**(Signed) Kathleen Kerrigan
Judge**

Dated: Washington, D.C.
April 5, 2016