

UNITED STATES TAX COURT
WASHINGTON, DC 20217

JOANNA KANE,)	
)	
Petitioner(s),)	
)	
v.)	Docket No. 10988-17 L.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	

ORDER

This case was originally calendared for trial at the Court's April 30, 2018, Miami, Florida, trial session. On March 1, 2018, respondent filed a Motion for Summary Judgment, which the Court took under advisement on April 30, 2018. On June 7, 2018, the case was assigned to this Division of the Court.

On December 20, 2017, the Court issued its Opinion in Graev v. Commissioner, 149 T.C. No. 23 (Graev III). In Graev III the Court held that the Commissioner's compliance with the supervisory-approval requirement for penalties, as set forth in I.R.C. § 6751(b)(1), is part of his burden of production under I.R.C. § 7491(c).

The liabilities in question in the instant case are trust fund recovery penalties (TFRPs). On April 5, 2018, the Court issued its Opinion in Blackburn v. Commissioner, 150 T.C. No. 9. In Blackburn the Court did not address whether I.R.C. § 6751(b)(1) applies to TFRPs because the record included a Form 4183, Recommendation re: Trust Fund Recovery Penalty Assessment, reflecting supervisory approval of the TFRPs in question. We determined that the Form 4183 was sufficient to enable the SO to verify compliance with I.R.C. § 6751(b)(1), assuming the IRS had to verify compliance in the first place.

To assist the Court in addressing this issue, it is hereby

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ORDERED that respondent shall file, on or before June 28, 2018, a response to this Order attaching a Form 4183 or any other relevant documentation concerning supervisory approval of the TFRPs in question. It is further

ORDERED that petitioner may file, on or before July 12, 2018, a reply to respondent's response.

(Signed) Albert G. Lauber
Judge

Dated: Washington, D.C.
June 14, 2018