

UNITED STATES TAX COURT
 WASHINGTON, DC 20217

BCP TRADING AND INVESTMENTS, LLC,)
 WILLIAM T. ESREY TRADING PARTNERS,)
 LP, A PARTNER OTHER THAN THE TAX)
 MATTERS PARTNER, ET AL.,)
)
 Petitioner(s),)
)
 v.) Docket No. 10200-08, 10201-08.
)
 COMMISSIONER OF INTERNAL REVENUE,)
)
 Respondent)
)
)

ORDER

The Court released its opinion in these TEFRA cases, T.C. Memo. 2017-151, and then ordered the parties to try to agree on the language of the decisions. They did so, but discovered a small gap in our rules: what to do with nonparticipating parties. In these cases, an estate was an indirect partner and thus a party, but had not participated in the litigation. When participating parties settle, Rule 248 requires the Commissioner to move for entry of decision and the Court to wait 60 days from the filing of such a motion to see if any nonparticipating party objects. But here the parties didn't settle, they litigated; yet when the opinion came out, they were able to agree on appropriate language in the decisions.

Counsel for the Tax Matters Partner in these cases thoughtfully suggests (and respondent agrees) that an analogous procedure -- giving notice to the nonparticipating partner and waiting 60 days -- would work here. Both parties represent that they have sent the Court's opinion and proposed decisions to the nonparticipating Estate, but have not received any reply. To be extra careful, the Court will also serve the Estate with the October 3, 2017 Tax Matters Partner's Responses to Order Dated 08/07/2017 (which contain the proposed decision documents) and an order to show cause why the proposed decisions should not be

entered. The Estate's address, however, isn't on record in this case, and we need it to be so we can serve the order. It is therefore

ORDERED that on or before November 8, 2017 the Tax Matters Partner shall file a report providing the address of the nonparticipating partner Estate. The Tax Matters Partner may concurrently file a motion to seal the report if it chooses should that information be kept confidential for some reason.

(Signed) Mark V. Holmes
Judge

Dated: Washington, D.C.
October 26, 2017