

UNITED STATES TAX COURT
WASHINGTON, DC 20217

TUNG DANG & HIEU PHAM DANG,)	
)	
Petitioners,)	
)	
v.)	Docket No. 21100-17 L.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	
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ORDER

Petitioners, in their Reply To Response To Motion For Reasonable Litigation Or Administrative Costs, filed October 26, 2018, challenge (inter alia) the validity of the Treasury regulations on which respondent relies for the proposition that CDP proceedings in which the underlying tax liability is not at issue are not administrative proceedings under I.R.C. section 7430. Petitioners then expand on their various arguments in petitioners’ supporting Brief, also filed October 26, 2018.

Respondent did not address the validity of the challenged regulations or certain other arguments made by petitioners in his Response To Motion For Reasonable Litigation Or Administrative Costs, filed September 21, 2018. Further, respondent attached to his Response as an exhibit copies of TXMODA transcripts of petitioners’ account for the years in issue; however, those transcripts are not particularly helpful to the Court given that they are based largely on unfamiliar computer codes, abbreviations, and symbols.

Premises considered, it is hereby

ORDERED that respondent shall, on or before November 26, 2018, file with the Court a rebuttal to petitioners' aforementioned Reply To Response To Motion For Reasonable Litigation Or Administrative Costs. In such rebuttal respondent shall:

- (1) address petitioners' argument regarding the invalidity of the regulations on which respondent relies for the proposition that CDP proceedings in which the underlying tax liability is not at issue are not administrative proceedings under I.R.C. section 7430;
- (2) clearly identify, consistent with his concession that petitioners have substantially prevailed with respect to the most significant issue presented, what such issue is, and also address what petitioners describe as the "Published Guidance Rule" or "Published Guidance Presumption" and its application to administrative and litigation proceedings;
- (3) clarify whether his objection to the amount of fees that petitioners request is solely based on the hourly rate, or on the hourly rate and the amount of hours, and if the latter the basis for the objection to the amount of hours; and
- (4) attach to his rebuttal Forms 4340 or other plain-English (and readily intelligible) transcripts of petitioners' accounts for the years in issue.

(Signed) Robert N. Armen
Special Trial Judge

Dated: Washington, D.C.
October 31, 2018