

UNITED STATES TAX COURT
WASHINGTON, DC 20217 PA

WHISTLEBLOWER 972-17W,)
)
 Petitioner,)
)
 v.) Docket No. 972-17W.
)
 COMMISSIONER OF INTERNAL REVENUE,)
)
 Respondent)

ORDER

This whistleblower case is set for trial at a special session of the Court in Washington, D.C., on June 25, 2018. On January 9, 2018, the Court released Kasper v. Commissioner, 150 T.C. No. 2 (2018). In Kasper the Court held that when reviewing the Commissioner's determinations under I.R.C. section 7623(b) we will limit the scope of our review to the administrative record. Id., slip op. at 20. We also held that the administrative record may be supplemented if it is incomplete. Id., slip op. at 21.

Upon due consideration, it is

ORDERED that, on or before March 1, 2018, the parties shall file (1) a stipulation of facts that shall include the administrative record, or (2) a status report describing the then-current status of the parties' attempts to agree to the contents of the administrative record. It is further

ORDERED that, if the parties are unable to stipulate to the contents of the administrative record, on or before March 1, 2018, respondent shall serve petitioner with an index, listing the documents respondent believes should be in the administrative record, and on or before March 15, 2018, petitioner shall provide respondent with any evidence petitioner believes should be added to the administrative record but that is not currently included in respondent's index. It is further

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ORDERED that, if the parties remain unable to stipulate to the contents of the administrative record, on or before March 30, 2018, the parties shall file a joint status report describing the then-current status of the parties' attempts to agree to the contents of the administrative record.

If the parties are unable to come to an agreement, the Court intends to limit any trial to the proper contents of the administrative record taking into account the exceptions enumerated in Kasper. It will also hear any arguments from both parties about whether or not respondent abused his discretion in issuing the determination. The Court will also entertain motions to submit the case fully stipulated under Rule 122 or for summary judgment.

(Signed) Daniel A. Guy, Jr.
Special Trial Judge

Dated: Washington, D.C.
January 17, 2018