

UNITED STATES TAX COURT
WASHINGTON, DC 20217

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

ORDER

This whistleblower case presently is calendared for trial at a special trial session of the Court scheduled to commence on June 25, 2018.

By Order dated January 17, 2018, the Court directed the parties to attempt to stipulate to the administrative record. On February 28 and March 28, 2018, the parties filed joint status reports informing the Court that although respondent has provided petitioner with a copy of the documents that respondent believes comprise the administrative record in this case, petitioner declines to stipulate. Petitioner asserts that the documents in question include “post-dated documents, misstatements, and omissions of important information.” Petitioner has provided respondent with a list of documents that petitioner believes should be included in the administrative record and suggests that discovery is necessary to further supplement the documents comprising the administrative record.

In Kasper v. Commissioner, 150 T.C. No. 2 (filed Jan. 9, 2018), the Court held that when reviewing the Commissioner’s determinations under I.R.C. section 7623(b), the Court will limit the scope of its review to the administrative record. In so holding, however, the Court noted that the Commissioner “cannot unilaterally decide what constitutes an administrative record.” Id. slip op. at 21 (quoting Whistleblower One 10683-13W v. Commissioner, 145 T.C. 204, 206 (2015), and cases cited thereat). In Kasper v. Commissioner, slip op. at 20-21, the Court identified various exceptions under which the administrative record may be supplemented.

SERVED Apr 30 2018

On April 25, 2018, the undersigned held a conference call with the parties. In accordance with those discussions, it is

ORDERED that, on or before May 10, 2018, respondent shall file with the Court (in redacted and unredacted form) the administrative record as compiled by the Whistleblower Office. It is further

ORDERED that, on or before May 17, 2018, petitioner shall file a motion for leave to conduct discovery, if deemed necessary.

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

Dated: Washington, D.C.
April 27, 2018