UNITED STATES TAX COURT
WASHINGTON, DC 20217

VHC, INC. AND SUBSIDIARIES,	)	
	)	
Petitioner(s),	)	
	)	
v.	)	Docket No. 21583-15.
	)	
COMMISSIONER OF INTERNAL REVENUE,	)	
	)	
Respondent	)	

O R D E R

The Court issued its opinion, T.C. Memo. 2017-220, in this case on November 7, 2017. On March 22, 2018, the parties filed their unagreed computations for entry of decision. The parties filed status reports and responses regarding the computations on April 20, 2018, and May 14, 2018.

On June 8, 2018, the Court ordered respondent to file a revised computation showing the original amounts for the domestic activities production deduction (DAPD) and new amounts based upon changes in gross income due to the disallowance of the bad debt deduction. On July 10, 2018, respondent filed a motion for reconsideration of the Court's June 8, 2018 order. On August 6, 2018, petitioner filed a response to respondent's motion. On August 6, 2018, respondent filed proposed computations in response to the Court's June 8, 2018 order.

Respondent filed two proposed computations. The first computation is of the deficiency consistent with petitioner's request for increased domestic production deductions. The second computation is of the deficiency with respondent's allowance of domestic production deductions as claimed on petitioner's filed income tax returns.

Respondent points out that any dispute about computations pursuant to Rule 155 is limited to consideration of the correct computation of the deficiency, and no consideration will be given to new issues. Rule 155(c). Petitioner did not raise the DAPD issue during the trial. The computation process is not an opportunity to raise for the first time issues that have not been previously addressed. Estate of Papson v. Commissioner, 74 T.C. 1338, 1340 (1980). Respondent contends the DAPD cannot be computed based on the record.

Examples of adjustments that stem from an opinion of the Court include computation of the alternative minimum tax, the amount of a penalty, and the standard deduction. See King v. Commissioner, T.C. Memo. 1993-160; Hartley v. Commissioner, 23 T.C. 564 (1954); Quinlan v. Commissioner, T.C. Memo. 1957-147.

SERVED Aug 16 2018

In Cloes v. Commissioner, 79 T.C. 933, 937 (1982), we denied a taxpayer's request to introduce evidence during the computation process showing petitioner's entitlement to income averaging because income averaging was not placed at issue during the trial. We concluded that to address income averaging would require reopening the record and a further trial and that is not permitted under Rule 155. Id. Petitioner offered new Forms 8903 during the Rule 155 computation process as support for its proposed DAPD revision. The Forms 8903 include conclusions and summaries regarding domestic production gross receipts. Respondent contends that the underlying records supporting the claim must be examined to calculate the DAPD.

We agree with respondent that a revised calculation of the DAPD is not part of the Rule 155 computations. If we accept petitioner's calculations, respondent would not have the opportunity to examine the underlying data or question petitioner's methodology.

Upon due consideration, it is

ORDERED that respondent's motion for reconsideration of Order dated June 8, 2018, is denied as moot. It is further

ORDERED that respondent shall, on or before September 7, 2018, submit a draft decision consistent with respondent's allowance of DAPD in the amounts claimed on petitioner's filed Federal income tax returns.

(Signed) Kathleen Kerrigan
Judge

Dated: Washington, D.C.
August 15, 2018