

United States Court of Appeals
FIFTH CIRCUIT
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September 26, 2013

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No. 10-41219 NPR Investments, L.L.C. v. USA
USDC No. 5:05-CV-219

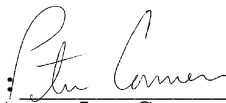
Dear Counsel:

The court requests the parties to file supplemental letter briefs on or before 5:00 p.m. Tuesday, October 1, 2013. The briefs should address the following questions:

- (1) Did the district court have jurisdiction to decide, in a partnership-level proceeding, whether a basis-overstatement penalty applies as a result of the sham transactions? This question does not pertain to the district court's jurisdiction to determine defenses.
- (2) For purposes of determining the district court's jurisdiction to decide whether a basis-overstatement penalty applies (as distinguished from the district court's jurisdiction to consider defenses), are there aspects of the present case that factually distinguish it from the transactions at issue in *Petaluma FX Partners, LLC v. Commissioner*, 591 F.3d 649 (D.C. Cir. 2010) or *Jade Trading, LLC v. United States*, 598 F.3d 1372 (Fed. Cir. 2010)?
- (3) To the extent that this question does not duplicate question (2) above, assuming that *Petaluma* and *Jade Trading* were correctly decided, is the present case distinguishable and if so, how?
- (4) Was any penalty at issue in the present case based on the partnership's inside basis, as distinguished from each partner's outside basis? Please explain in detail if your answer is "yes."

Sincerely,

LYLE W. CAYCE, Clerk

By: 

Peter A. Conners, Deputy Clerk
504-310-7685