

1 HONORABLE RICARDO S. MARTINEZ

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8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE WESTERN DISTRICT OF WASHINGTON  
10 AT SEATTLE

11 MICROSOFT CORPORATION,

12 Plaintiff,

13 vs.

14 INTERNAL REVENUE SERVICE,

15 Defendant.

NO. 2:15-cv-01605 RSM

SECOND CONSENT MOTION AND ORDER  
REGARDING CASE SCHEDULE

16 The above-captioned action is for declaratory and injunctive relief under the Freedom of  
17 Information Act (“FOIA”), 5 U.S.C. § 552, as amended, and the Administrative Procedure Act, 5  
18 U.S.C. § 701 *et seq.* The parties jointly request that the action remain open and that the Court  
19 approve the parties’ agreed upon, modified schedule set forth in paragraph 1, below. In support  
20 of this request, the parties state the following:

21 1. On June 16, 2021, the Court issued a case management order in which the Court  
22 adopted the parties’ proposed schedule and case management order. Under that schedule, the IRS  
23 was required to provide Microsoft with draft revised declarations by June 24, 2021 and draft  
24 revised *Vaughn* indices by August 13, 2021, and to file a motion for summary judgment by  
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SECOND CONSENT MOTION TO EXTEND TIME AND ORDER  
REGARDING CASE SCHEDULE  
(Case Nos. 2:15-cv-1605)

U.S. Department of Justice, Tax Division  
Ben Franklin Station, P.O. Box 227  
Washington, D.C. 20044  
202-616-8994 (Phone)  
202-524-6866 (Fax)

1 September 13, 2021. The IRS provided draft revised declarations to Microsoft on June 24, 2021,  
 2 and Microsoft responded by letter dated July 28, 2021. The IRS, however, needs additional time  
 3 to complete drafting revised *Vaughn* indices.<sup>1</sup> The IRS accordingly requests, and Microsoft  
 4 consents, to extend the remaining deadlines for transmitting draft revised *Vaughn* indices to  
 5 Microsoft and for filing a motion for summary judgment. The IRS therefore requests that the  
 6 Court adopt the following revised schedule for the above-captioned case:

<b>SCHEDULE</b>	
<b>Event</b>	<b>Date</b>
The IRS to provide draft revised <i>Vaughn</i> indices:	September 17, 2021
The IRS to file its motion for summary judgment:	October 29, 2021

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 13 2. Recognizing that the parties continue to engage in good faith negotiations, the  
 14 parties agree that evidence of the IRS’s efforts to address Microsoft’s concerns, including any  
 15 revisions to previously exchanged declarations or exemption claims, is not admissible to prove  
 16 that the IRS’s search was unreasonable or that the IRS’s exemption claims were improper.

17 3. The parties jointly request that this action remain open and that the Court enter an  
 18 order adopting the case schedule proposed in paragraph 1.

19 Respectfully submitted this 12th day of August, 2021.

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 25 <sup>1</sup> The IRS has also proposed, and Microsoft has consented to, a two-week extension (by August 27, 2021) to provide Microsoft with draft revised *Vaughn* indices in 2:15-cv-00369 and 2:15-cv-00850.

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11 **U.S. DEPARTMENT OF JUSTICE**

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21 *Attorney for Defendant Internal Revenue Service*

**CERTIFICATE OF SERVICE**

I certify that I served a true and correct copy of the foregoing JOINT MOTION via the Court's electronic case filing system on August 12, 2021.

/s Stephen S. Ho

STEPHEN S. HO

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**ORDER**

It is SO ORDERED this 13<sup>th</sup> day of August, 2021.



RICARDO S. MARTINEZ  
CHIEF UNITED STATES DISTRICT JUDGE

Presented by:

**BAKER & McKENZIE LLP**

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