
**PURSUANT TO INTERNAL REVENUE CODE
SECTION 7463(b), THIS OPINION MAY NOT
BE TREATED AS PRECEDENT FOR ANY
OTHER CASE.**

T.C. Summary Opinion 2001-94

UNITED STATES TAX COURT

EDDIE L. AND MARY E. CARVER, Petitioners v.
COMMISSIONER OF INTERNAL REVENUE, Respondent

Docket No. 5566-99S.

Filed June 25, 2001.

Eddie L. Carver and Mary E. Carver, pro sese.

Jason W. Anderson, for respondent.

PAJAK, Special Trial Judge: This case was heard pursuant to the provisions of section 7463 of the Internal Revenue Code in effect at the time the petition was filed. The decision to be entered is not reviewable by any other court, and this opinion should not be cited as authority. Unless otherwise indicated, subsequent section references are to the Internal Revenue Code in effect for the year in issue, and all Rule references are to the Tax Court Rules of Practice and Procedure.

Respondent determined a deficiency of \$532 in petitioners' 1996 Federal income tax. Respondent conceded that petitioners did not fail to include original issue discount of \$20.75 in their income. The sole issue for decision is whether petitioners failed to report as income gambling winnings of \$3,500.

Some of the facts in this case have been stipulated and are so found. Petitioners resided in Wilmington, Illinois, at the time they filed their petition.

In 1996, petitioners, who are not professional gamblers, gambled at the Empress Casino Joliet, the Empress Casino Hammond, and Harrah's Joliet Casino. Petitioner Mary Carver won \$2,000 on one occasion, and petitioner Eddie Carver won \$1,500 on one occasion. These amounts were reported to the Internal Revenue Service. We accept petitioner Mary Carver's testimony that their gambling losses exceeded their gambling winnings. Petitioners did not report the gambling winnings or losses on their 1996 tax return. They did not itemize their deductions, and instead claimed the standard deduction.

Petitioners contend that the gambling winnings should not be included in their income because they had losses that exceeded their winnings. Respondent contends that the winnings must be included in petitioners' income.

Gross income includes all income from whatever source derived, including gambling winnings. Sec. 61(a); Commissioner

v. Groetzinger, 480 U.S. 23, 34 (1987). Gambling losses are deductible only to the extent of the taxpayer's winnings from such transactions. Sec. 165(d); sec. 1.165-10, Income Tax Regs. Taxpayers not engaged in the trade or business of gambling must report all gambling winnings as gross income and may claim gambling losses only as an itemized deduction to the extent of the gambling income. McClanahan v. United States, 292 F.2d 630, 631-632 (5th Cir. 1961).

We hold that petitioners must include the \$3,500 of gambling winnings in their income. Petitioners have no other itemized deductions to add to the \$3,500 of gambling losses which were eligible to be taken as an itemized deduction. Petitioners benefited from the election of the standard deduction of \$6,700. Accordingly, we sustain respondent's determination on this issue.

Reviewed and adopted as the report of the Small Tax Case Division.

Decision will be entered
under Rule 155.