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UNITED STATES TAX COURT
WASHINGTON, DC 20217

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|-----------------------------------|---|----------------------|
| BETTYE JEAN DRAPER, |) | |
| |) | |
| Petitioner(s), |) | |
| |) | |
| v. |) | Docket No. 25951-13. |
| |) | |
| COMMISSIONER OF INTERNAL REVENUE, |) | |
| |) | |
| Respondent |) | |

ORDER

Pursuant to Rule 152(b), Tax Court Rules of Practice and Procedure, it is

ORDERED that the Clerk of the Court shall transmit herewith to petitioner and to respondent a copy of the pages of the transcript of the trial in the above case before Judge Joseph Robert Goeke at Memphis, Tennessee, on April 14, 2015, containing his oral findings of fact and opinion rendered at the trial session at which this case was heard.

In accordance with the oral findings of fact and opinion, a decision will be entered under Rule 155, Tax Court Rules of Practice and Procedure.

(Signed) Joseph Robert Goeke
Judge

Dated: Washington, D.C.
April 23, 2015

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1 Bench Opinion by Judge Joseph Robert Goeke

2 April 14, 2015

3 Bettye Jean Draper

4 Docket No. 25951-13

5 The Court has decided to render Oral
6 Findings of Fact and Opinion in this case, and the
7 following represents the Court's Oral Findings of
8 Fact and Opinion. The Oral Findings of Fact and
9 Opinion shall not be relied upon as precedent in any
10 other case.

11 This opinion is rendered pursuant to Rule
12 152 of the Tax Court Rules of Practice and Procedure.
13 Hereinafter rule references are to the Tax Court
14 Rules of Practice and Procedure. Section references
15 hereinafter are to the Internal Revenue Code in
16 effect for the taxable year 2011.

17 The Court has jurisdiction over the present
18 case pursuant to Section 6211, which provides that
19 the Court will review timely petitions to
20 Respondent's notices of deficiency, which is
21 precisely what has happened in the present case.

22 At the time the petition was filed in this
23 case the Petitioner resided in Tennessee.

24 Respondent issued a notice of deficiency to
25 the Petitioner for the year 2011 regarding federal

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1 income taxes and Petitioner's federal income tax
2 return was one of the exhibits at trial. Petitioner
3 also testified at trial.

4 The notice of deficiency determined that
5 the Petitioner had failed to properly report Social
6 Security income and that Petitioner was not entitled
7 to certain education credits. The parties have
8 stipulated that the Petitioner was subject to taxable
9 Social Security income in the amount of \$5,349.

10 Petitioner maintains that although the
11 parties stipulated she was not a full-time student
12 and that her dependent grandchild was not a full-time
13 student in 2011, she should not be subject to the tax
14 for the disallowed education credits because they
15 were not the result of anything she did, but rather
16 based upon specious assertions made on her return by
17 her return preparer without her knowledge.

18 We're sympathetic to the Petitioner's
19 position because we believe that she did not realize
20 that her return preparer had put this information on
21 her return. However, this misinformation on the part
22 of the Petitioner does not relieve her of her
23 obligation to file an accurate federal income tax
24 return, and does not relieve her of her obligation to
25 pay the deficiency, which results from improperly

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1 claimed education credits.

2 The case law is well-established that a
3 taxpayer has the personal responsibility for the
4 information on their federal income tax return.
5 Pritchett v. Commission, 63 T.C. 149, 174 (1974) and
6 Marine v. Commission, 92 T.C., 958, 993 (1989).

7 Respondent has not asserted an addition to
8 tax, so the question of whether Petitioner reasonably
9 relied upon the return preparer is not before us.
10 The simple question before us is whether the
11 Petitioner remains liable for the deficiency created
12 by improperly claimed credits on her income tax
13 return. The answer to this question is that she
14 clearly does. She's not exempt from the tax
15 liability that is properly determined relative to the
16 income tax return for 2011.

17 We are not without sympathy to the
18 Petitioner's plight in relying upon an irresponsible
19 return preparer whom apparently Petitioner is not
20 able to locate at this time. However, the law is
21 clear, the Petitioner is liable for the taxes as
22 determined in the notice of deficiency. Based upon
23 the stipulated record and Petitioner's testimony, we
24 have no recourse but to determine a decision for
25 Respondent in the present matter, consistent with the

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1 parties' stipulation of facts, which will require a
2 Rule 155 computation.

3 THIS CONCLUDES THE COURT'S ORAL FINDINGS OF
4 FACT AND OPINION IN THIS CASE.

5 (Whereupon, at 9:54 a.m., the above-
6 entitled matter was concluded.)

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