

**UNITED STATES TAX COURT
WASHINGTON, DC 20217**

ABDUL M. MUHAMMAD,)	
)	
Petitioner,)	
)	
v.)	Docket No. 23891-15.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	

ORDER

Pursuant to Rule 152(b) of the 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 proceedings in the above case before the undersigned judge at San Francisco, California, on March 28, 2017, containing his oral findings of fact and opinion rendered at the trial session at which the case was heard.

In accordance with the oral findings of fact and opinion, decision will be entered under Rule 155.

**(Signed) David Gustafson
Judge**

Dated: Washington, D.C.
October 5, 2017

SERVED Oct 05 2017

1 Bench Opinion by Judge David Gustafson
 2 September 19, 2017
 3 Abdul M. Muhammad v. Commissioner;
 4 Docket No. 23891-15

5 THE COURT: The Court has decided to render the
 6 following as its oral Findings of Fact and Opinion in this
 7 case. This Bench Opinion is made pursuant to the
 8 authority granted by section 7459(b) of the Internal
 9 Revenue Code (26 U.S.C.), and Tax Court Rule 152; and it
 10 shall not be relied on as precedent in any other case.

11 By ~~a notice of deficiency dated June 12, 2015~~ DM
 12 ~~(Ex. 2-J), correction, by~~ a statutory notice of deficiency
 13 dated June 12, 2015 (Ex. 2-J) ("SNOD"), the Internal
 14 Revenue Service ("IRS") determined a deficiency in the
 15 Federal income tax of petitioner Abdul M. Mohammad for the
 16 years 2012 and 2013, plus an addition to tax for failure
 17 to timely file the 2012 return and accuracy-related
 18 penalties for both years. The issues for us to decide are
 19 whether Mr. Muhammad (1) received \$15 in taxable interest
 20 in 2013 that he failed to report, (2) is entitled to one
 21 dependent exemption deduction in 2012 and two in 2013, (3)
 22 is entitled to head-of-household status in 2012 or 2013,
 23 (4) is entitled to American Opportunity and Education
 24 Creditors s in 2012 and 2013, (5) is entitled to a deduction DM
 25 of \$7,743 for charitable contributions in 2013, (6) is



1 entitled to deduct various Schedule C business expenses in
2 2013, (7) is liable for the addition to tax for failure to
3 timely file his tax return for 2012, and (8) is liable for
4 the accuracy related penalty under section 6662(a) for
5 both 2012 and 2013.

6 Trial of this case was conducted on September
7 18, 2017, in Detroit. Mr. Muhammad represented himself,
8 and the Commissioner of the IRS was represented by Samuel
9 Warren.

10 FINDINGS OF FACT

11 In view of the burden-of-proof principles
12 discussed below, we find the following facts:

13 Interest Income

14 Through third-party reporting, the IRS learned
15 that Mr. Muhammad received \$15 in interest. At trial, Mr.
16 Muhammad presented no documentary or testimonial evidence
17 on this issue, so we find that he did receive the income.

18 Children

19 In 2012 and 2013, Mr. Muhammad was the father of
20 three young children. He was not married to and did not
21 live with their mother, and the children divided their
22 time and lived with both parents. Mr. Muhammad had no
23 records (school records, medical records, or any other
24 records) to substantiate his contention that they lived
25 with him for more than half the year; and in view of the

1 burden of proof, we find that they did not live with him
2 for more than half of the year.

3 Education

4 In 2012 and 2013, Mr. Muhammad was enrolled in
5 online courses at the University of Phoenix, and to take
6 those courses, he incurred expenses of \$4,178.09 in 2012
7 and \$3,977 in 2013.

8 Charitable Contributions

9 Mr. Muhammad did not offer any documentary
10 evidence to substantiate that he made charitable
11 contributions to his mosque in 2013, and we find that he
12 did not.

13 Business Expenses

14 In his 2013 tax return, Mr. Muhammad included a
15 Schedule C ("Profit or Loss from Business") that stated
16 his principal business as "Roofer", reported \$255 of gross^S receipts, and reported \$10,299 of expenses. At trial, he
17 did not offer any documentary evidence to substantiate
18 that he incurred and paid business expenses related to a
19 roofing business (or any other business) in 2013, and we
20 find that he did not. DT

22 Tax Returns

23 The IRS determined that Mr. Muhammad^u filed his
24 2012 tax return two weeks late, but in view of the burden
25 of production principles discussed below, we find that the DG

1 return was not late. Although Mr. Muhammad had three
 2 children in 2012 and 2013, he claimed dependency
 3 deductions for only one of them in 2012 and two of them in
 4 2013. He did not explain why. His returns also claimed
 5 head-of-household status in both years, American
 6 Opportunity and Education Credits in both years, a
 7 deduction of \$4,377 for charitable contributions in 2013,
 8 and deductions for various Schedule C business expenses in
 9 2013.

10 Examination

11 The IRS examined certain items on the returns,
 12 made adjustments, and issued the notice of deficiency on
 13 June 12, 2015 (Ex. 2-J; Stip. 3). Mr. Muhammad timely
 14 mailed his petition on September 10, 2015. At that time,
 15 he resided in Michigan (Stip. 1).

16 OPINION

17 I. Burden of Proof

18 As a general rule, the IRS's determination is
 19 presumed correct, and the taxpayer bears the burden to
 20 prove any adjustment to the income the IRS determined.
 21 See Rule 142(a). The taxpayers must satisfy the specific
 22 requirements for any deduction claimed. See INDOPCO, Inc.
 23 v. Commissioner, 503 U.S. 79, 84 (1992). Furthermore,
 24 taxpayers are required to maintain records sufficient to
 25 substantiate their claimed deductions. See section 6001;



1 26 C.F.R. section 1.6001-1(a).

2 II. Interest Income

3 Section 61(a) of the Code provides that "gross
4 income means all income from whatever source derived,
5 including . . .(4) interest". Mr. Muhammad received \$15
6 in interest and made no showing that it is not taxable.
7 It is taxable.

8 III. Child-Related Tax Benefits

9 A. Dependency Exemption Deduction

10 One can claim someone as a dependent for
11 purposes of the dependency exemption deduction under
12 section 151, if that person is either a "qualifying
13 child", section 152(a)(1), or a "qualifying relative",
14 section 152(a)(2).

15 1. Qualifying Child

16 The term qualifying child is defined in section
17 152(c)(1) and that definition has five requirements in
18 subparagraphs (A) through (E). Mr. Muhammad apparently
19 met four of those requirements in 2012 and 2013. (A) They
20 had the required "relationship" with him because they are
21 his children, (C) they were under age 19, (D) they did not
22 support themselves, and (E) they did not file joint
23 returns.

24 However, Mr. Muhammad did not prove that in 2012
25 or 2013, he met the requirement of section 152(c)(1)(B),



1 i.e., that his children had "the same principal place of
2 abode as the taxpayer for more than one-half of such
3 taxable year". His very general testimony that they did
4 was not persuasive. He presented no corroboration of his
5 testimony that they lived with him for more than six
6 months of the year. He did not call as witnesses either
7 the children's mother or any other relative, neighbor, or
8 friend. He offered no documentation. He did not prove
9 that they are "qualifying children".

10 2. Qualifying Relative

11 Mr. Muhammad could claim the dependency
12 exemption deduction for his children even though they are
13 not "qualifying child[ren]" if he could show that they are
14 his "qualifying relative[s]", under section 152(a)(2) and
15 (d). However, that definition includes a requirement that
16 he did not prove, i.e., that the child "is not a
17 qualifying child of any other tax taxpayer". Rather, Mr.
18 Muhammad's children are the "qualifying child[ren]" of
19 their mother, and therefore, they cannot be "qualifying
20 relatives" of Mr. Muhammad.

21 B. Head-of-Household Status

22 Mr. Muhammad's entitlement to head-of-household
23 status is defeated by the conclusion that his children
24 were not his "qualifying child[ren]" in 2012 and 2013.
25 "Head-of-household" filing status depends on having a

1 "qualifying child". See section 2(b)(1)(A)(i). Because
2 Mr. Muhammad's dependents were not his "qualifying
3 child[ren]", he is not eligible for this benefit.

4 IV. Education-Related Credits

5 Section 25A allows several different education
6 credits against tax for "qualified tuition and related
7 expenses paid by the taxpayer during the taxable year".
8 See section 25A(b)(1)(A), (c)(1), (i)(1)(A). Section
9 25A(f)(1)(A) defines the term "qualified tuition and
10 related expenses" to include "tuition and fees" for the
11 taxpayer at "an eligible educational institution for
12 course of instruction of such individual at such
13 institution". By Forms 1098-T, Mr. Muhammad substantiated
14 the payment of such expenses and corroborated his
15 testimony that he was enrolled. He is therefore entitled
16 to the education credits in dispute.

17 V. Charitable Contributions

18 Deductions for charitable contributions are
19 allowable only if verified under the regulations
20 prescribed by the Secretary. Section 170(a)(1). To
21 verify a charitable contribution of money, the regulations
22 require the taxpayer to maintain one of the following for
23 each contribution: (1) A canceled check; (2) a receipt
24 from the ~~donor~~ ^{donee}, or (3) in the absence of check or receipt,
25 other reliable written records. A receipt or record used

1 for this purpose must show the name of the donee, the date
2 of the contribution, the amount of contribution. 26
3 C.F.R. section 1.170A-13(a)(1). There are additional
4 substantiation requirements, depending on the amount of
5 the contribution, but we need not explore those
6 requirements. Mr. Muhammad provided no substantiation,
7 and his contribution deduction must be disallowed.

8 However, on his 2013 return, Mr. Muhammad
9 claimed charitable contribution deductions of only \$4,377
10 (see Ex. 8-P, line 19), whereas the SNOD reflects an
11 apparent transposition of numbers and disallows \$7,743
12 (see Ex. 2-J, "Explanation of Items", "Cash
13 Contributions"). The disallowance was therefore excessive
14 by \$3,366, and that error should be corrected in the
15 recomputation performed pursuant to Rule 155.

16 VI. Schedule C Deductions in 2013

17 Section 162 allows "as a deduction all the
18 ordinary and necessary expenses paid or incurred during
19 the taxable year in carrying on any trade or business".
20 To prove entitlement to deduct an expense, the taxpayer
21 must prove not only the fact of the expenditure, but also
22 the business purpose. Mr. Muhammad proved neither of
23 these things, so he is not entitled to the disallowed
24 deductions.

25 VII. Addition to Tax in 2012

1 Section 6651(a)(1) authorizes the imposition of
2 an addition to tax for failure to file a timely return,
3 and the SNOD reflects the Commissioner's determination
4 that the return was filed two weeks late on 04/29/2013.
5 However, the Commissioner has the burden of production to
6 show that petitioners are liable for the addition to the
7 tax, see section 7491(c), but we find no evidence in the
8 record to corroborate the SNOD. The IRS offered a
9 printout supposedly reflecting Mr. Muhammad's
10 electronically filed return (Ex. 15-R), but it shows a
11 purported signing date of 01/02/2014, a date that is
12 different from the one in the SNOD, that is a significant
13 eight months later, and that does not seem to correspond
14 to the amount of the determined addition to tax. We hold
15 that the Commissioner had not met his burden of production
16 and that Mr. Muhammad is therefore not liable for the
17 addition to tax.

18 VIII. Accuracy-Related Penalty in 2012 and 2013

19 Section 6662(a) and (b)(1) impose^s an_^
20 "accuracy-related penalty" of 20 percent of the portion of
21 the underpayment of tax that is attributable to the
22 taxpayer's negligence or disregard of rules and
23 regulations. "The term negligence includes any failure to
24 make a reasonable attempt to comply with the provisions of
25 the Internal Revenue laws or to exercise ordinary and

1 reasonable care in the preparation of a tax return.
2 Negligence also includes any failure by the taxpayer to
3 keep adequate books and records or to substantiate items
4 properly." 26 C.F.R. section 1.6662-3(b)(1). The IRS has
5 the burden of production to show liability for the
6 penalty, and the record in this case makes that showing,
7 since Mr. Muhammad failed to keep records to substantiate
8 any of the adjustments in the SNOD.

9 Mr. Muhammad did not make any showing of
10 "reasonable cause" that could excuse him from penalty
11 liability.

12 CONCLUSION

13 The IRS's adjustments in the SNOD are sustained
14 to the extent explained above. Petitioner is entitled to
15 education credits, and to a correction of his disallowed
16 2013 charitable contribution deduction, and he is not
17 liable for the late-filing addition to tax for 2012. We
18 leave undisturbed the computational adjustments in the
19 SNOD that the Commissioner identifies as issues 22 through
20 27 in his pretrial memorandum. Issue 20 ("Itemized
21 deductions" of \$7,949) combines a computational adjustment
22 (\$206 of excess miscellaneous deductions) and the
23 charitable contribution deduction of \$7,743 discussed
24 above).

25 Decision will be entered under Rule 155, to

1 allow recomputation of the deficiency.

2 This concludes the Court's oral Findings of Fact
3 and Opinion in this case.

4 (Whereupon, at 1:23 p.m., the above-entitled
5 matter was concluded.)

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