

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

SARA STEWART BINYON,)	
)	
Petitioner,)	
)	
v.)	Docket No. 23656-16S
)	
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 Chief Special Trial Judge Lewis R. Carluzzo at Chicago, Illinois, on September 27, 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) Lewis R. Carluzzo
Special Trial Judge**

Dated: Washington, D.C.
November 6, 2017

1 Bench Opinion by Special Trial Judge Lewis R. Carluzzo
2 September 27, 2017
3 Sara Stewart Binyon v. Commissioner
4 Docket No. 23656-16S

5 THE COURT: The Court has decided to render oral
6 findings of fact and opinion in this case and the following
7 represents the Court's oral findings of fact and opinion
8 (bench opinion). Section references made in this bench
9 opinion are to the Internal Revenue Code of 1986, as
10 amended, in effect for the relevant period, and Rule
11 references are to the Tax court Rules of Practice and
12 Procedure. This bench opinion is made pursuant to the
13 authority granted by section 7459(b) and Rule 152.

14 This proceeding for the redetermination of a
15 deficiency is a small tax case subject to the provisions of
16 section 7463 and Rules 170 through 175. Except as provided
17 in Rule 152(c), this bench opinion shall not be cited as
18 authority, and pursuant to section 7463(b) the decision
19 entered in this case shall not be treated as precedent for
20 any other case.

21 Sara Stewart Binyon appeared on her own behalf.
22 Michael Shelton and Stanislaw Balazia appeared on behalf of
23 respondent.

24 In a notice of deficiency dated August 31, 2016
25 (notice), respondent determined a \$2,941 deficiency in

1 petitioner's 2015 Federal income tax. The deficiency
2 results entirely from the disallowance of the health care
3 tax credit claimed on petitioner's 2015 Federal income tax
4 return (return). The issue for decision is whether
5 petitioner is entitled to such a credit, even if in an
6 amount lower than she claimed.

7 The records of the Health Care Service Corporation of
8 Chicago, Illinois, show that petitioner, who lived in
9 Chicago at all times relevant here, was covered by health
10 insurance "for all 12 months" of 2015. The cost of that
11 insurance was paid by petitioner's father.

12 Taking into account what she believed to be the
13 premiums paid for her health care insurance, petitioner
14 claimed a \$2,941 health care tax credit on her return, the
15 details of which are shown on a Form 8885, Health Care Tax
16 Credit, included with that return. Petitioner now claims
17 that she is entitled to a health care tax credit, but in a
18 lesser amount than originally claimed. Respondent
19 disagrees and so do we.

20 Subject to various conditions and limitations, an
21 individual is allowed an income tax credit for a portion of
22 the amounts paid for health care insurance "for eligible
23 coverage months beginning in the taxable year." Sec.
24 35(a). Among other requirements, coverage for an "eligible
25 coverage month" means as of the first day of the month the

1 taxpayer is an "eligible individual." Sec. 35(b). A
2 taxpayer is an eligible individual within the meaning of
3 section 35 if the taxpayer is: (1) an eligible trade
4 adjustment allowance (TAA) recipient; (2) an eligible
5 alternative TAA recipient; or (3) an eligible Pension
6 Benefit Guarantee Corporation recipient. Sec. 35(c)(1).

7 By her own admission petitioner was not described in
8 any of those categories of individuals at any time during
9 2015. That being so, she does not fit within the
10 definition of an eligible individual for purposes of
11 section 35 during that year. Because she was not an
12 eligible individual, she had no eligible coverage months
13 during 2015 within the meaning of section 35(a). It
14 follows that she is not entitled to a health care tax
15 credit in any amount for 2015 and respondent's disallowance
16 of the health care tax credit claimed on petitioner's
17 return is sustained.

18 In closing we note that the notice advises that "a
19 portion or all of [petitioner's] overpayment is being
20 withheld pending the outcome" of this proceeding. To
21 ensure that the decision to be entered in this case is
22 consistent with that advice, and otherwise to reflect the
23 foregoing, decision will be entered under Rule 155.

24 This concludes the Court's bench opinion in this
25 case.

1 (Whereupon, at 10:24 a.m., the above-entitled matter
2 was concluded.)

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