

UNITED STATES TAX COURT
WASHINGTON, DC 20217

KAMAL RASHAD ELLIS,)
)
 Petitioner,)
) **CT**
 v.) Docket No. 15337-16S.
)
 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 with this order to petitioner and respondent a copy of the pages of the transcript of the trial in this case before Judge Ronald L. Buch at Little Rock, Arkansas, 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 for respondent.

(Signed) Ronald L. Buch
Judge

Dated: Washington, D.C.
April 20, 2018

SERVED Apr 20 2018

1 Bench Opinion by Judge Ronald L. Buch
2 April 9, 2018
3 Kamal Rashad Ellis v. Commissioner of Internal Revenue
4 Docket No. 15337-16S

5 The following represents the Court's oral
6 findings of fact and opinion. The oral findings of fact
7 and opinion may not be relied upon as precedent in any
8 other case. This opinion is in conformity with Internal
9 Revenue Code section 7459(b) and Rule 152(a) of the Tax
10 Court Rules of Practice and Procedure. Any section
11 references refer to the Internal Revenue Code or the
12 Treasury regulations in effect during the year at issue,
13 and Rule references are to the Tax Court Rules of Practice
14 and Procedure.

15 This case was heard pursuant to section 7463 of
16 the Internal Revenue Code in effect when the petition was
17 filed. Under section 7463(b), the decision to be entered
18 in this case is not reviewable by any other court, and
19 this opinion may not be treated as precedent for any other
20 case.

21 Background

22 Over the years, Mr. Ellis held at least three
23 different Discover credit cards. For 2013, Discover
24 Financial Services reported to the Commissioner on Forms
25 1099-C cancellation of indebtedness income from two of



1 those cards. The total amount of the cancellation of
2 indebtedness income reported to the Commissioner was
3 \$7,347. Relying on the information provided by Discover,
4 the Commissioner issued a notice of deficiency to Mr.
5 Ellis, determining an additional \$7,347 of income
6 resulting in \$2,058 of tax for 2013. Mr. Ellis filed a
7 petition challenging that determination.

8 Mr. Ellis questions whether the underlying
9 charges on his Discover card were his. He does not recall
10 receiving the two Forms 1099-C from Discover. He does not
11 have any of his credit card statements; they were
12 destroyed in a house fire. He was unable to obtain his
13 statements from Discover, but he was able to obtain some
14 limited information. It is Mr. Ellis's understanding that
15 he had disputed three charges from 2006 that are
16 associated with one of his three credit cards. He
17 understands that the three charges were from CheapTickets
18 for \$289 on July 12, 2006, Creative Arts for \$674 on
19 August 23, 2006, and PayPal for \$1,900 on November 3,
20 2006. He does not know when he disputed these charges,
21 what action Discover took with respect to those charges,
22 or on what credit card those charges appeared.

23 Discussion

24 The Commissioner's determinations in a notice of
25 deficiency are generally presumed correct, and taxpayers



1 bear the burden of proving those determinations incorrect.
2 Rule 142(a); Welch v. Helvering, 290 U.S. 111, 115 (1933).
3 Taxpayers are required to maintain sufficient records to
4 "show whether or not such person is liable for tax". Sec.
5 6001.

6 The burden may shift to the Commissioner under
7 section 7491(a) if the taxpayer has complied with the
8 necessary substantiation requirements and has maintained
9 all records and cooperated with reasonable requests by the
10 Commissioner regarding information and documents. In this
11 case, Mr. Ellis has not provided any documents or records
12 to challenge the deficiency and he does not assert that
13 the burden should shift to respondent.

14 Further, under section 6201(d) if a taxpayer
15 asserts a reasonable dispute with regard to income
16 reported on an information return and has fully cooperated
17 with the Commissioner, the Commissioner must supplement
18 the information return with additional reasonable and
19 probative information.

20 Generally, the term "income" as used in the
21 Internal Revenue Code means income from any source,
22 including income from the discharge of indebtedness. Sec.
23 61(a)(12). Therefore, a taxpayer who has incurred a
24 financial obligation that is later discharged or released
25 has realized an accession to income. United States v.

1 Kirby Lumber Co., 284 U.S. 1, 3 (1931). The rationale
2 underlying this principle is that the discharge of a debt
3 for less than its face value results in an economic
4 benefit equivalent to income to the debtor. Id.; Friedman
5 v. Commissioner, 216 F.3d 537, 545 (6th Cir. 2000), aff'g
6 T.C. Memo. 1998-196. A debt is considered discharged at
7 the moment in time when it becomes clear that it will not
8 be repaid. Cozzi v. Commissioner, 88 T.C. 435 at 445
9 (1987).

10 Section 108(a) outlines exceptions where the
11 discharge of the debt is not included in gross income.
12 Those exceptions include that the discharge occurred in a
13 title 11 bankruptcy case or the taxpayer is insolvent.
14 Mr. Ellis bears the burden of proving that he is entitled
15 to claim such an exclusion. Rule 142(a); Welch v.
16 Helvering, 290 U.S. at 115. But Mr. Ellis makes no such
17 claim.

18 Although Mr. Ellis testified that he did not
19 receive the Form 1099-C, he has not reasonably disputed
20 the income reported to him. His dispute is speculative,
21 at best. He understands from a phone call with Discover
22 that he, at some unknown point in time, disputed three
23 charges. He is not certain whether those three charges
24 are related to the debts that were forgiven or whether
25 they are even associated with the same cards that were

1 written off by Discover. The Commissioner's
2 determinations are presumed correct. Other than his own
3 wavering testimony, Mr. Ellis has provided no evidence
4 that the debt that was written off was not his.
5 Accordingly, decision will be entered for the
6 Commissioner.

7 (Whereupon, at 3:07 p.m., the above-entitled
8 matter was concluded.)

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