

UNITED STATES TAX COURT
WASHINGTON, DC 20217

EDWARD ROBERSON & CONNIE)	
ROBERSON,)	
)	
Petitioners,)	
)	
v.)	Docket No. 27486-16.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	

ORDER AND DECISION

On February 1, 2019, the Commissioner filed a motion under Rule 50¹ for entry of a decision asking us to enforce the terms of a stipulation of settlement. The parties had stipulated to a settlement of all years and issues but did not file a decision. The Commissioner argues that his draft decision accurately reflects the parties’ stipulation and should be enforced. The Robersons argue that, without adjustments to 2014, they will pay more than the correct amount of tax. Because we find that manifest injustice will not result from the enforcement of the parties’ stipulation of settlement, we will grant the Commissioner’s motion.

Background

On September 21, 2016, the Commissioner sent the Robersons a notice of deficiency for 2011 and 2012 and Mr. Roberson a notice of deficiency for 2013 and 2014.² In December 2016, the Robersons timely petitioned for a redetermination of both notices of deficiency. On June 25, 2018, the Commissioner amended his answer to assert Schedule C gross receipts for 2014.

¹Unless otherwise indicated, all 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.

²The Robersons filed joint returns for 2011 and 2012 and married filing separately for 2013 and 2014.

This case was initially calendared for trial in June 2018. In May 2018, the Robersons filed a motion for continuance, and we granted it. The case was then calendared for trial and called on November 5, 2018. After we called the case but before trial, the parties submitted a signed stipulation of settlement.

In the stipulation, the parties agreed that Mr. Robersons' 2014 Schedule C gross receipts were \$108,717 and gross expenses were \$30,616. Both parties' counsels signed the stipulation. We gave the parties until January 7, 2019, to submit a decision reflecting the parties' stipulation.

In November 2018, the Commissioner mailed the Robersons a proposed decision predicated on the terms in the stipulation for all years at issue. On January 28, 2019, the Commissioner claims he returned to work after the government shutdown to find the Robersons did not sign the proposed decision. Instead, the Robersons informed the Commissioner they would not sign the proposed decision.

The Commissioner then filed a motion asking us to enter a decision pursuant to the parties' stipulation of settlement. The Robersons responded to the Commissioner's motion by providing new calculations to adjust the 2014 Schedule C gross receipts from \$108,717 to \$68,019, the 2014 Schedule C gross expenses from \$30,616 to \$55,268, and adjusting the respective penalties and interest accordingly.

Analysis

The issue before this Court is whether we should grant the Commissioner's motion for entry of decision. Pursuant to Rule 91(e), we treat a stipulation as a conclusive admission by the parties unless justice requires relief from the binding effect of the stipulation. In general, we use our broad discretion to permit relief from a stipulation only when necessary to prevent "manifest injustice".³

³Bokum v. Commissioner, 992 F.2d 1132, 1136 (11th Cir. 1993), aff'g, 94 T.C. 126 (1990).

We infrequently find that justice requires us to set aside a stipulation. In Lovenguth v. Commissioner, we were moved by the especially "peculiar circumstances", and held in a rare instance that "with a mentally disabled and sometimes voluble taxpayer representing himself – it [was] very easy to create a

The Robersons refused to sign the decision because they determined an error in the 2014 Schedule C gross receipts and expenses calculations in the stipulation. The Robersons' claim of an error in the stipulation does not relieve them from the stipulation. We may modify or set aside a stipulation that is clearly contrary to the facts,⁴ but we do not set aside a stipulation that is consistent with the record simply because one party claims the stipulation is erroneous.⁵ We may grant relief if a party asserts contractual defenses,⁶ but a unilateral mistake of fact in a binding, unambiguous stipulation is not a ground for relief.⁷

The Robersons did not present any contractual defenses. The Robersons raised the issue of this alleged error only after the parties entered into the stipulation. The Robersons' unilateral mistake (assuming there was one) is not grounds to set aside a contract.

We are unlikely to grant relief from a stipulation entered into through considerable negotiation.⁸ The Robersons note that they signed the stipulation in response to a "take-it-or-leave-it" offer by the Commissioner. However, the Robersons were on notice of the Commissioner's calculations of the items in dispute since June 25, 2018, at the latest, when the Commissioner filed his amended answer. Moreover, the Robersons were represented by their counsel who also had notice of the items in dispute. The parties thus freely and fairly signed the

situation of deep misunderstanding by the parties." In that case, "we conclude[d] that justice require[d] us to set aside the stipulation of facts and vacate the order submitting the case for decision on that stipulation." T.C. Memo. 2007-70, 93 T.C.M. (CCH) 1040, 1043.

⁴Cal-Maine Foods, Inc. v. Commissioner, 93 T.C. 181, 195-196 (1989).

⁵Mathia v. Commissioner, T.C. Memo. 2007-4, 93 T.C.M. (CCH) 653, 655 (2007).

⁶Lovenguth v. Commissioner, T.C. Memo. 2007-70, 93 T.C.M. (CCH) 1040, 1042 (contractual defenses include "mutual mistake, coercion, [or] duress").

⁷Stamm Int'l Corp. v. Commissioner, 90 T.C. 315, 320-321 (1988).

⁸See Saigh v. Commissioner, 26 T.C. 171, 179 (1956); Lovenguth v. Commissioner, 93 T.C.M. (CCH) at 1042.

stipulation long after both parties were aware of what was at issue.⁹ We are reluctant to relieve a party from a stipulation when the party entered into the stipulation with full knowledge of the relevant facts.¹⁰

Lastly, if the Robersons did not agree with the terms of the stipulation, they could have rejected it and gone to trial as scheduled. Accordingly, it is

ORDERED that the Commissioner's motion for entry of decision filed February 1, 2019, is granted. It is further

ORDERED AND DECIDED: That there are deficiencies in income tax due from petitioners for the taxable years 2011 and 2012 in the amounts of \$11,119.00 and \$36,589.00, respectively;

That there are additions to tax due from petitioners for the taxable years 2011 and 2012, under the provisions of I.R.C. § 6651(a)(1), in the amounts of \$2,613.25 and \$8,822.25, respectively;

That there are penalties due from petitioners for the taxable years 2011 and 2012, under the provisions of I.R.C. § 6662(a), in the amounts of \$2,223.80 and \$7,317.80, respectively;

That there are deficiencies in income tax due from Petitioner Edward Roberson for the taxable years 2013 and 2014 in the amounts of \$31,914.00 and \$39,422.00, respectively;

That there are additions to tax due from Petitioner Edward Roberson for the taxable years 2013 and 2014, under the provisions of I.R.C. § 6651(a)(1), in the amounts of \$7,180.65 and \$8,869.95, respectively;

⁹See Revell v. Commissioner, T.C. Memo. 2007-37, 93 T.C.M. (CCH) 913 (2007) (the taxpayers' alleged unilateral mistake in executing their stipulation was insufficient ground to set it aside, especially because they were represented by counsel and the signing occurred on the eve of the trial).

¹⁰See La. Land & Exploration Co. v. Commissioner, 90 T.C. 630, 649 (1988).

That there is an addition to tax due from Petitioner Edward Roberson for the taxable year 2013, under the provisions of I.R.C. § 6651(a)(2), in the amount of \$7,978.50;

That there is an addition to tax due from Petitioner Edward Roberson for the taxable year 2014, under the provisions of I.R.C. § 6651(a)(2), of 0.5% of the amount of the income tax required to be shown on the return, \$39,422.00, commencing on the due date of petitioner's return and accruing for each month or fraction thereof during which Petitioner Edward Roberson fails to pay, not exceeding 25% in the aggregate;

That there is no addition to tax due from Petitioner Edward Roberson for the taxable year 2013 under the provisions of I.R.C. § 6654; and

That there is an addition to tax due from Petitioner Edward Roberson for the taxable year 2014, under the provisions of I.R.C. § 6654, in the amount of \$707.90.

(Signed) Ronald L. Buch
Judge

Entered: **APR 16 2019**