

UNITED STATES TAX COURT
WASHINGTON, DC 20217

PA

ALEJANDRA CONYERS,)	
)	
Petitioner,)	
)	
v.)	Docket No. 13969-18.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	

ORDER AND DECISION

Ms. Conyers was awarded a car as a prize in a contest in which she did not enter. She considers it to be a non-taxable gift. The Commissioner filed a motion for summary judgment. Because the car was awarded as a prize, we grant the motion.

Background

In 2016, Ms. Conyers was a high school senior in Columbia, Tennessee. That year, a local car dealership, Columbia Chrysler Dodge Jeep Ram, held its annual “Strive to Drive” competition. “Strive to Drive” is an “academic initiative which encourages good grades and attendance” for local high school seniors. Students do not enter their names in the competition; rather, local high schools automatically enter students who have perfect attendance or good grades into the drawing. At the end of the school year, the dealership randomly chooses a name from amongst the qualifying high school seniors whose names have been entered. The winner gets a free car and insurance for one year.

The dealership drew Ms. Conyers’ name for the grand prize in 2016.¹ She won a 2016 Jeep Renegade. Ms. Conyers accepted the car and registered it in her name.

¹Ms. Conyers maintained good grades and perfect attendance her senior year.

The parties agree that Ms. Conyers timely filed her 2016 return. Ms. Conyers did not include the fair market value of the 2016 Jeep Renegade in her gross income for 2016.

On April 16, 2018, the Commissioner sent Ms. Conyers a notice of deficiency for 2016. The notice determined additional income of \$23,780 and a deficiency of \$3,267.² The Commissioner determined this additional income from a Form 1099-MISC issued by the Columbia Chrysler Dodge Jeep Ram dealership. The Form 1099-MISC reported the value of the car given to Ms. Conyers as \$23,780.

In July 2018, and while residing in Tennessee, Ms. Conyers timely filed a petition with this Court. Ms. Conyers claims the Commissioner erred when he included \$23,780 in her taxable income. Ms. Conyers asserts the car was a gift under section 102 and thus should be excluded from taxable income.³

On July 17, 2019, the Commissioner filed a Motion for Summary Judgment. He argues the car was not a gift. The Commissioner contends Ms. Conyers received the car as a prize, and therefore the fair market value of the car is taxable income to Ms. Conyers.

Discussion

The issue before the Court is whether we should grant the Commissioner's motion for summary judgment. Under Rule 121(a), either party may move for summary judgment regarding all or any part of the legal issues in a controversy. We may grant summary judgment only if there is no genuine dispute of material fact.⁴ The party moving for summary judgment bears the burden of demonstrating that there is no genuine dispute as to any material fact.⁵ When a motion for summary judgment is properly made and supported, the nonmoving party may not

²All monetary amounts are rounded to the nearest dollar.

³Unless otherwise indicated, all section references are to the Internal Revenue Code in effect at all relevant times, and all Rule references are to the Tax Court Rules of Practice and Procedure.

⁴Rule 121(b).

⁵Sundstrand Corp. v. Commissioner, 98 T.C. 518, 520 (1992), aff'd, 17 F.3d 965 (7th Cir. 1994).

rest upon mere allegations or denials of the pleading, but must set forth specific facts showing a genuine dispute.⁶

Section 102 allows taxpayers to exclude gifts from gross income.⁷ The landmark case on the question of what constitutes a gift is Commissioner v. Duberstein, which starts from the premise that the statute uses “gift” colloquially.⁸ “A gift in the statutory sense * * * proceeds from a detached and disinterested generosity, out of affection, respect, admiration, charity or like impulses.”⁹ As such, the “most critical consideration” in determining if a transfer is a gift is the transferor’s intent.¹⁰ However, the donor’s characterization of the transfer is not dispositive; “there must be an objective inquiry as to whether what is called a gift amounts to it in reality.”¹¹

Certain transfers may not be gifts. A payment ensuing from a moral or legal duty cannot be a gift.¹² Neither can payments motivated by an “anticipated benefit of an economic nature”.¹³ Corporations and other businesses may give a gift.¹⁴ However, the corporation’s treatment of the transfer as an expense is evidence that the corporation did not intend to give a gift.¹⁵ In its analysis, Duberstein refers to the 1939 Code which excluded gifts from gross income.¹⁶ In 1954, when Congress overhauled the tax code, it retained the gift exclusion by creating section 102; but, it also made prizes includable in gross income.¹⁷

Before 1954, cases excluded some prizes from income as gifts. In Washburn v. Commissioner, a taxpayer won a cash prize from a radio drawing.¹⁸

⁶Rule 121(d).

⁷“Gross income does not include the value of property acquired by gift, bequest, devise, or inheritance.” Sec. 102(a).

⁸Commissioner v. Duberstein, 363 U.S. 278, 285 (1960).

⁹Commissioner v. Duberstein, 363 U.S. at 285 (internal quotes and citations omitted).

¹⁰Commissioner v. Duberstein, 363 U.S. at 285.

¹¹Commissioner v. Duberstein, 363 U.S. at 286.

¹²Commissioner v. Duberstein, 363 U.S. at 285.

¹³Commissioner v. Duberstein, 363 U.S. at 285 (internal quotes omitted).

¹⁴Commissioner v. Duberstein, 363 U.S. at 287.

¹⁵Kralstein v. Commissioner, 38 T.C. 810, 818 (1962).

¹⁶Commissioner v. Duberstein, 363 U.S. at 280 n. 1; sec. 22(b)(3) (1939).

¹⁷Sec. 102 (1954); sec. 74 (1954).

¹⁸Washburn v. Commissioner, 5 T.C. 1333, 1334 (1945).

The taxpayer received a phone call from a radio station informing her that she had won the “Pot O’ Gold” – a cash prize worth \$900. The taxpayer did not enter into the drawing, but was selected randomly out of the phonebook. Once the taxpayer received the money, she had no promotional or service obligations to the donor. We held that, because the taxpayer had no obligations to the donor, the prize was a gift and excludable from her taxable income.¹⁹

In the decade following Washburn, courts held that certain prizes were gifts.²⁰ In those cases, a prize was treated as a gift for tax purposes when the taxpayer (1) did not enter into the drawing or contest from which the prize was won, and (2) did not promote or provide services for the donor of the prize. These cases varied on how much action was required for a taxpayer to have “entered” a drawing or contest.

In 1954, when it enacted section 74, Congress intentionally overrode Washburn and its progeny. In 1954, section 74 read:

SEC. 74. PRIZES AND AWARDS

(a) GENERAL RULE.—Except as provided in subsection (b) and in section 117 (relating to scholarships and fellowship grants), gross income includes amounts received as prizes and awards.”²¹

¹⁹ Washburn v. Commissioner, 5 T.C. at 1334.

²⁰ See e.g., Campeau v. Commissioner, 24 T.C. 370 (1955) (the prize was not includable in income where the prize recipient answered questions over the phone after her number was randomly selected from the phonebook); Glenn v. Bates, 217 F.2d 535 (1954) (the prize was not includable in income where the prize recipient placed a card with her name on it in a barrel, and a car dealership awarded her a new car after drawing her card from the barrel); Downes v. Commissioner, 30 T.C. 396 (1958) (the prize was includable in income where the prize recipient paid \$5 to enter a lottery and won a car in the lottery); Sykes v. Commissioner, 24 T.C. 1156 (1955) (the prize was includable in income where the prize recipient’s friend paid for the recipient’s ticket into a club where the recipient won a new car); Reynolds v. United States, 118 F. Supp. 911 (1954) (the prize was includable in income where the prize recipient’s maid entered his name into a contest to win a new car).

²¹Sec. 74(a) (1954).

In passing section 74, Congress established prizes and awards as taxable to the recipient as gross income.²² It intended this new section to overrule Washburn insofar as it excluded prizes from giveaways as income.²³ Congress stated that section 74 was “intended to eliminate some existing confusion in court decisions over whether a prize is income or a gift and would overrule * * * the Pot O’ Gold case (Washburn v. Commissioner (1945) 5 T.C. 1333)”.²⁴

In section 74(b), Congress exempted prizes and awards from income if the taxpayer received the prize made “primarily in recognition of religious, charitable, scientific, educational, artistic, literary, or civic achievement.” These prizes were exempt “only if—(1) the recipient was selected without any action on his part to enter the contest or proceeding; and (2) the recipient is not required to render substantial future services as a condition to receiving the prize or award.”²⁵

After Congress passed section 74, courts no longer considered a prize as a gift excludable from gross income. Section 74 had the effect of “eliminating the theory of gift exclusions from the field of prizes and awards.”²⁶ And the U.S. Supreme Court in Commissioner v. Duberstein, recognized that when Congress enacted section 74, it disallowed taxpayers from treating prizes and awards as excludable gifts.²⁷ A taxpayer could still exclude a prize from gross income if the prize fell under the exception in section 74(b).²⁸

In 1986, Congress narrowed the section 74(b) exception by adding subsection (b)(3).²⁹ This subsection added an additional requirement for taxpayers to qualify for the exception: upon request by the recipient-taxpayer, the prize donor must immediately transfer the prize or award to a governmental unit or a

²²S. Rept. No. 83-1622 (1954), 1955-2 C.B. 28-29.

²³S. Rept. No. 83-1622.

²⁴S. Rept. No. 83-1622.

²⁵Sec. 74(b) (1954).

²⁶Hornung v. Commissioner, 47 T.C. 428, 435 (1967).

²⁷Commissioner v. Duberstein, 363 U.S. at 290.

²⁸ See e.g., Hornung v. Commissioner, 47 T.C. at 435-436; Wills v. Commissioner, 48 T.C. 308, 314-316 (1967); Godfrey v. Commissioner, T.C. Memo 1998-51, 75 T.C.M. (CCH) 1738, 1739 (1998).

²⁹H.R. Conf. Rept. No. 99-841, at 26-27 (1986), 1986-3 C.B. (Vol 1) 26. Congress added other exceptions to inclusion in income for awards and prizes in 1986. However, those exceptions are not at issue here.

section 170(c) organization.³⁰ This version of section 74 was in effect in 2016, when Ms. Conyers won “Strive to Drive.”

In this case, Ms. Conyers received a prize when the dealership gave her the car. The dealership gave Ms. Conyers something of value to reward her for her goods grades and perfect attendance. Because Ms. Conyers received the car as a prize, she cannot exclude its value from income as a gift. Section 74 and the cases decided following its enactment make clear that this prize or award is not a gift for tax purposes. Ms. Conyers is precluded—by statute—from gift treatment for her car.

Ms. Conyers’ receipt of the car also does not fit under the section 74(b) exception because she accepted the car and transferred title to her name. We acknowledge that the dealership awarded her the car in recognition of academic achievements; that Ms. Conyers did not enter herself into the contest, and that she had no service obligations. But Ms. Conyers did not ask the dealership to directly transfer the car to a governmental or charitable organization as required by section 74(b)(3).

Because Ms. Conyers received a prize from the dealership and does not qualify for income exclusion under section 74, she must include the value of the car in her taxable income for 2016.

In her Response to Motion for Summary Judgment, Ms. Conyers claims a genuine dispute exists as to the value of the car. But Ms. Conyers provides only her bare allegation and does not provide an alternate valuation or any evidence of erroneous valuation by the Commissioner. Ms. Conyers may not rest on mere allegations or denials.

³⁰Sec. 74(b)(3) (1986).

Conclusion

There is no genuine dispute as to any material fact, and we must render a decision for the Commissioner as a matter of law. Accordingly, it is

ORDERED that the Commissioner's motion for summary judgment filed July 17, 2019, is granted. It is further

ORDERED AND DECIDED that there is a deficiency in income tax due from the petitioner for the taxable year 2016 in the amount of \$3,267.

**(Signed) Ronald L. Buch
Judge**

Entered: **SEP 11 2019**