



United States Tax Court

Washington, DC 20217

LESLYN JO CARSON & CRAIG
CARSON,

Petitioners

v.

COMMISSIONER OF INTERNAL
REVENUE,

Respondent

Docket No. 23086-21S.

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 petitioners and to respondent a copy of the pages of the transcript of the trial in the above case before the Undersigned at Oklahoma City, Oklahoma, on March 22, 2023, containing his oral findings of fact and opinion rendered at the conclusion of the trial.

In accordance with the oral findings of fact and opinion, an appropriate Order will be issued.

(Signed) Richard T. Morrison
Judge

Served 05/18/23

1 Bench Opinion by Judge Richard T. Morrison

2 March 22, 2023

3 Leslyn Jo Carson & Craig Carson v. Commissioner of
4 Internal Revenue

5 Docket No. 23086-21S

6 THE COURT: The Court has decided to render oral
7 findings of fact and opinion in this case and the
8 following represents the Court's oral findings of fact and
9 opinion. The oral findings of fact and opinion shall not
10 be relied upon as precedent in any other case. The oral
11 findings of fact and opinion are made pursuant to the
12 authority granted by section 7459(b) of the Internal
13 Revenue Code and Tax Court Rule 152. Rule references in
14 this opinion are to the Tax Court Rules of Practice and
15 Procedure, and section references are to the Internal
16 Revenue Code, in effect at all relevant times.

17 This proceeding is a small tax case subject to
18 the provisions of section 7463 and Rules 170 through 174.
19 Except as provided in Rule 152(c), this bench opinion
20 shall not be cited as authority, and pursuant to section
21 7463(b) the decision entered in this case shall not be
22 treated as precedent for any other case.

23 On March 24, 2021, the Commissioner mailed to
24 the petitioners, Mrs. Leslyn Jo Carson and Mr. Craig
25 Carson, a notice of deficiency determining deficiencies of



1 \$23,633 for 2017 and \$21,628 for 2018. The notice of
2 deficiency determined that the activity or activities
3 reported on the Schedules F for these years was not
4 engaged in for profit under section 183. We hold that it
5 was engaged in for profit.

6 What follows is the Court's findings of fact.

7 The Carsons resided in Oklahoma at the time they
8 filed their petition.

9 In 1999, Mrs. Carson's grandmother assigned a
10 quarter section of land in Gate, Oklahoma, and the cattle
11 ranch on the land, to Mrs. Carson's mother.

12 In 2009, Mrs. Carson's mother transferred most
13 of her property, including the ranch, to a revocable trust
14 that she controls during her life. Mrs. Carson's mother
15 is still alive. Under the revocable trust, if Mrs.
16 Carson's mother dies, and is predeceased by Mrs. Carson's
17 stepfather, the property of the trust is to be distributed
18 to Mrs. Carson and her brother equally. If Mrs. Carson's
19 mother dies, and Mrs. Carson's stepfather is still alive,
20 the property of the trust will become a life estate of
21 Mrs. Carson's stepfather, and then at his death, will be
22 distributed to Mrs. Carson and her brother equally.

23 In two successive agreements dated 2013 and
24 2016, respectively, Mrs. Carson agreed with her mother
25 that she, Mrs. Carson, would contribute financially to the



1 ranch; and that every year Mrs. Carson and her mother
2 would jointly agree about how much, if any, cash
3 distributions would be made from the ranch to Mrs. Carson.

4 From 2014 to 2019, Mrs. Carson made substantial
5 financial contributions to the ranch by paying its
6 expenses. By then the ranch included land adjoining the
7 quarter section. This land was owned by the trust. It
8 served as pasture. The ranch made money mainly by selling
9 cattle. The receipts from cattle sales were reported on
10 the returns of Mrs. Carson's mother. The Carsons did not
11 generally report the ranch's income on their returns
12 because they did not receive any cash distributions from
13 the ranch pursuant to the 2013 and 2016 agreements.

14 The Carsons' two children lived at the ranch
15 helping in the ranch's business of raising cattle for
16 sale. For this purpose, the children used horses, some of
17 which they also used to compete in cash-prize rodeos. The
18 children also performed manual labor for neighbors of the
19 ranch.

20 During 2017, Mr. Carson received wages of
21 \$69,514 from Conant Construction LLC, a construction
22 company. Mrs. Carson received \$55,926 of wages from Elite
23 Endeavors LLC, a feed company.

24 During 2018, Mr. Carson received wages of
25 \$33,318 from Conant Construction LLC and \$38,279 of wages



1 from Centennial Contractors, another construction company.
2 Mrs. Carson received \$62,848 of wages from Elite Endeavors
3 LLC and \$4,688 of wages from Irsik Doll Feed Services.

4 For 2017, the Carsons filed a Schedule F for
5 their "livestock" activity. The Schedule F reported gross
6 income of \$2,741, consisting of rodeo competition winnings
7 of the Carsons' children. The Schedule F claimed
8 deductions for total expenses of \$128,990.

9 The Schedule F for 2018 reported gross income of
10 \$8,063, consisting of \$1,867 in compensation for labor
11 performed by the Carsons' children for local ranchers, and
12 \$6,196 in rodeo competition winnings of the children. The
13 Schedule F claimed deductions for total expenses of
14 \$133,929.

15 For both tax years 2017 and 2018, the Schedules
16 F reported no gross income from the ranch's activities,
17 except for the gross income amounts already discussed,
18 because this gross income was reported on the returns of
19 Mrs. Carson's mother.

20 During the six years 2014 to 2019, the Carsons
21 reported cumulative losses of \$502,742 on the Schedules F.
22 For each year, these losses not only dwarfed the gross
23 income reported on the Schedules F (consisting mainly of
24 rodeo winnings), but they largely offset the Carsons'
25 ordinary income in the form of wages. It is perhaps no



1 surprise that the deductions from the losses came under
2 scrutiny by the IRS.

3 The examining agent determined that the activity
4 reported by the Schedules F was rodeo, not ranching. The
5 main reason the examining agent determined that the
6 activity reported on the Schedules F was rodeo, and not
7 ranching, was that the only gross income reported on the
8 Schedules F was from rodeo winnings (and from some
9 compensation for the children's work for neighbors) but
10 not ranching income. The examining agent interviewed Mrs.
11 Carson, but ignored her explanation that the Schedules F
12 expenses mainly related to ranching activity through which
13 Mrs. Carson participated through the agreements with her
14 mother. He determined that the activity reported on the
15 Schedules F was not an activity engaged in for profit
16 under section 183. The determination was reflected in the
17 notice of deficiency, which disallowed all deductions
18 claimed on the Schedules F for 2017 and 2018.

19 I now give the legal analysis.

20 Section 183(a) generally disallows deductions
21 attributable to an activity that is not engaged in for
22 profit.

23 Section 183(c) defines an "activity not engaged
24 in for profit" as "any activity other than one with
25 respect to which deductions are allowable for the taxable



1 year under section 162 or paragraph (1) or (2) of section
2 212." Treasury Regulation § 1.183-2(a) provides that the
3 determination whether an activity is engaged in for profit
4 is to be made by reference to objective standards, taking
5 into account all of the facts and circumstances of each
6 case. It further provides that the determination whether
7 an activity is engaged in for profit is made by giving
8 greater weight to objective facts than to the taxpayer's
9 mere statement of intent. Treasury Regulation § 1.183-
10 2(b) names nine nonexclusive factors that should normally
11 be taken into account: the manner in which the taxpayer
12 carries on the activity, the expertise of the taxpayer or
13 advisors, the time and effort expended by the taxpayer in
14 carrying on the activity, the expectation that assets used
15 in the activity may appreciate in value, the success of
16 the taxpayer in carrying on other similar or dissimilar
17 activities, the taxpayer's history of income or losses
18 with respect to the activity, the amount of occasional
19 profits, if any, which are earned, the financial status of
20 the taxpayer, and elements of personal pleasure or
21 recreation.

22 Mrs. Carson testified credibly at trial that the
23 Schedules F expenses mainly related to the ranch rather
24 than to rodeo. The Commissioner's litigating position is
25 premised on the Schedule F expenses being related to the



1 rodeo activity. For example, the litigating position
2 supposes that the Carsons lost approximately \$120,000 per
3 year entering their children in rodeos. In reality, the
4 Carsons lost this money primarily in ranching activities,
5 the profit objective of which the Commissioner does not
6 directly challenge. In summary, the Commissioner's
7 position under section 183 makes no sense in light of our
8 view that the deductions reported on the Schedules F
9 mainly related to ranching.

10 The Court declines to refocus the Commissioner's
11 challenge to the Schedules F deductions by determining
12 what relatively small part of the activities reported on
13 the Schedules F consisted of rodeo activities rather than
14 ranch activities. To do so would be difficult in this
15 case. Although Mrs. Carson kept meticulous details of the
16 expenses that were deducted on the Schedules F, and
17 although these records would have allowed the Court to
18 more precisely sort the expenses between ranching and
19 rodeo, Mrs. Carson did not bring the records to trial.
20 She believed--correctly--that the Commissioner did not
21 challenge the substantiation behind the deductions.
22 Without the substantiation, the Court cannot sort the
23 deductions between ranch and rodeo without resorting to
24 rough justice. Under these unique circumstances, I hold
25 that the Commissioner has waived the right to refocus his



1 challenge on the relatively narrow rodeo activities. I
2 further hold that the activity or activities reported on
3 the Schedules F for 2017 and 2018 were engaged in for
4 profit.

5 In so doing, I recognize that the Commissioner
6 contends that there is a mismatch of income and expenses
7 in that the revenue from the ranch, which consisted
8 primarily of proceeds of selling cattle, was reported on
9 the returns of Mrs. Carson's mother, while expenses of the
10 ranch were reported on the Carsons' Schedules F. This
11 mismatch appears to be primarily attributable to the
12 business arrangement between Mrs. Carson and her mother,
13 whereby Mrs. Carson paid expenses of the ranch and her
14 mother received the revenues from the ranch, rather than
15 the hobby-loss distinction made by section 183. A
16 mismatch of income and deductions is not prohibited under
17 the Code per se, but may be relevant in determining the
18 appropriateness of accounting methods and in determining
19 the appropriate allocation of income and deductions
20 between partners. However, these legal issues are not
21 before the Court.

22 I now address some procedural matters.

23 At trial the Court reserved ruling on Mrs.
24 Carson's objection to paragraph 14 of the stipulation of
25 facts. This paragraph reflects losses reported on



1 Schedules F for years not at issue. I will overrule the
2 objection. The losses for the relevant activity for years
3 not at issue are theoretically relevant to whether the
4 activity is engaged in for profit under section 183.

5 Mr. Carson did not appear for trial. On March
6 21, 2023, the Commissioner moved to dismiss him for lack
7 of prosecution. The motion will be granted and a
8 deficiency will be entered against Mr. Carson in the same
9 amount as the deficiency entered against Mrs. Carson.

10 An appropriate order will be entered overruling
11 Mrs. Carson's objection to paragraph 14 of the stipulation
12 of facts and dismissing Mr. Carson from the case.

13 The parties will recompute the deficiencies
14 under Rule 155 given today's holding.

15 This concludes the Court's oral findings of fact
16 and opinion in this case.

17 (Whereupon, at 9:28 a.m., the above-entitled
18 matter was concluded.)

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1 CERTIFICATE OF TRANSCRIBER AND PROOFREADER

2 CASE NAME: Leslyn Jo Carson & Craig Carson v.
3 Commissioner

4 DOCKET NO.: 23086-21S

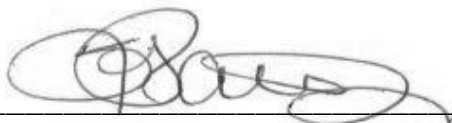
5 We, the undersigned, do hereby certify that the
6 foregoing pages, numbers 1 through 12 inclusive, are the
7 true, accurate and complete transcript prepared from the
8 verbal recording made by electronic recording by MetMez
9 Group on March 22, 2023 before the United States Tax Court
10 at its session in Oklahoma City, OK, in accordance with
11 the applicable provisions of the current verbatim
12 reporting contract of the Court and have verified the
13 accuracy of the transcript by comparing the typewritten
14 transcript against the verbal recording.

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19 Susan Patterson, CDLT-174 4/12/23

20 Transcriber Date

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22



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24 Lori Rahtes, CDLT-108 4/12/23

25 Proofreader Date

