

EIC Denied When Could Not Prove Self-Employment Income

Diana Doucoure was self-employed as a street vendor in New York, New York during 2014 & 2015. She sold socks, T-shirts, and hats. She obtained items to sell from people who approached her on the street. She paid cash for those items and did not keep inventory records.

Her customers usually paid her in cash, and she rarely recorded sales. She usually did not give receipts to her customers. At the end of each workday, she counted the money she received and then decided how much to keep for her personal use. Sometimes she made deposits in her bank account at Citibank. She closed this account in 2016 and did not retain any of the records for the account.

Her 2014 Schedule C showed sales of \$16,889, expenses of \$1,355, a net profit of \$15,534, and EIC of \$5,460. Her 2015 Schedule C showed sales of \$17,110 no expenses, and EIC of \$5,548. IRS audit resulted in a denial of EIC.

At the IRS audit Ms. Doucoure provided her own testimony and six receipts for 2014 totaling \$1,612 for items she purchased to resell. She testified that she relied on documents from her Citibank account in reporting her gross sales, but she did not provide any evidence to support the account's existence.

She testified she relied on her memory in knowing that she had expenses in 2014 of \$1,355, yet she produced receipts for \$1,612. She also testified that her expenses in 2015 were identical to 2014, yet her return showed zero expenses.

[Her net profit amounts of income are very close to the amounts that produce the maximum EIC based on the number of children she claimed.]

Tax Court is not required to accept a taxpayer's own testimony which is often self-serving. Yet Tax Court will not disregard it just because it is self-serving, but will consider it as part of the overall hearing. In this case, Tax Court determined Ms. Doucoure's testimony was inconsistent and full of anomalies. She was also not able to explain the disappearance of her banking records.

Tax Court determined Ms. Doucoure did not establish the amount of her earned income for 2014 and 2015 and provided no evidence to permit the Court to estimate the amounts of her income and expenses.

Ms. Doucoure also contended:

- She is entitled to a refund because she filed her return and submitted the documents requested of her. (Tax Court said merely filing a return and claiming a credit does not qualify a taxpayer for a refund.)
- She contends that she has a constitutional right to receive a tax refund. (Tax Court said there is no such right if she does not meet the statutory requirements for the EIC and she had not shown she is entitled to it.)

Diana Doucoure, T.C. Summary 2019-20. This case can be found by going to ustaxcourt.gov, clicking on the Opinion Search tab, and entering Doucoure in the Case Name box.

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