

IN THE UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF ILLINOIS

IN RE:)	
)	Case No. 10 - 83750
SCOTT L. SHINN,)	
)	Judge Thomas L. Perkins
Debtor.)	
_____)	Chapter 7
SCOTT L. SHINN,)	
)	Adversary No. 10 - 08139
Plaintiff,)	
vs.)	
)	
INTERNAL REVENUE SERVICE,)	
)	
Defendant.)	

**DEFENDANT’S NOTICE OF RECENT DECISION BEARING ON ISSUES BRIEFED
AND MOTION FOR LEAVE TO ADDRESS THE SAME**

The defendant, United States of America, named and sued as the Internal Revenue Service, submits to this Court notice of a recent opinion issued in *McCoy v. Mississippi State Tax Commission (In re McCoy)*, 2012 WL 19376 (5th Cir. Jan. 4, 2012), a copy of which is attached as Exhibit A, which relates to the issues presented in its motion for summary judgment. In *McCoy*, Fifth Circuit held McCoy’s late-filed Mississippi state income tax returns were not “returns” for dischargeability purposes under § 523(a)(1)(B)(i) merely because they were not timely filed. In its summary judgment motion, the United States disavowed the view that merely because a tax return is filed late, it is not a “return” under the flush language at the end of § 523(a), and instead argued that where the tax debt is assessed under the deficiency procedures before the Form 1040 is filed, it is a debt for which no return was filed and thus is nondischargeable under § 523(a)(1)(B)(ii).

As *McCoy* is a circuit-level decision which bears directly on the issues briefed by the parties and the United States disagrees with its reasoning (even though that reasoning would

compel a judgment in the government's favor), the United States also moves for leave to address *McCoy* in a short supplemental statement. The proposed supplemental statement is attached as Exhibit B.

WHEREFORE the defendant United States gives notice of the *McCoy* decision and moves that this Court grant leave to file a supplemental statement addressing it by deeming the attached statement filed and considering it.

Respectfully submitted,

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/s/ Gabrielle G. Hirz
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CERTIFICATE OF SERVICE

I hereby certify that on January 27, 2012, I filed the foregoing document with the CM/ECF system, which will send notice to:

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/s/ Gabrielle G. Hirz
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