JOHN M. & CARVINE P. LANGHAM 617 Oak Avenue Prichard, Alabama 36610-2363,	§	STATE OF ALABAMA DEPARTMENT OF REVENUE ADMINISTRATIVE LAW DIVISION
Taxpayers,	§	DOCKET NO. INC. 95-265
v.	§	
STATE OF ALABAMA DEPARTMENT OF REVENUE.	§	

FINAL ORDER

The Revenue Department assessed income tax against John M. and Carvine P. Langham (together "Taxpayers") for 1989 through 1992. The Taxpayers appealed to the Administrative Law Division pursuant to Code of Ala. 1975, §40-2A-7(b)(5)a. A hearing was conducted on August 7, 1996 in Mobile, Alabama. Daniel Mims represented the Taxpayers. Assistant Counsel Duncan Crow represented the Department.

The issue in this case is whether the Department correctly disallowed travel expenses deducted by the Taxpayers on their 1989 through 1992 Alabama returns.

Carvine P. Langham (individually "Taxpayer") was a member of the City of Prichard Water & Sewer Board during the years in issue. She received travel expense checks from the Board during those years for the purpose of attending various seminars, business meetings, etc. throughout the United States. The Board estimated the amount of the expenses based on the location of the trip. The Board did not require the Taxpayer to keep records or otherwise verify how the expense money was used.

The Taxpayers received 1099 forms from the Board, and

accordingly reported the expense income on their Alabama returns for the subject years. They also claimed travel expenses relating to the trips on Schedule C in each year. The income and expenses reported in each year are:

YEAR	INCOME REPORTED	EXPENSES CLAIMED	NET
1989	$21,797	$21,923	⟨$126⟩
1990	$22,742	$22,863	⟨$121⟩
1991	$14,363	$14,442	⟨$ 79⟩
1992	$ 8,890	$ 8,899	⟨$ 9⟩

The Department audited the Taxpayers and requested records to verify the claimed expenses. The Taxpayers failed to provide any records. The Department consequently computed the allowable expenses using information from the Mobile County District Attorney's Office.

The Taxpayer had been indicted by a Mobile County grand jury on ethics charges concerning overpayment of travel expenses. In conjunction with that case, the Mobile County District Attorney prepared a chart showing the business trips made by the Taxpayer from August 31, 1989 through June 20, 1991, the amounts paid by the Board to the Taxpayer, and the actual expenses incurred by the Taxpayer. There is no evidence explaining how the District Attorney determined the Taxpayer's actual expenses on the chart. In any case, the Department allowed the expenses as shown on the chart. The District Attorney also had records indicating that the Taxpayer had paid parking tickets at various out-of-state locations. The Department allowed the standard mileage expense for car travel to those locations. The total expenses allowed by the

Department were $3,756.60 in 1989, $4,227.71 in 1990, $1,635.50 in 1991, and $0.00 in 1992. (The District Attorney did not include 1992 in his investigation.) All other claimed expenses were disallowed, which resulted in the final assessments in issue.

The Taxpayers complain that the District Attorney's chart does not allow them enough expenses. However, the Taxpayers were obligated to keep adequate and complete records from which the claimed expenses could be verified. Code of Ala. 1975, §40-2A-7(a)(1). They failed to do so, even though any taxpayer, especially a public official, should know to keep records for tax purposes. Having failed to keep any records, the Taxpayers cannot now complain that the Department's calculations based on the best available information are inexact. Jones v. C.I.R., 903 F.3d 1301 (10th Cir. 1990). The Taxpayer testified concerning her trips, where she stayed, how long it took to get to and from the location, the expenses incurred during the trips, etc. However, the Department is not required to rely on the verbal assertions of a taxpayer. State v. Mack, 411 So.2d 799 (Ala.Civ.App. 1982).

Without adequate records, all claimed deductions must be disallowed. U.S. v. Wodtke, 627 F.Supp. 1034 (1985). The Department still allowed the expenses on the District Attorney's chart, even though there is no documentary evidence that the Taxpayer actually made the trips in question. It is ironic that the Taxpayers now attack the District Attorney's information as incomplete, although no expenses would have been allowed but for that information.

Although not addressed at the hearing, I also question how the Taxpayers' return preparer calculated the claimed expenses if the Taxpayers were unable to obtain records verifying those expenditures.

The Taxpayers provided three receipts at the hearing. One for $215 is undated and thus cannot be accepted. Another is from the Hershey Hotel in Philadelphia showing cash payments totaling $583. However, the Department allowed the Taxpayers $1,032.80 for that trip. The third receipt for $420 is dated February 25, 1991. But again, it is not clear if the Taxpayers were already allowed credit for that expense by the District Attorney. Any questionable expenses must be rejected. Under the circumstances, the Taxpayers cannot be allowed additional expenses for the three receipts.

The final assessments are affirmed. Judgment is entered against the Taxpayers for 1989 income tax of $1,442.06, 1990 income tax of $1,180.39, 1991 income tax of $734.90, and 1992 income tax of $597.31.

This Final Order may be appealed to circuit court within 30 days pursuant to Code of Ala. 1975, §40-2A-9(g).

Entered September 18, 1996.

BILL THOMPSON
Chief Administrative Law Judge