

MARY J. JONES
14478 WIRE ROAD
COALING, AL 35453,

Taxpayer,

v.

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

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STATE OF ALABAMA
ALABAMA TAX TRIBUNAL

DOCKET NO. INC. 15-516

FINAL ORDER

The Revenue Department assessed Mary Janelle Jones (“Taxpayer”) for 2013 Alabama income tax. The Taxpayer appealed to the Tax Tribunal pursuant to Code of Ala. 1975, §40-2A-7(b)(5)a. A hearing was conducted on December 1, 2015. The Taxpayer attended the hearing. Assistant Counsel Ralph Clements represented the Department.

The Taxpayer worked for Blake Enterprises during the year in issue. Blake operates loan and payday loan outlets in various states. The Taxpayer supervised 17 Blake outlets in Alabama and Mississippi during the year in issue.

The Taxpayer operated out of an office in Tuscaloosa, Alabama in 2013. Her primary activity was traveling to the 17 outlets under her control to conduct reviews, audits, etc.

The Taxpayer kept up with her business miles traveled in a notebook she completed at the end of each week. She put the miles traveled and the town she traveled to each day, and the purpose for each trip. On at least half of the days she traveled 25 miles to the 7 Blake outlets she supervised in Tuscaloosa. On other days she traveled to the Blake outlets in Jasper, Alabama, Montgomery, Alabama, Columbus, Mississippi, etc. She occasionally also traveled to her employer’s headquarters in Memphis, Tennessee for meetings. The Tribunal reviewed the notebook at the December 1 hearing.

The Taxpayer claimed business miles traveled in 2013 based on the miles recorded in her notebook. She also claimed a medical deduction for the amounts she paid for medical insurance and medicine/drugs in the year.

The Department audited the Taxpayer's 2013 return and requested records verifying the various deductions claimed on the return. In response, the Taxpayer entered the information recorded in her travel log onto her computer and printed the log out so that it would be easier for the Department to read. She also submitted medical and other records. The Department accepted some of the records and rejected others. It also disallowed the business miles claimed by the Taxpayer because it determined that her travel log was incomplete.

Because deductions for business-related travel, entertainment, or similar type expenses are particularly susceptible to abuse, those deductions must be strictly documented with exact records verifying the (1) amount, (2) time, (3) place, and (4) business purpose for the travel, entertainment, etc. See generally, 26 U.S.C. §274. Alabama has specifically adopted the strict recordkeeping requirements in IRS §274, see Code of Ala. 1975, §40-18-15(a)(20).

The mileage expense issue was also in dispute in *Goins v. State of Alabama, Inc.* 03-352 (Admin. Law Div. 9/18/03). The taxpayer in *Goins* was a traveling salesman. He submitted a calendar showing his business miles traveled in the subject year, 1999. The Administrative Law Division held that the calendar was not sufficient to satisfy the strict recordkeeping requirements of §274.

Finally, the Taxpayer claims that he traveled as a salesman in 1999, and should be allowed travel expenses of \$13,267. The Department disallowed

the mileage because it was not substantiated. The Taxpayer subsequently submitted a calendar for 1999, which he claims verifies the amount of miles traveled on business in that year.

The criteria for claiming travel expenses was explained in *Langer v. C.I.R.*, 980 F.2d 1198 (1992):

A taxpayer cannot deduct travel expenses under 26 U.S.C. § 162 unless the taxpayer meets the substantiation requirements of § 274(d). The taxpayer must substantiate the amount, time, place, and business purpose of each travel expenditure “by adequate records or by sufficient evidence corroborating [the taxpayer’s] own statement.” Treas. Reg. § 1.274-5(c) (1983). To substantiate expenditures with “adequate records,” a taxpayer must keep an account book or similar record along with supporting documentary evidence that together establish each element of the expenditure. *Id.* § 1.274-5(c)(2)(i). To show substantiation by other “sufficient evidence,” the taxpayer must establish each element by the taxpayer’s own detailed statement and by corroborating evidence. *Id.* § 1.274-5(c)(3).

Langer, 980 F.2d at 1199.

The calendar submitted by the Taxpayer identifies where the Taxpayer traveled, and the estimated miles traveled. For example, the March 9, 1999 entry has “Cherokee 40 Corinth, Ms 125.” The entry for March 11 has “Russelville Ind. Pk 90.” The calendar is not sufficient because it does not fully substantiate the amount, time, place, and business purpose for each trip.

The Taxpayer claims in his notice of appeal that “I did not have perfect records, but you know I used my auto constantly and should be allowed a reasonable amount.” The courts have allowed taxpayers to estimate deductible expenses in the absence of adequate records under certain circumstances. *Cohan v. Commissioner*, 39 F.2d 540 (1930). Unfortunately for the Taxpayers in this case, the *Cohan* rule does not apply to employee business-travel expenses. IRC Reg. §1.274-5T(a)(1). Rather, the law requires that detailed, exact records must be kept. The Taxpayer failed to do so. The claimed employee travel expenses were thus properly disallowed.

Goins at 2 – 3.

Unlike in *Goins*, in this case the evidence establishes that the Taxpayer's mileage log, together with her explanatory testimony at the December 1 hearing, is sufficient to satisfy the §274 records requirements. The Taxpayer contemporaneously maintained her mileage notebook when she entered the miles traveled, the places traveled to, and the business purpose for the trips on a weekly basis. The notebook also included a beginning and ending odometer amount in each month. The mileage claimed by the Taxpayer thus should be allowed.

Upon further review of the Taxpayer's records, the Department has determined that the medical deductions in issue should also be allowed. The final assessment is voided. Judgment is entered accordingly.

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

Entered March 15, 2016.

BILL THOMPSON
Chief Tax Tribunal Judge

bt:dr

cc: Gwendolyn B. Garner, Esq.
Mary J. Jones