

RODNEY & DEBBIE PRICE JONES
555 UNION CHAPEL ROAD
NORTHPORT, AL 35473-7513,

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§

STATE OF ALABAMA
DEPARTMENT OF REVENUE
ADMINISTRATIVE LAW DIVISION

Taxpayers,

§

DOCKET NO. INC. 11-176

v.

§

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

§

FINAL ORDER

The Revenue Department assessed Rodney and Debbie Price Jones (together “Taxpayers”) for 2007, 2008, and 2009 Alabama income tax. 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 July 28, 2011. The Taxpayers attended the hearing. Assistant Counsel Keith Maddox represented the Department.

The Taxpayers claimed Schedule A and Schedule C deductions on their Alabama income tax returns for the subject years. A Department examiner audited the Taxpayers and requested records verifying the deductions. The Taxpayers submitted some records. The examiner disallowed the business-related mileage travel deductions claimed on the returns because the Taxpayers failed to provide a mileage log or other mileage records.¹

The Taxpayers filed a petition for review with a Department hearing officer and submitted a one-half page travel ledger for 2007 and a two page ledger for 2009. The ledgers, copies of which are attached to this Final Order, show weekly travel dates, the general areas traveled to, and beginning and ending odometer readings for each week’s

¹ The examiner also disallowed or reduced some other claimed deductions. Those issues have since been resolved or agreed to.

travels. The hearing officer allowed one-half of the miles shown on the ledgers, and adjusted the Taxpayers' 2007 and 2009 liabilities accordingly.

Rodney Jones (individually "Taxpayer") testified at the July 28 hearing that he traveled in West Central Alabama in 2007 and 2009 as a battery salesman. He explained that he did not keep a detailed mileage log of his daily travels because he was not required to by the U.S. Department of Transportation. He argued that he kept the travel ledgers submitted at the July 28 hearing for tax purposes only, and that 100 percent of the claimed miles should be allowed.

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.

As indicated, the Taxpayer in this case presented a one-half page ledger for 2007 and a two page ledger for 2009 that showed the general area that he traveled each week and his beginning and ending odometer readings in each week. Unfortunately, the records do not reflect the miles traveled for each daily trip, the exact locations traveled to each day,

or the business purpose for each trip, i.e., what businesses or individuals the Taxpayer called on each day. The Taxpayer's records are thus not sufficient to satisfy the strict recordkeeping requirements of §274, as adopted by Code of Ala. 1975, §40-18-15(a)(20).

The Taxpayer's testimony at the July 28 hearing was honest and forthright, and I do not doubt that he traveled the miles as indicated on his ledgers.² But the Legislature's mandate is clear that the strict recordkeeping requirements of §274 must be satisfied before a taxpayer's business-related travel expenses can be allowed. The Taxpayer failed to do so in this case.

The final assessments are affirmed. Judgment is entered against the Taxpayers for 2007 tax, penalty, and interest of \$198.34; 2008 tax, penalty, and interest of \$1,511.89; and 2009 tax, penalty, and interest of \$227.58. Additional interest is also due from the date the final assessments were entered, January 6, 2011.

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

Entered July 29, 2011.

BILL THOMPSON
Chief Administrative Law Judge

bt:dr

cc: Keith Maddox, Esq.
Rodney & Debbie Jones
Tony Griggs

² The Department hearing officer also must have believed the Taxpayer because he allowed one-half of the miles even though the Taxpayer's records were insufficient.