

JOHN D. OTTO
P.O. BOX 561
VALLEY, AL 36854,

Taxpayer,

v.

STATE OF ALABAMA
DEPARTMENT OF REVENUE.

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STATE OF ALABAMA
ALABAMA TAX TRIBUNAL

DOCKET NO. INC. 13-1343

OPINION AND PRELIMINARY ORDER

The Revenue Department entered final assessments of 2008, 2009, and 2010 income tax against John D. Otto (“Taxpayer”). The Taxpayer timely appealed to the Revenue Department’s Administrative Law Division, now the Tax Tribunal, pursuant to Code of Ala. 1975, §40-2A-7(b)(5)a. A hearing was conducted on July 17, 2014. The Taxpayer attended the hearing. Assistant Counsel David Avery represented the Department.

The Taxpayer lives in Valley, Alabama, near the Georgia State line. He operated a pool service business in East Alabama and West Georgia during the years in issue. He claimed Schedule C income and expenses relating to the business on his Alabama returns for those years. The Department audited the returns and disallowed various deductions claimed by the Taxpayer, including the business-related travel expenses and one-half of the cost of goods sold because, according to the Department, the items were not verified by adequate records. The Department also increased the Taxpayer’s reported income based on unidentified deposits into his bank account. It adjusted the returns accordingly and entered the final assessments in issue.

The Taxpayer worked four days a week, ten hours a day, for the State of Georgia during the years in issue. As indicated, he also operated a swimming pool

repair/maintenance business in those years. He explained at the July 17 hearing that during the years in issue, he traveled the same route every day he performed his pool maintenance work. He started at a pool owned by the City of Valley, Alabama. From Valley he went to pools at two private residences, four condominiums in the Columbus, Georgia area, and then back to the City of Valley pool. The route totaled 107 miles. The Taxpayer testified that he traveled the exact same route two or three times a week year round during the years in issue, and generally more times if there was a problem at one of the pools, which there usually was. He also had part-time help that serviced the pools when he was unable to do so.

The Taxpayer maintained a daily travel log on his computer showing the dates he traveled, the places he traveled to, and the miles traveled. Because he traveled the same route every day he did pool maintenance, he drove the same 107 miles each time. He deducted the mileage on his Alabama income tax returns for the subject years. He did not deduct the mileage from his house to the Valley pool at the start of his route or the mileage from the Valley pool to his home at the end of each route because he considered those miles nondeductible commuting miles.

The Taxpayer purchased repair parts for motors and pumps, chlorine sticks, granular chlorine, and various other supplies needed to maintain the pools. He also deducted those items on his returns. He kept the receipts for the parts and supplies in a file cabinet at his house.

The Taxpayer's wife died in 2007, and the Taxpayer subsequently contested her will with her relatives in the Chambers County, Alabama Probate Court. The Probate Judge in 2010 ordered the Taxpayer to provide his file cabinet and his two computers to the

relatives. He did so. When they were returned to him, all of his records except a few invoices were missing from the file cabinet, and his computer hard drives had been erased. Fortunately, he had copied the hard drives, and thus still had his travel mileage log.

The Department audited the Taxpayer and requested his records for the subject years. The Taxpayer provided the Department examiner with his computer-maintained mileage log. He also explained that most of his pool-related parts and supply invoices had been destroyed by his in-laws. The examiner suggested that he should obtain information from his suppliers showing what he had purchased from the suppliers during the audit years. The Taxpayer subsequently obtained information from one of his main suppliers, Mitchell Electric, and several others. He provided those records to the Department examiner, along with the few invoices that were left in his file cabinet.

The Department per its audit allowed only one-half of the parts and supply invoices provided by the Taxpayer because the documents were questionable. A Department examiner that later reviewed the records explained as follows:

Q. And you reviewed all of those. In your review of all of those, you decided to take away – take half of the credit or allow half of the credit. Why were you only allowing half of the credit?

A. Because the documents appear – they were questionable at best. They're copies. They're handwritten. There's no information such as his address or anything like that. The – there's no invoice numbers or anything. They were questionable. And with the history that we had –

Q. -- you would have expected to see from a regular business enterprise that were issuing invoices?

A. Yes.

Q. Was there any way to tell whether or not those were received at different times?

A. No. They all appear the same handwriting, same everything copied at one time.

Q. They certainly seemed then to you something that was made for this appeal.

A. Yes.

(T. 28 – 29).

The Department also rejected the Taxpayer's mileage log, and consequently disallowed the claimed mileage in full. The examiner explained why the mileage was disallowed, as follows:

Q. What about the mileage log, did you review the mileage log?

A. Yes.

Q. Did you find it unusual that the taxpayer was saying this was a contemporaneous mileage log?

A. Yes.

Q. Why did you find that unusual?

A. I apologize. The fact that it was contemporaneous?

Q. Yes.

A. I'm not sure if it was contemporaneous or not.

Q. Why are you not sure.

A. The odometer readings are – he has all the pertinent information here. The thing that was in question was the amount of mileage that he had each day with his regular job. The – he appears to service the pool every day with only a couple of days off throughout the entire year including Christmas, New Year's, so he's constantly making the same trip every day.

Q. So I think that he had testified here earlier that he only drove this route two days a week and he had an employee to drive it the third day of the week or another person driving the other day of the week, right?

A. Right.

Q. So the mileage then should not exceed more than three days a week?

A. (Nodded head affirmatively.)

(T. 29, 30).

The burden is on a taxpayer to provide records verifying all claimed deductions.

McDonald v. C.I.R., 114 F.3d 1194 (1997).

All taxpayers are required to keep records to enable the Commissioner to determine their correct tax liability. Sec. 6001; *Meneguzzo v. Commissioner*, 43 T.C. 824, 831-832, 1965 WL 1240 (1965). Deductions are a matter of legislative grace, and the taxpayer bears the burden of proof to establish entitlement to any claimed deduction. Rule 142(a); *New Colonial Ice Co. v. Helvering*, 292 U.S. 435, 440, 54 S. Ct. 788, 78 L.Ed. 1348 (1934). This includes substantiation of the deductions claimed. *Hradesky v. Commissioner*, 65 T.C. 87, 90, 1975 WL 3047 (1975), affd. per curiam 540 F.2d 821 (5th Cir. 1976).

Hentges v. C.I.R., T.C. Memo. 1998-244 (U.S. Tax Ct., 1998).

Concerning the pool supplies, chemicals, etc. deducted by the Taxpayer, as discussed, most of his invoices were destroyed by his in-laws in a will dispute. In such cases where a taxpayer's records are destroyed through no fault of the taxpayer, the taxpayer may reasonably reconstruct such records. *Hentges*, supra; *Alexander v. State of Alabama*, Docket Inc. 02-145 (Admin. Law Div. O.P.O. 5/23/2002).

In this case, the examiner that audited the Taxpayer suggested that the Taxpayer should obtain information from his vendors concerning the pool-related supplies and parts he purchased during the audit years. The Taxpayer subsequently obtained information from one of his primary vendors, Mitchell Electric. A March 5, 2013 affidavit (Taxpayer Ex. 4) from Jerry Mitchell, the retired owner of Mitchell Electric, reads as follows:

The 15 receipts for materials and services provided by John Otto are true and accurate. Each one was provided to Mr. Otto and were duly paid by Mr. Otto d/b/a/ Solutions in cash to myself d/b/a Mitchell Electric.

My association with John Otto in his pool business started back in the 1980's. During the period in question, 2008 thru 2010, I work on several pools for John Otto. I provided pumps, motors, filter service, pool lights, all forms of electrical service, and assisted him in some plumbing jobs. Pools that I assisted on were around Valley, Lanett, and West Point, as well as Fortson, Columbus, and Phenix City. The names of the properties managed by Total Services Group were Backwater Condos, Springcreek, the Ridges, Bridgestone, and the Vistas Condos. I can attest to the fact that John Otto provided pool service on at least a two times a week basis for 6 months out of the year and the other 6 months 3 times a week. He also provided pool service to the City of Valley, Vistas, Verandas, and Crest Club Apartments.

The Taxpayer was unable to obtain information from his other major vendor, Tyson Chemicals, because it had gone out of business and the owner could not be located. The Taxpayer did obtain receipts from a couple of other vendors, and had other receipts/invoices that his in-laws left in his filing cabinet. As indicated the Taxpayer provided all of those receipts, along with the Mitchell Electric information, to the Department.

As discussed, the Department allowed only one-half of the invoice/receipt amounts because the documents were questionable; i.e., they were handwritten, did not have invoice numbers, and appeared to have been prepared at the same time for purposes of this appeal.

I understand the Department's concern, but the documents in question are presumably those prepared by Mitchell Electric's owner at the Taxpayer's request during the audit. It is thus understandable that those documents were both handwritten by Mitchell Electric's retired owner and, at the suggestion of the Department examiner that audited the Taxpayer, also prepared at the same time for purposes of this appeal.

The Department does not dispute that the Taxpayer incurred pool-related expenses for motor and pump repair parts, chemicals, and other supplies during the audit period. The Taxpayer provided records substantiating some but not all of those expenses. The undocumented expenses, although incurred, cannot be allowed, but the expenses verified by the Mitchell Electric information and the other invoices and receipts provided by the Taxpayer should be allowed in full under the circumstances.

The criteria for claiming business-related 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.

In this case, the Taxpayer maintained a computer generated mileage log that contained the information required by §274. As testified to by the Department examiner at the July 17 hearing – “The odometer readings are – he has all the pertinent information (in his log).” (T. 30). The Department nonetheless rejected the log because it appeared that the Taxpayer ran his pool maintenance route an unreasonable number of days. The Department pointed out, for example, that the Taxpayer ran his route 18 to 20 times in January 2009 per his log, which the Department deemed to be unreasonable and

excessive.

Q. How many days – do you have a log there?

A. Yes.

Q. How many days does he regularly – you can tell by the month I guess. How many days is he regularly running this route in those records per month?

A. 18 to 20.

Q. If you had 18 to 20 days a month, that would be in excess of three days a week, wouldn't it?

A. Correct.

Q. Was there any explanation made then of why there were that many more days if they – what month is that you were looking at.

A. January 2009.

Q. January. Are people swimming in January here in Alabama?

A. I'm not.

Q. I'm not either. So would you expect to be going 20 times a month when you would normally only go three times during the summer to service these pools, would that be something that would cause you some concern to see.

A. Yes.

Q. January is not a month where people are regularly swimming and using the pools as far as you know.

A. Correct.

Q. And may not need as much care in those months or you wouldn't expect to see as much care during those months. I'm not saying they didn't need it. They may have something else wrong?

A. That's why we questioned it.

(T. 29 – 32).

It does appear at first blush that 18 to 20 pool-related trips in January, or any Winter month in Alabama, is unreasonable. The Taxpayer explained, however, that he actually traveled his route more often in the Winter than in the warm months because of burst pipes and other potential problems caused by cold weather.

ALJ Thompson: . . . Mr. Otto, what's your response to her claim that you claim you were making trips 18, 20 times during a month?

Mr. Otto: I don't know if she would have seen this letter from the company that I worked through, but it states the regular work was for two to three days per week plus repairs as needed. January 2009 was an extremely cold year, and if she goes back to the warmer months like June, she'll find out there were only a few trips, you know, not that many trips were made.

ALJ Thompson: Okay. So all of the additional trips in July – January 2009 were repairs?

Mr. Otto: A few pipes busting. And the only way I accepted pool work except on one or two rare occasions were for year-round pools. I never accepted anything else. What you got to understand is the a majority of these pools are year-round pools and the fact that there would be hot tubs next to it and want the pool looking good in the center of a condo association and they wouldn't cover it for safety sake and they wanted it to remain looking good.

The two home pools I'm cleaning they just prefer to look out the back of their house and see an open pool so they were year-round pools. I never – I rarely accepted anything less than a year-round pool.

* * *

A: A lot of broke pipes, frozen motors due to weather, yes, sir.

Q. Is that based on you would get a call saying we have a problem?

A. Any time of the day or night the president – all of them had homeowner's associations and the president was my contact directly with each condo and they would call me and say, John, we've got water going down the road or somebody went to use the hot tub and it's cold.

Q. Would that be a reason then to make your same route for all of the businesses you serviced.

A. During extremely cold weather, yes, sir. I'd go the same route because I tried to keep electric heaters if it was possible in the rooms. And I would make sure that the heaters were still going so I wouldn't have the same problems everywhere I went. I didn't want to have to keep doing plumbing.

Q. Make sure I understand. So if you got a call from Spring Hill Apartments, you would go to the City of Lanett and check their pool?

A. Well, the City of Valley I went to twice a day anyway. It was on my way where I parked my car and my contract with the City of Valley to check that pool twice a day seven days a week.

Q. All right. Why would you make your entire route for every time you got a call to go to somebody because of a broken pipe?

A. Like I said, if it was cold weather, I liked to keep on top of it. I didn't want everybody's pool going down. These condos, they expect stuff to get done right away. And there's times I couldn't get out there and I did most of the repairs myself. I did not leave that to a part-timer that worked for me.

Q. January 2009 was an unusual month then; right?

A. January and February were both cold months, yes, sir. If you go to June of 2009, you'll notice a more normal number of visits. If you go through the summer months, you'll notice that it drops down significantly. Now, on like 4th of July weekend, I would always go the morning of the 4th no matter what day of the week it was because I wanted the pools to look good for these condos for the fourth or every now and then they would give me a call, look, we're going to be celebrating Cinco de Mayo was another big one a Backwater condos. They would expect me to come that morning and make sure the pool was picture perfect for the parties that they threw.

Q. Whatever day of the week it fell on?

A. Whatever day of the week it fell on, yes, sir.

(T. 34 – 37 and 44 - 46).

The Department also argues in its February 25, 2015 post-hearing response that the Taxpayer's travel log is too repetitive and exact to be believed.

For 2008, the records provided by the Taxpayer reveal that he claimed mileage for 210 round trips. Each route consisted of mileage claimed in

exactly the same order and exactly the same mileage for each stop every day. The odometer readings reported indicate that the Taxpayer could not have veered off of his route by even a 1/10 of a mile on even a single day on any route through-out the entire year. Since each day the ending mileage was exactly equal to the beginning mileage, he could not have used the truck for any other purpose – he could not have used the truck for personal purposes (other than to drive to the first leg of his route). He could not have possible veered off course to have road service performed on the vehicle – he could not have driven even 1/10 of a mile to find gas – he could not have gone to pick up parts while he was working – he apparently never had to take an alternative course or go to a location out of the usual order – never had to veer off his course to go to the bathroom or even to eat. If the records are accurate, this would be quite a remarkable feat. It is just too unbelievable to be believed.

Department’s response at 2.

The log is not so exact and unbelievable as claimed by the Department. The Taxpayer testified that he used his pool maintenance truck solely for that purpose. The log includes the truck’s odometer reading, the distance traveled (including nondeductible commuting miles to and from his house) to each location, and the resulting increased odometer reading. A randomly selected part of the log is set out below:

Date	Beginning Mileage	Location	Total Miles	Commuting Miles
2/27/2008	261,165	COV		10.3
	261,175	Parr	8	
	261,183	Sanders	2.7	
	261,186	BWC	22	
	261,208	Ridges	11.7	
	261,220	Springcreek	10.5	
	261,230	Bridgestone	13.8	
	261,224	COV	38.9	
	261,283	home		10.3
	2/29/2008	261,293	COV	
261,304		Parr	8	
261,312		Sanders	2.7	
261,314		BWC	22	
261,336		Ridges	11.7	

261,348	Springcreek	10.5	
261,359	Bridgestone	13.8	
261,372	COV	38.9	
261,411	home		10.3

The first entry on 2/27/2008 was the Taxpayer's travel from his home to the City of Valley pool of 10.3 miles, which the Taxpayer treated as nondeductible commuting. The next entry was an 8 mile trip from Valley to Parr, one of two private pools maintained by the Taxpayer. The odometer reading was accordingly increased by 8 miles, to 261,183. He then traveled 2.7 miles to his other private pool customer, but the odometer reading was increased by 3 miles, to 261,186. The next leg was 22 miles, which increased the odometer by 22 to 261,208. The next trip to the Ridges condominium was 11.7 miles, but the odometer was increased by 12 miles to 261,220, and so forth.

The point is that the Taxpayer rounded his odometer reading to the nearest mile, but put the exact distance traveled to the tenth of the mile between his regular stops. The miles traveled and the odometer reading thus could have varied as much as .5 mile on each leg. For example, on 2/29/08, the Taxpayer traveled 10.5 miles from Springcreek to Bridgestone, but the odometer increased by 11 miles. Consequently, the Department's claim that the Taxpayer "could not have veered off of his route by even a 1/10 of a mile on even a single day" is not correct.

As a practical matter, the Taxpayer also could have purchased gas at a gas station on his direct route to his next stop, which would not have changed the miles driven. He also could have used the bathroom facilities at one or more of the stops on his route, again without changing the miles driven, and he could have either brought his lunch from home

or, as with the gas, stopped for food on his direct route to his next stop. It is thus not unbelievable that he traveled the exact same miles on his route every day.

In any case, the U.S. Tax Court has held that where a taxpayer makes repeated business trips to the same location, as the Taxpayer did in this case, the taxpayer is required to record the miles traveled only once on his mileage records.

Although revenue procedures permit taxpayers to use a per-mile estimate of automobile expenses in lieu of documenting actual expenses, taxpayers must still prove the actual business miles driven during the year. See *Power v. Commissioner*, T.C. Memo 1990-583. The level of detail required to substantiate the number of business miles driven may vary depending upon the facts and circumstances. Sec. 1.274-5T(c)(2)(ii)(C), Temporary Income Tax Regs., 50 Fed. Reg. 46018 (Nov. 6, 1985). Where a taxpayer makes regular trips to a certain location, she may satisfy the adequate record requirement by recording the total number of miles driven during the year, the length of the route once, and the date of each trip at or near the time of the trips.

Teresita T. Daiz v. C.I.R., T.C. Memo 2002-192 at 18.

The Tax Tribunal has disallowed a taxpayer's business-related travel expenses in dozens if not hundreds of cases because the taxpayer failed to adequately satisfy the §274 requirements.¹

¹ See generally, *Jones v. State of Alabama*, Docket Inc. 11-176 (Admin. Law Div. 7/29/2011) (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 §279, as adopted by Code of Ala. 1975, §40-18-15(a)(20). *Jones* at 2.); *Hicks v. State of Alabama*, Docket Inc. 09-817 (Admin Law. Div. 1/21/2010) (I sympathize with the taxpayer, but to be allowed business-related travel, §274 requires that the Taxpayer must keep a detailed log or calendar showing not only the miles traveled, but also where he traveled, who he called on, and the business purpose for the trip. *Hicks* at 3); *Fanning v. State of Alabama*, Docket Inc. 99-395 (Admin. Law Div. 12/7/2000) (Because the Taxpayers failed to maintain a contemporaneous record of travel expenses, the claimed expenses must be disallowed. *Fanning* at 5); *Gosa v. State of Alabama*, Docket 04-217 (Admin. Law Div. 5/19/04) (The document cannot be accepted, however, because it was not contemporaneously

In this case, however, the Department concedes that the Taxpayer's travel log contained the information required by §274. It nonetheless disallowed the mileage because it deemed the number of trips to be excessive and the miles traveled to be too exact. The Taxpayer adequately explained, however, why he traveled more in the Winter, and also why the number of weekly trips exceeded his two or three regularly scheduled trips. And as explained above, the exactness of the Taxpayer's mileage log, i.e., the exact same route and miles traveled each day, is not remarkable and unbelievable, as asserted by the Department.

The Department also attempts to discredit the mileage log by pointing out that the log shows that the Taxpayer ran his route on numerous days when he was on overnight trips to Savannah, Georgia, and elsewhere concerning his job with the State of Georgia. But the trips per the log could have been driven by one of the Taxpayer's part-time helpers, not the Taxpayer.

The Taxpayer submitted letters from three individuals that worked for him during the audit years, a November 18, 2013 letter from Jason Bassett, a November 25, 2013 letter from William Newton, and a December 2, 2013 letter from Jamie Bassett.²

The letter from Jason Bassett reads in part as follows:

We always drove John's 1995, Mazda B2300 truck for the pool work. I had a key to his truck and would just pick it up at John's house when I worked on pools. This truck had an excess of miles on it, over 250,000 when I started

maintained, and also does not identify the business or person visited or the business purpose for the trip. *Gosa* at 3); and *Biggers v. State of Alabama*, Docket Inc. 02-222 (Admin. Law Div. 9/18/03) (The calendar is not sufficient because it does not fully substantiate the amount, time, place, and business purpose for each trip. *Biggers* at 2, 3.).

² The letters were enclosed with the Taxpayer's appeal, and were forwarded to the Department's Legal Division with the appeal package.

driving it. John was very careful on the maintenance on this truck, making sure that it had regular maintenance and if any problems arose, he took care of those immediately.

When I did the pool work, John had established a regular route to reduce the mileage that it took to do the maintenance. Even then the route was over 100 miles long. I don't know the exact amount. I do remember the route. It went from John's house to the City of Valley, to the Parr's, the Sander's, Backwater Condos, Ridges Condos, Springcreek Villas, Bridgestone Condos, back to the City of Valley, and then back to John's house.

The letter from William Newton reads in part as follows:

I have worked for John Otto on and off for the last seven and a half years and can attest to the mileage that he states he has claimed. I work part-time on an as needed basis and when it does not interfere with my full-time job. Most days, I meet John at his home and then ride with him, however there were some days when I have driven around to all of the pools myself. We always drove his '95 Mazda pick-up truck, it was even the vehicle I drove when I would go by myself.

John cleaned pools on Tuesdays, Fridays, some Saturdays, and Sundays. He was also available for any sort of repair or emergency pool need. We took the same route every time we went out together and I would follow that same route to ensure I remembered where to go. The route to all of the pools was around 100-110 miles. The route we always followed started at John's home, to the City of Valley pool, then to the Parr pool in West Point, the Sander's pool in West Point, Backwater Condos, Ridges Condos, Springcreek Villas, Bridgestone Condo, back to the City of Valley pool, and then back to his home.

The letter from Jamie Bassett reads in part as follows:

I worked for John on a part-time basis from 2008 till sometime in 2009. We always drove John's Mazda B2300 truck for the pool work. He kept a key hidden in the ash tray and I would just pick it up at John's house when I worked on pools. This truck had an excess of miles on it, over 200,000 when I started driving it. John took very good care of his truck with regular maintenance.

When I did the pool work, John had established a regular route. The route always started at John's house to the City of Valley, to Bill Parr's, then Mr. Sander's, Backwater Condos, Ridges Condos, Springcreek Villas, Bridgestone Condos, back to the City of Valley, and then back to John's house.

John Otto is a good and honest man.

The above confirms that the Taxpayer's part-time helpers sometimes drove the pool route in the Taxpayer's truck in lieu of the Taxpayer.³ It also confirms that the Taxpayer, or his part-time help, traveled the exact same route during the years in issue.

The Taxpayer's testimony at the July 17 hearing was straightforward and believable, which is a factor to be considered. "Having observed (taxpayer's) appearance and demeanor at trial, we find him to be credible with respect to the route he drove in connection with his auto parts delivery business." *Freeman v. C.I.R.*, T.C. Memo 2009-213; 98 T.C.M. (CCH) 57939 (Sept. 2009). Given the above facts, the mileage claimed by the Taxpayer per his mileage log should be allowed.

The Department is directed to recompute the tax due for the subject years by making the above adjustments.⁴ A Final Order will then be entered for the adjusted amounts due.

This Opinion and Preliminary Order is not an appealable Order. The Final Order, when entered, may be appealed to circuit court within 30 days pursuant to Code of Ala. 1975, §40-2B-1(m).

³ Because the Taxpayer owned the truck, he was entitled to claim the mileage, even when one of his helpers drove the truck.

⁴ The Department also disallowed or greatly reduced the contract labor, office expenses, legal and professional services, and various other deductions/expenses claimed by the Taxpayer in the subject years. The Taxpayer may have and probably did incur some of those deductible expenses. They were properly disallowed, however, because the Taxpayer was unable to provide records verifying the expenses and did not otherwise provide information from which the expenses could be reasonably estimated, as he did regarding Mitchell Electric concerning his pool parts and supplies.

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Entered March 20, 2015.

BILL THOMPSON
Chief Tax Tribunal Judge

bt:dr

cc: David E. Avery, III, Esq.
John Otto