

JOSEPH J. & CHRISTINA A. FRANKS §
100 DUNSTAN DRIVE
BIRMINGHAM, AL 35242-1305, §

Taxpayers, §

v. §

STATE OF ALABAMA §
DEPARTMENT OF REVENUE.

STATE OF ALABAMA
ALABAMA TAX TRIBUNAL

DOCKET NO. INC. 14-423

FINAL ORDER

The Revenue Department assessed Joseph and Christina Franks (together “Taxpayers”) for 2011 Alabama income tax. The Taxpayers appealed to the Alabama Tax Tribunal pursuant to Code of Ala. 1975, §40-2A-7(b)(1)a. A hearing was conducted on April 21, 2015. Joseph Franks (individually “Taxpayer”) and his representative, Adam Levine, attended the hearing. Assistant Counsel Bo Stone represented the Department.

The Taxpayer worked as a pharmaceutical salesman before the year in issue. In late 2010, the Taxpayer and another individual started a computer service business in the name Technology On Demand, LLC.

The Taxpayer testified at the April 21 hearing that he traveled extensively in Alabama and throughout the Southeast calling on potential customers in 2011. He explained that he kept up with his mileage, where he traveled to, who he met with, etc., and recorded the information in a log within a day or two after each trip.

The Taxpayer’s representative subsequently provided the Tribunal with a copy of the log. The Tribunal randomly questioned the Taxpayer at the April 21 hearing concerning numerous entries in the log. The Taxpayer responded in minute detail concerning the various entries, including specifically why he had called on the particular individuals.

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.

Unlike in *Goins*, in this case the Taxpayer's 2011 travel log shows the date, the person and the specific address called on, the total miles, and the business purpose for the trip, i.e., "sales call." The log, together with the Taxpayer's believable, straight-forward testimony explaining the business purpose for his travel, is sufficient to satisfy the strict requirements of §274.

The verified mileage is allowed. The final assessment in issue based on the disallowed mileage 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-1(m).

Entered April 24, 2015.

BILL THOMPSON
Chief Tax Tribunal Judge

bt:dr

cc: Warren W. Young, Esq.
Adam Levine