

ALABAMA TAX TRIBUNAL

JEFFERY & AMY COOLEY,	§	
Taxpayers,	§	
v.	§	DOCKET NO. INC. 23-586-LP
STATE OF ALABAMA	§	
DEPARTMENT OF REVENUE.		

OPINION AND PRELIMINARY ORDER

This appeal involves the denial of refund petitions for tax years 2018 through 2020. A trial was held on June 11, 2025. Jeffery and Amy Cooley were present, and Jeffrey Kinnaman and Carl Sutton represented the Taxpayers. Billy Young represented the Revenue Department, and Toya Ramsey, the Revenue Department's examiner, appeared and testified.

The Taxpayers notified the Tribunal at the June 11, 2025, trial that they did not wish to contest the Revenue Department's remaining disallowances of Schedule A expenses.¹ Therefore, the only remaining issue in dispute for the June 11, 2025, trial was whether the Taxpayers' farming activity was a for-profit business or a hobby. The Revenue Department did not contest any of the individual expenses claimed by the Taxpayers; instead, the Department only challenged the Taxpayers' claim that their farming activity was a for-profit business. The Revenue Department

¹ In the Revenue Department's Response to the Tax Tribunal's Second Preliminary Order, the Department recommended adjustments to the Schedule A for each of the tax years in issue. Specifically the Department recommended the allowance of medical and dental expenses of \$1,527, contributions other than by cash or check of \$500, and tax preparation of \$318 for the 2018 tax year; medical and dental expenses of \$807, contributions other than by cash or check of \$500, and other expenses for tax preparation of \$318 for the 2019 tax year; and medical and dental expenses of \$1,035, contributions other than by cash or check of \$500, and other expenses for additional tax preparation of \$50.

contended that the Taxpayers' farming activity was merely a hobby due to the amount of time the Taxpayers spent on the farm and because the Taxpayers reported a loss in each year. Therefore, the Revenue Department disallowed all of the expenses claimed by the Taxpayers on Schedule F of their individual income tax returns for each of the years in issue. The Taxpayers contended in response that their farming activity was a business intended to earn profits, entitling them to claim the expenses incurred in operating the farm on Schedule F of their income tax returns for each of the years in issue.

Law

"The general test for whether a taxpayer is engaged in a 'trade or business,' and thus entitled to deduct all ordinary and necessary business expenses, is 'whether the taxpayer's primary purpose and intention in engaging in the activity is to make a profit.' State of Alabama v. Dawson, 504 So. 2d 312, 313 (Ala. Civ. App. 1987), quoting Zell v. Commissioner of Revenue, 763 F.2d 1139, 1142 (10th Cir. 1985). To be deductible, the activity must be engaged in 'with a good faith expectation of making a profit.' Zell, 763 F.2d at 1142. As stated by the U.S. Supreme Court – 'We accept the fact that to be engaged in a trade or business, the taxpayer must be involved in the activity with continuity and regularity and that the taxpayer's primary purpose for engaging in the activity must be for income or profit. A sporadic activity, a hobby, or an amusement diversion does not qualify.' Commissioner v. Groetzinger, 107 S. Ct. 980, 987 (1987). But a taxpayer's expectation of a profit need not be reasonable. Rather, the taxpayer must only have a good faith expectation of realizing an eventual profit. Allen v. Commissioner, 72 T.C. 28, 33 (1979). Whether the taxpayer had an intent to make a profit must be determined on a case-by-case basis from all the circumstances. Patterson v. U.S., 459 F.2d 487 (1972). Treas. Reg. §1.183-2 specifies nine factors that should be considered in determining if an activity was entered into for profit.

"Factor (1). The manner in which the taxpayer conducted the activity.

"Factor (2). The expertise of the taxpayer in carrying on the activity.

“Factor (3). The time and effort exerted by the taxpayer in conducting the activity.

“Factor (4). The expectation that the assets used in the activity will appreciate.

“Factor (5). The taxpayer’s success in similar or related activities.

“Factors (6) and (7). The taxpayer’s history of profits and losses, and the amounts of any occasional profits.

“Factor (8). The taxpayer’s financial status.

“Factor (9). [Elements of] personal pleasure [or] recreation.”

Martin v. State Dep’t of Revenue, No. INC. 21-1285-LP, 1-2 (Ala. Tax. Trib. Apr. 8, 2024) (Op. and Preliminary Order) (quoting *Blankenship v. State Dep’t of Revenue*, No. INC. 06-1215, 3-4 (Ala. Dep’t of Revenue Admin. L. Div. Admin. Law Div. Oct. 16, 2007) (Op. and Preliminary Order)).

Facts and Analysis

The Revenue Department’s examiner, Toya Ramsey, testified that the Department determined that the Cooleys’ farm was not for-profit but a hobby because it had sustained consistent losses dating back to 2005 and because the Cooleys did not spend enough time on the farm for it to be a for-profit business. Ms. Ramsey opined that it appeared to her that the farm was a family business that the Cooleys did not want to let go. Ms. Ramsey acknowledged that the Cooleys’ farming activities generated a profit for two years; however, Ms. Ramsey pointed out that the profit for each of these years was under \$2,000.00. Ms. Ramsey also opined that the Cooleys kept good records for their farming activities. Comparing the Cooleys to the taxpayers in *Smith v. State Dep’t of Revenue*, No. INC. 09-543 (Ala. Dep’t of Revenue

Admin. L. Div. Feb. 16, 2010), Ms. Ramsey opined that the Cooleys both generated more income and maintained better documentation.

Taxpayer Jeffery Cooley testified that he has been around farming since he was six years old. Both Mr. Cooley's father and grandparents had farmed before him. He took over the cattle farm pertinent to this appeal in 2005, and he closed it in 2023 once he decided no profit would come. Mr. Cooley testified that his intent in taking up the cattle farm in 2005 was to grow the herd of cattle and make money. The Cooleys raised calves on the farm. They would keep heifers for their herd while they sold any bulls. Mr. Cooley worked at a steel mill as his primary form of employment until 2019, at which time he retired and focused more on the farm. Mrs. Cooley primarily worked as a nurse at an oral surgeon's office. However, Mr. Cooley testified that both he and Mrs. Cooley intended to eventually quit their jobs to focus on the farm.

Mr. Cooley worked on the farm every day. The amount of time Mr. Cooley devoted to the farm decreased in the winter, but he still worked on it every day, even in the cooler months. While Mrs. Cooley did not grow up farming, she assisted Mr. Cooley in the farm's operation and in maintaining the farm's records. Mr. and Mrs. Cooley were typically the only people who worked on the farm as they adapted their approach to operating the farm to reduce the need for outside labor. Mr. Cooley also consulted with and sought out the advice of several different individuals for guidance on how to improve the farm. The Cooleys implemented multiple methods to improve the farm's profitability, including purchasing additional pastureland for their herd,

expanding the fence enclosing the pastureland, planting rye grass for their winter fields, changing the breed of cattle that made up their herd, and building a pond for the herd.

Considering the testimony and other evidence presented, I conclude that the Taxpayers operated their farm as a for-profit endeavor. Therefore, the Taxpayers' expenses for the farm claimed on Schedule F of their individual income tax returns for each of the years in issue should be allowed.

The Revenue Department is directed to recalculate and submit to the Tax Tribunal no later than **July 31, 2025**, the refunds due to the Taxpayers for the 2018, 2019, and 2020 tax years with the allowance of the Taxpayers' farming expenses. Appropriate action will then be taken.

Entered July 1, 2025.

/s/ Leslie H. Pitman

LESLIE H. PITMAN

Associate Judge

Alabama Tax Tribunal

lhp:thb

cc: Jeffery & Amy Cooley
Warren W. Young, Esq.