

Travel Expenses Allowed Without Log Book

Cross References

- *Maki*, T.C. Summary Opinion 2019-34

In general, travel expenses have strict substantiation requirements. A taxpayer must maintain records that include:

- The amount of the expense,
- The time and place of travel,
- The business purpose of the expense, and
- The business relationship between the taxpayer and persons provided meals.

Courts generally require that the taxpayer produce a contemporaneous log book documenting the above information for each business trip taken.

The taxpayer in this case regularly traveled to take care of and monitor timber on his land. The round trip from his residence to and from the land is about 300 miles for each visit. During the trips, the taxpayer would plant new trees and care for them so that they could be harvested for future timber sales. Two of his properties had trees with a harvest value of over \$1 million.

The taxpayer testified that in a previous year while he was very sick and not able to check on his land, the fir trees were illegally harvested. Commercial timber companies hire people to regularly check and patrol their timberland to curb or thwart illegal harvesting. The taxpayer was not able to afford the cost of hiring people to check and patrol his land. That is one of the reasons why he regularly visits his timber properties.

The taxpayer maintained a log listing the days that he visited and stayed on the land. The log, along with other records, was maintained in the building he uses when visiting the land. During an IRS audit, the taxpayer used the log to make a summary of his visits during the tax year that was under audit. After he prepared the summary, the original contemporaneous logs and other records were stolen when the building in which they were maintained was vandalized. The summary reflected that the taxpayer was present at the properties a total of 161 days during the year at issue. The summary also reflects that the taxpayer made 47 round trips from his residence to the timber properties. Some visits were as short as one day, but most were three-day visits.

For the year at issue, the taxpayer reported zero income on Schedule C for his timber activity. Expenses included \$7,011 for travel, and \$55,925 for away from home per diem.

The IRS disallowed these two deductions because the taxpayer did not adequately substantiate the expenses with a contemporaneous log book.

The Tax Court noted that the IRS did not question whether or not the taxpayer was engaged in a business activity or whether he was away from home when he visited the tim-

ber properties. The IRS only argued that the taxpayer did not substantiate his deductions by providing a log book.

The court stated the taxpayer established a normal pattern of travel. He always traveled to the same locations. His testimony that he maintained a log is credible, and his summary presented as evidence to the court was extracted from that log book. The repetitive pattern of travel is easily verified because it was essentially the same each week. That fact along with the taxpayer's credible testimony was sufficient to show the occasions on which he traveled to and visited the timber properties. The court also agreed that the travel expenses were ordinary and necessary because of the need to monitor the timber and to maintain and plant trees. The court agreed with the taxpayer that he made 47 trips and spent 161 days at his timber properties.

The \$7,011 for travel was allowed by the court because it reflected the permitted standard mileage rate for the total miles driven to and from the timber properties. The court reduced the per diem deduction to \$7,406 to reflect the standard meal allowance for the number of days away from home. The per diem for lodging was not allowed because the taxpayer did not provide any evidence of the lodging expenses actually incurred in the timber activity during the year.

Author's Comment

Receipts for expenses are not required for deducting the standard mileage rate or the standard meal allowance. Receipts for actual expenses are required to deduct lodging expenses. The per diem rate for lodging is only used to determine the amount of employer reimbursement that meets the accountable plan rules. Self-employed taxpayers who are not reimbursed for lodging cannot use the per diem rate method for deducting lodging expenses.