

UNITED STATES TAX COURT
WASHINGTON, DC 20217

RAYKISHA MORRISON,)	
)	
Petitioner,)	
)	
v.)	Docket No. 22482-17.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	

ORDER

Pursuant to Rule 152(b) of the Tax Court Rules of Practice and Procedure, it is

ORDERED that the Clerk of the Court shall transmit herewith to petitioner and to respondent a copy of the pages of the transcript of the proceedings in the above case before the undersigned judge at Winston-Salem, North Carolina, containing his oral findings of fact and opinion rendered at the trial session at which the case was heard.

In accordance with the oral findings of fact and opinion, decision will be entered under Rule 155.

**(Signed) David Gustafson
Judge**

Dated: Washington, D.C.
June 8, 2018

SERVED Jun 08 2018

1 Bench Opinion by Judge David Gustafson

2 May 22, 2018

3 Raykisha Morrison v. Commissioner of Internal Revenue

4 Docket No. 22482-17

5 THE COURT: The Court has decided to render the
6 following as its oral Findings of Fact and Opinion in this
7 case. This Bench Opinion is made pursuant to the
8 authority granted by section 7459(b) of the Internal
9 Revenue Code, and Rule 152 of the Tax Court Rules of
10 Practice and Procedure; and it shall not be relied on as
11 precedent in any other case.

12 By notice of deficiency dated July 24, 2017 (Ex.
13 1-J), the Internal Revenue Service ("IRS") determined a
14 deficiency in the Federal income tax of petitioner
15 Raykisha Morrison for the year 2014. The issue for
16 decision is whether Ms. Morrison substantiated her
17 entitlement to deductions for unreimbursed employee
18 business expenses, which the IRS disallowed. We uphold
19 the IRS's disallowances in large part.

20 This case was tried in Winston-Salem, North
21 Carolina, on May 21, 2018. Ms. Morrison represented
22 herself, and Abby Moua represented the Commissioner. On
23 the evidence before us, we find the following facts:

24 FINDINGS OF FACT

25 Ms. Morrison's employment



1 In 2014 Ms. Morrison was employed by Resource
2 Management Group, Inc. ("RMG") as an "Occupational Safety
3 and Health Specialist - Remote (Telework)". (Stip. 8; Ex.
4 6-J.)

5 Her work involved travel to airports. RMG's
6 policy entitled her to be reimbursed for the cost of using
7 a rental car for such travel (see Ex. 7-J) or for the use
8 of her personally owned vehicle (Exs. 9-J, 10-J). We are
9 unable to quantify the miles she drove in her vehicle, and
10 we cannot tell the extent (if any) to which she was not
11 reimbursed for the cost of that travel.

12 Home office

13 Ms. Morrison's principal place of business was
14 an office she maintained in her home. Her home was a
15 1,648 square-foot apartment, for which the parties
16 stipulated during trial that the total rent and utilities
17 for 2014 was \$15,066. That square footage was divided
18 equally between two floors. On the second floor there was
19 a bathroom, a laundry area, and three bedrooms -- one that
20 she used as such, one that she used as her office, and one
21 that she used only for storage of business related files
22 and other materials. In the absence of a floor plan or of
23 measurements of the rooms, we estimate conservatively that
24 the area of the apartment used exclusively for business
25 (i.e., the office room and the storage room) took up 20%

1 of the area of the apartment.

2 2014 tax return

3 In April 2015 Ms. Morrison filed her 2014
4 Federal income tax return (Ex. 2-J). Ms. Morrison
5 apparently reported on her return the employment income
6 she had received from RMG. She included with her return a
7 Schedule A ("Itemized Deductions") on which she claimed a
8 deduction for unreimbursed employee business expenses
9 totaling \$26,785. To itemize the latter deduction, she
10 included a Form 2106-EZ ("Unreimbursed Employee Business
11 Expenses") on which she reported 5,000 business miles
12 driven, yielding a vehicle mileage expense deduction of
13 \$2,800, and other "Business expenses" of \$23,985.

14 Notice of deficiency and petition

15 After examining Ms. Morrison's return, the IRS
16 disallowed all of the business deductions she claimed.
17 The IRS issued its notice of deficiency on July 24, 2017
18 (Stip. 4; Ex. 3-J). Ms. Morrison timely mailed her
19 petition to this Court on October 23, 2017. At the time
20 she filed her petition, Ms. Morrison resided in North
21 Carolina. (Stip. 1.)

22 OPINION

23 I. Applicable legal principles

24 A. Burden of proof

25 The IRS's determination is presumed correct, and

1 taxpayers generally bear the burden to prove their
2 entitlement to any deductions they claim. Rule 142(a).
3 Taxpayers must satisfy the specific requirements for any
4 deduction claimed. See INDOPCO, Inc. v. Commissioner, 503
5 U.S. 79, 84 (1992). Furthermore, taxpayers are required
6 to maintain records sufficient to substantiate their
7 claimed deductions. See sec. 6001; 26 C.F.R. sec. 1.6001-
8 1(a), Income Tax Regs.

9 B. The Cohan rule and section 274

10 When a taxpayer establishes that she paid or
11 incurred a deductible expense but fails to establish the
12 amount of a deduction, the Court may estimate the amount
13 allowable as a deduction. The seminal case so holding is
14 Cohan v. Commissioner, 39 F.2d 540, 543-544 (2d Cir.
15 1930), and we therefore call this principle "the Cohan
16 rule." See also Vanicek v. Commissioner, 85 T.C. 731,
17 742-743 (1985). A taxpayer may substantiate deductions
18 through secondary evidence only where the underlying
19 documents have not been intentionally lost or destroyed,
20 see Boyd v. Commissioner, 122 T.C. 305, 320-321 (2004),
21 and there must be sufficient evidence in the record to
22 permit the Court to conclude that a deductible expense was
23 paid or incurred in at least the amount allowed. Williams
24 v. United States, 245 F.2d 559, 560 (5th Cir. 1957).

25 Moreover, section 274(d) establishes higher



1 substantiation requirements for expenses related to
2 travel, meals and entertainment, and "listed property",
3 defined in section 280F(d)(4) to include passenger
4 automobiles. For these expenses, a taxpayer must prove:
5 (1) The amount of each separate expenditure with respect
6 to such property; (2) the amount of each business use; and
7 (3) the business purpose for an expenditure or use with
8 respect to such property. Sec. 1.274-5T(b)(6), Temporary
9 Income Tax Regs. (Nov. 6, 1985). The Court may not
10 estimate these expenses. See Sanford v. Commissioner, 50
11 T.C. 823, 827-828 (1968), aff'd per curiam, 412 F.2d 201
12 (2d Cir. 1969).

13 C. Employee business expense

14 A taxpayer may claim an unreimbursed employee
15 business expense as a miscellaneous deduction on Schedule
16 A, pursuant to the provision in section 162(a) that one
17 may deduct expenses of a business; and an employee is
18 considered to be in the business of being an employee.

19 D. Home office expense

20 Section 280A(c)(1)(A) allows a taxpayer to
21 deduct expenses for the business use of her residence but
22 only to the extent the expenses are allocable to a portion
23 of the residence which is exclusively used on a regular
24 basis as the principal place of business for a trade or
25 business of the taxpayer.

1 II. Analysis

2 Most of the employee business deductions that
3 Ms. Morrison claimed must be disallowed, because she did
4 not substantiate them.

5 A. The unexplained return reporting

6 Ms. Morrison was unable to reconstruct at trial
7 the amounts that yielded the total of \$26,785 reported on
8 her return. She provided to the IRS and offered into
9 evidence her 2014 bank statements (Exs. 29-J(viii), 29-
10 J(ix)) on which she had highlighted certain entries, but
11 the IRS asserted (and she did not dispute) that the total
12 of the highlighted entries exceeded \$76,000, and at trial
13 Ms. Morrison did not attempt to show selected entries that
14 would total the smaller amount reported on her return.
15 She did observe that her total business expenses claimed
16 were approximately equivalent to the combined totals of
17 her rent and utilities (i.e., the gross amount of those
18 expenses, of which her home office expense was a portion)
19 and her vehicle-related expenses shown on her bank
20 statements. She defended the deductibility of only those
21 two categories of business expenses, which we now discuss.

22 B. Vehicle expenses

23 Ms. Morrison did not show an entitlement to
24 vehicle expense deductions, and her claim has several
25 fatal flaws. First, on her return she claimed a mileage



1 expense (at the prescribed 56 cents per mile, multiplied
2 by 5,000 claimed miles), and at trial she also argued for
3 a vehicle expense deduction by proving specific expenses
4 she incurred for her car, such as repairs and gas. Such
5 duplication is not permitted.

6 Second, an employee may deduct only unreimbursed
7 vehicle expenses, but her employer's policy was evidently
8 to reimburse such expenses.

9 Third, she was unable to show the number of
10 miles she actually drove for business in 2014. She did
11 not undertake to show, as section 274(d) requires, the
12 specific business purpose and nature of her trips. She
13 did not keep a contemporaneous log of miles driven, and at
14 trial she was unable by any means to reconstruct her miles
15 driven. We cannot sustain any deduction for vehicle
16 expenses.

17 C. Home office expense

18 Ms. Morrison deducted 100% of the rent and
19 utilities, totaling \$15,066, that she paid for her
20 apartment in 2014, but she made exclusive business use of
21 only 20% of her apartment. She is therefore entitled to a
22 deduction of only 20% of that total -- i.e., a deduction
23 of \$3,013.

24 Because we allow a portion of the home office
25 deduction disallowed in the IRS's notice of deficiency,



1 decision will be entered under Rule 155, so that the
2 deficiency can be recomputed.

3 This concludes the Court's oral Findings of Fact
4 and Opinion in this case.

5 (Whereupon, at 1:24 p.m., the above-entitled
6 matter was concluded.)

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