

Self-Employed and Deducting Car Expenses? – Document or Else!

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An internet search of “Schedule C filers” will yield a bevy of sites warning of the increased audit risk and audit red flags for Schedule C filers. As a reminder, Schedule C of Form 1040 is used by sole proprietors, and LLCs taxed as disregarded entities. The recent Tax Court case of *Eze v. Commissioner*, T.C. Memo. 2022-083 (Aug. 4, 2022) serves as a potent reminder of the need for taxpayers not only to document their business expenses but, when it comes to cars and trucks, to make sure the strict substantiation requirements of IRC § 274(d) and Temp. Treas. Reg. § 1.274-5T(c) are satisfied.

Plain English, please. This means keeping records of car and truck expenses, i.e., where you go, the purpose of the trip, miles traveled, who you saw, etc... and make those records close in time to when the expenses were incurred. In *Eze*, the taxpayer, who’s return was selected for audit (this means the automated system flagged it because his expenses were so high), created his records months, if not years after the fact, created and used a calendar solely for the purpose of the IRS examination, offered no clear explanation when he made the entries, and could not explain how he could have remembered the minute details months and years after the fact.

Other things the Tax Court had trouble believing: (1) the taxpayer made the same trip to the same client on the same day of each year; (2) recorded mileage was inconsistent (some trips from his home to New York he recorded as 354 to 362 miles, others he recorded as 448 to 450). There may have well been good reason for that. If I travel to our home office in Baltimore, my mileage each way, will range from 329 to 383, depending on the route. Like most others, I map the route when I am leaving and take the one that suits me the best. But if the taxpayer did that here, he did not offer a plausible explanation why. With the other issues involving his auto expenses records, the Court found the taxpayer’s testimony was not credible.

Other things the Tax Court had trouble believing: (1) he took four round trips to Buffalo, New York, and three round trips to Charleston, South Carolina (the taxpayer lived in or around Baltimore, Maryland), all in one month, but could not explain why he needed to visit the same client that many times in one month; and (2) In 2015 the taxpayer showed some personal mileage, but none in 2016. Consistency matters!

So, if you are entitled to deduct business mileage, keep accurate records. At a minimum, this should include: (1) miles driven; (2) date; (3) place; and (4) business purpose. These records should be made close in time to when the miles were driven. Have trouble remembering to do that? There’s an app (actually several) for that. Just remember to do period downloads or printouts so if your return is selected for audit, you can substantiate your business mileage deduction.

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