

The rule, set out clearly in the case of Curphey v. Commissioner, 73 T.C. 766 (1980), is that a taxpayer may deduct the transportation expenses incurred in traveling between his home and other business locations when the taxpayer's home is his principal place of business with respect to those business activities. Curphey at 777-78. See also Hulme v. United States, 16 AFTR 2d 5084, 1965-2 USTC par. 9499 (N.D.Cal.1965); St. John v. Commissioner, T.C. Memo 1970-238. Compare 26 U.S.C. § 280A(c)(1)(A). Only under those circumstances is the taxpayer's commute viewed as a trip between business locations.

Lary v. U.S., 608 F. Supp. 258. (N.D.Ala.1985), aff'd per curiam, 787 F.2d 1538 (11th Cir. 1986).

The United States Tax Court has addressed the matter similarly:

We have held on numerous occasions that transportation expenses incurred between an individual's residence and local job sites may be deductible if his residence serves as his "principal place of business" and the travel is in the nature of normal and deductible business travel. Wisconsin Psychiatric Servs., Ltd. v. Commissioner, 76 T.C. 839, 849 (1981); Curphey v. Commissioner, 73 T.C. 766, 777-778 (1980); Mazzotta v. Commissioner, 57 T.C. 427, 429 (1971), affd. per curiam 467 F.2d 943 (2d. Cir. 1972); Green v. Commissioner, T.C. Memo. 1989-599; Kisicki v. Commissioner, T.C. Memo. 1987-245, affd. per curiam without published opinion 871 F.2d 1088 (6th Cir. 1989); Adams v. Commissioner, T.C. Memo. 1982-223, affd. without published opinion 732 F.2d 159 (7th Cir. 1984). We have also allowed deductions for expenses incurred for transportation between an individual's residence, which constituted a "regular place of business", and the individual's "temporary places of business". See Walker v. Commissioner, 101 T.C. 537 (1993) (applying Rev. Rul. 90-23, 1990-1 C.B. 28). However, because petitioner's house was not his principal place of business, and because there is nothing in the record that leads us to conclude that the hospital was merely petitioner's temporary place of business, the above cases provide no authority for allowing the car expense and depreciation deductions in dispute. Accordingly, we sustain respondent's determination with respect to the disallowed portions of petitioners' claimed car expense and depreciation deductions.

Chong v. Commissioner, T. C. Memo 1996-232.

This being the case, the only expense for travel that may have been deductible by the petitioner was from one business location to another. It is clear from the information in the file that

the information submitted by the petitioner was not from a timely kept record. In a case with some similarities, the U.S. Tax Court stated:

E. Car and Travel

Certain categories of deductions have enhanced substantiation requirements under sections 274 and 280F. These categories include travel, certain forms of “listed property,” and entertainment expenses. To deduct any of these expenses, a taxpayer must “[substantiate] by adequate records or by sufficient evidence” the amount, time and place, and business purpose of the expenditure. Sec. 274(d). The term “listed property”, as incorporated into section 274, includes any passenger automobile. Sec. 280F(d)(4)(A)(i).

For the years in issue, Rodriguez offered no evidence to substantiate the amount, time and place, or business purpose of his claimed deductions for car and travel. Rodriguez and his accountant testified that they used estimates of mileage to calculate deductions, but that Rodriguez kept no travel log. The strict substantiation requirements of section 274(d), however, mean that neither this Court nor Rodriguez can approximate expenses. We therefore find that he is not allowed any deductions for car and travel expenses for the years in question. See Sanford v. Commissioner, 50 T.C. 823, 827, 1968 WL 1537 (1968), affd. 412 F.2d 201 (2d Cir .1969); see also sec. 1.274-5T(a), Temporary Income Tax Regs., 50 Fed.Reg. 46014 (Nov. 6, 1985).

Rodriguez v. Commissioner, T. C. Memo 2009-22.

The Commission has before it no accurate record of what may have been a deductible auto expense. Accordingly, the Commission affirms the adjustment to income made by the auditor. The business mileage claimed by the petitioner was far in excess of what might have been properly deductible by the petitioner. Therefore, the negligence penalty imposed is also affirmed.

WHEREFORE, the Notice of Deficiency Determination dated August 7, 2008, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax, penalty, and interest (computed to October 15, 2009):

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2005	\$ 903	\$45	\$201	\$1,149
2006	1,174	59	187	1,420
2007	784	39	70	<u>893</u>
			TOTAL DUE	<u>\$3,462</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayer's right to appeal this decision is enclosed.

DATED this _____ day of _____, 2009.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2009, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[REDACTED]
[REDACTED]

Receipt No.
