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**Ken Berry** • Feb. 14, 2023



A taxpayer who deducted expenses attributable to the business use of his vehicles took a wrong turn before the Tax Court. Ultimately, he wasn't able to back up his claims (Eze, TC Memo 2022-83, 8/4/22).

Generally, you can deduct costs relating to the business use of your vehicle, subject to certain rules and limits. However, you must meet strict substantiation requirements spelled out by the IRS. Notably, you must keep a contemporaneous diary or other log

of your business driving activities, including the amount of business mileage for each

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EHC program. He assisted clients in getting updates to the EHC software and documenting any bugs. For his residential construction business, he allegedly performed handyman, construction and residential rehabilitation projects for individuals. But none of his alleged customers reported payments to him on Forms 1099–MISC. His reported expenses vastly exceeded his reported income.

The taxpayer owned three vehicles: a 2008 Mercedes Benz, a 2002 Ford SUV and a 2004 Chrysler. He testified that he used the Mercedes exclusively for his EHC business; that he used the Ford exclusively in connection with his construction business; and that he used the Chrysler exclusively for personal purposes.

To support deductions for vehicle expenses, the taxpayer submitted annotated calendars for the first seven months of 2015 and all of 2016. The annotations show the locations he supposedly visited in connection with either business. For several reasons, the Tax Court didn't find this evidence credible.

- None of the calendar entries were made contemporaneously with the alleged travel. These were not all-purpose calendars recording various appointments in the taxpayer's daily life. Rather, he created them solely for use in the IRS examination.
- The taxpayer supplied no evidence linking the locations shown on the calendars to the addresses of his EHC clients. He did not identify a single client who resided or worked at any particular address. Thus, he supplied no evidence that, if he actually made trips to these locations, the journeys were business trips.
- The calendar entries on their face seem questionable. For example, comparing entries for January 2015 and January 2016, the taxpayer asserts he visited the same address in Manhattan on January 1 of each year; that he visited the same address in

Brooklyn on January 4 of each year; and that he visited the same address near

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Finally, the descriptions of the business purpose were all the same, a vague reference to “business meetings.”

**Bottom line:** The Tax Court denied the deductions.

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