United States Tax Court

T.C. Summary Opinion 2022-5

SUZANNE M. SCHOLZ,
Petitioner

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent

Docket No. 20743-19S. Filed April 4, 2022.

Suzanne M. Scholz, pro se.

Michelle A. Monroy and *Kevin C. Coy*, for respondent.

SUMMARY OPINION

PANUTHOS, *Special Trial Judge*: This case was heard pursuant to the provisions of section 7463 of the Internal Revenue Code in effect when the petition was filed.[1] Pursuant to section 7463(b), the decision to be entered is not reviewable by any other court, and this opinion shall not be treated as precedent for any other case.

In a notice of deficiency dated November 8, 2019, respondent determined a deficiency in federal income tax of $5,062 and a section 6662(a) accuracy-related penalty of $1,012 for petitioner's taxable year 2016 (year in issue). The issues for decision are whether petitioner is entitled to itemized deductions beyond those already allowed by respondent for: (1) cash and noncash charitable contributions and

[1] Unless otherwise indicated, all statutory references are to the Internal Revenue Code, Title 26 U.S.C., in effect at all relevant times, all regulation references are to the Code of Federal Regulations, Title 26 (Treas. Reg.), in effect at all relevant times, and all Rule references are to the Tax Court Rules of Practice and Procedure.

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(2) unreimbursed employee business expenses.[2] Further at issue is whether petitioner is liable for an accuracy-related penalty under section 6662(a).

Background

Some of the facts have been stipulated and are so found. We incorporate the Stipulation of Facts and the attached exhibits by this reference. The record consists of the Stipulation of Facts with attached exhibits and petitioner's testimony. Petitioner lived in California when the Petition was timely filed.

I. *Petitioner's Educational and Professional Background*

Petitioner has an undergraduate degree in business administration with an emphasis in marketing, a master's degree in communications with an emphasis in advertising, and an advanced degree in public administration, and is in the process of finishing a master's degree in public health. She is also certified by the State of California to teach speech classes and holds a California real estate license.

Petitioner's educational background has allowed her to obtain professorial posts teaching business, entertainment marketing, fashion, speech, and other subjects. She is a self-described "freeway flier," a term that refers to individuals who teach courses at multiple higher education institutions throughout California. During the year in issue petitioner taught a total of ten courses either as an adjunct professor or a substitute professor at Orange Coast College in Costa Mesa; Cal Poly Pomona in Pomona; Mt. San Antonio College in Walnut; Long Beach City College in Long Beach; California State University (CSU) Los Angeles in Los Angeles; CSU Fullerton in Fullerton; and Citrus College in Glendora. To teach these courses, she would drive one of her two cars from her home in Corona Del Mar to the campus where she was scheduled to teach, and on some days would drive between different campuses, before driving home. She was not reimbursed by any of the campuses for her daily transportation expenses.

Petitioner also worked as a sales consultant for multiple companies, driving to various sales locations throughout California. She worked as a part-time sales representative for Lancôme cosmetics at the

[2] Other adjustments made in the notice of deficiency are computational and need not be addressed.

Santa Anita shopping center in the San Gabriel Valley and at the Del Amo shopping center in Los Angeles. She also worked part time for Advantage, visiting various pet food stores throughout the state. She was not reimbursed by the companies for her daily travel costs.

II. *Petitioner's Charitable Contributions*

Petitioner made several charitable donations during the year in issue. In addition to cash contributions to charitable organizations, she also donated a used car, described *infra*, to a charitable organization and regularly provided food, clothing, and other household items to individuals in her community. During the year in issue petitioner served as a research assistant; her work focused on increasing graduation rates of students in the CSU system, including homeless students. In conjunction with this research petitioner donated food and clothes to food pantries run by the CSU Basic Needs Initiative. She also provided laundry detergent, clothes, and food directly to students and other individuals in need.

III. *Petitioner's Out-of-State Travel*

During the year in issue petitioner took multiple out-of-state trips to visit prospective cities where she might like to live in the future. She traveled to Portland, Oregon; Seattle, Washington; and the State of Utah. During her trips she would interview local community members to discover whether the area was a good fit for her needs. She also stayed in local hotels and ate in local restaurants. Upon her return she would use information learned about the locations she visited to create travel-focused assignments for her courses.

IV. *Petitioner's Business Records*

Petitioner retained some personal and business records. She did not maintain a contemporaneous mileage log, schedule, calendar, or any other document listing the time, date, business purpose, and miles traveled between her home and her various places of employment. Instead, petitioner created what appears to be a handwritten mileage log sometime after 2016. It lists purported dates of travel to each of her places of employment, the location driven to, and the estimated mileage from her home to that location. She also submitted into evidence a "vehicle service history report" for a 2015 Jeep Renegade that shows an odometer reading of 11,123 miles on April 21, 2016, and a final odometer reading of 83,237 miles on September 20, 2018.

Petitioner supplied bank and credit card statements for the year in issue that purport to show her noncash charitable contributions and certain business expenses. On these statements, petitioner marked by hand individual line items for purchases at grocery stores as "food for students." She marked certain other line items with the words "movie," "bank fee," "parking," and "phone."

V. *Petitioner's Tax Return*

Petitioner timely filed her individual federal income tax return for the year in issue. She hired H&R Block to help prepare her return. Petitioner compiled her tax documents and bank and credit card statements and gave them to her return preparer. She reported an adjusted gross income of $120,079 on Form 1040, U.S. Individual Income Tax Return. Her tax return for the year in issue included Schedule A, Itemized Deductions, on which she claimed $44,198 of deductions. As relevant here, petitioner claimed $31,855 of miscellaneous deductions, including $577 in tax preparation fees and the following unreimbursed employee expenses reported on Form 2106, Employee Business Expenses:

Business expense	*Amount*
Vehicle (mileage)	$19,133
Travel away from home overnight	4,372
Other business expenses	5,598
Meals and entertainment (50%)	1,330
Total	**$30,433**

Petitioner's vehicle expenses relate to a reported 35,432 business miles driven during the year in issue, of which she reported zero commuter miles. The percentage of reported business use of her vehicle was 90.777%. Petitioner included certain "other" business expenses on her tax return, including magazine and newspaper subscriptions, against the advice of her return preparer.

Petitioner also reported $5,290 of cash charitable contributions and $4,441 of noncash charitable contributions. Of the reported noncash charitable contributions, petitioner's return lists a donation of a 2006 Chevrolet Equinox to the National Veterans Services Fund with a

reported fair market value of $1,000 and donations of $3,441 worth of "food for homeless students."

VI. *Examination and Notice of Deficiency*

Examination of petitioner's 2016 tax return began on July 23, 2018. On October 2, 2018, Examiner C. McMorise made the initial determination to assert petitioner's liability for a substantial understatement penalty pursuant to section 6662(d) for the year in issue and prepared a "Penalty Substantial Understatement Lead Sheet" (penalty lead sheet) documenting that determination. The penalty lead sheet states: "[T]he understatement amount exceeds the greater of $5000 or 10% of the corrected tax; therefore, the substantial understatement penalty applies." An entry in the Correspondence Examination Automation Support (CEAS) notes the penalty determination was approved in writing by the examiner's immediate supervisor, J. Scott, on October 3, 2018.

On October 4, 2018, Examiner McMorise mailed to petitioner Letter 525, General 30-Day Letter (30-day letter). The 30-day letter informed petitioner that the IRS was examining her 2016 tax return, indicated the amount of the proposed deficiency, and requested certain substantiating information. The 30-day letter also included Examiner McMorise's determination that petitioner would be liable for an accuracy-related penalty pursuant to section 6662.

On November 8, 2019, respondent issued a notice of deficiency to petitioner for the year in issue. Respondent disallowed $23,470 of petitioner's claimed itemized deductions, consisting of $6,586 of charitable contributions ($2,645 of petitioner's claimed cash contributions and $3,941 of noncash contributions) and $16,884 of unreimbursed employee expenses. Specifically, respondent disallowed $6,243 of vehicle expenses, a total of $5,702 of travel, meals, and entertainment expenses, and $4,094 of other business expenses. Respondent also disallowed the $845 of expenses reported on line 21 of petitioner's Schedule A that were not accounted for on Form 2106. *See infra* note 5.

Respondent allowed a deduction of $1,504 of "other" business expenses, representing a combination of job search fees, parking, and postage on the basis of line items found on petitioner's bank and credit card statements. Respondent also allowed a deduction of $12,890 of vehicle expenses on the basis of the average monthly miles recorded in

petitioner's vehicle service history report.[3] Of the $9,731 of deductions claimed for charitable contributions, respondent allowed $2,645 of cash gifts to charity and $500 of noncash charitable gifts related to the donation of petitioner's 2006 Chevrolet Equinox.

The aforementioned adjustments resulted in a deficiency of $5,062 and an accuracy-related penalty under section 6662(a) of $1,012. Petitioner timely petitioned this Court for redetermination.

Discussion

I. *Burden of Proof*

In general, the Commissioner's determination set forth in a notice of deficiency is presumed correct, and the taxpayer bears the burden of proving that the determination is in error. Rule 142(a); *Welch v. Helvering*, 290 U.S. 111, 115 (1933).[4] Deductions are a matter of legislative grace, and the taxpayer bears the burden of proving that she is entitled to any deduction claimed. *See* Rule 142(a); *Deputy v. du Pont*, 308 U.S. 488, 493 (1940); *New Colonial Ice Co. v. Helvering*, 292 U.S. 435, 440 (1934).

A taxpayer claiming a deduction on a federal income tax return must demonstrate that the deduction is provided for by statute and must further substantiate that the expense to which the deduction relates has been paid or incurred. § 6001; *Hradesky v. Commissioner*, 65 T.C. 87, 89–90 (1975), *aff'd per curiam*, 540 F.2d 821 (5th Cir. 1976); *Meneguzzo v. Commissioner*, 43 T.C. 824, 831–32 (1965); Treas. Reg. § 1.6001-1(a). A taxpayer is required to maintain records sufficient to enable the Commissioner to determine the correct tax liability. *See* § 6001; Treas. Reg. § 1.6001-1(a). Such records must substantiate both the amount and

[3] To compute the vehicle expenses allowed, respondent took the first and last odometer readings listed on the vehicle service history report in evidence and found an average monthly mileage of approximately 2,487 miles. That average was multiplied by 12 months, resulting in approximately 29,840 miles driven for the year in issue. Respondent allowed 80% business use of petitioner's vehicle at the standard business mileage rate of 54 cents per mile for 2016, resulting in $12,890 of allowable vehicle expenses. *See* I.R.S. Notice 2016-1, § 3, 2016-2 I.R.B. 265, 265.

[4] Pursuant to section 7491(a), the burden of proof as to factual matters shifts to the Commissioner under certain circumstances. Petitioner has neither alleged that section 7491(a) applies nor established her compliance with its requirements. Petitioner therefore bears the burden of proof.

purpose of the related expense. *Higbee v. Commissioner*, 116 T.C. 438, 440 (2001).

II. *Charitable Contributions*

A taxpayer may deduct charitable contributions made during the taxable year. § 170(a)(1). However, deductions for charitable contributions are allowed only if the taxpayer satisfies statutory and regulatory substantiation requirements. *See id.*; Treas. Reg. § 1.170A-13. The required substantiation depends on the size of the contribution and on whether the contribution is a gift of cash or property. Subject to various exceptions, if property other than money is donated, then "the amount of the contribution is the fair market value of the property at the time of the contribution." Treas. Reg. § 1.170A-1(c)(1). The term "fair market value" is defined as "the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts." *Id.* subpara. (2).

A charitable contribution of money must be substantiated by at least one of the following: (1) a canceled check; (2) a receipt from the donee charitable organization showing the name of the donee, the date of the contribution, and the amount of the contribution; or (3) in the absence of a canceled check or receipt from the donee charitable organization, other reliable written records showing the name of the donee, the date of contribution, and the amount of the contribution. Treas. Reg. § 1.170A-13(a)(1). The reliability of the records is determined on the basis of all of the relevant facts and circumstances. *See id.* subpara. (2). No deduction is allowed for any monetary gift unless the donor maintains a record of the contribution or a written communication showing the name of the donee organization, the date of the contribution, and the amount of the contribution. *See* § 170(f)(17).

A charitable contribution of property must be substantiated by a receipt showing: (1) the name of the donee; (2) the date and location of the contribution; and (3) a description of the property in detail reasonably sufficient under the circumstances. Treas. Reg. § 1.170A-13(b)(1). A receipt is not required if the contribution is made in circumstances where it is impractical to obtain a receipt. *See id.* The reliability of the records is determined on the basis of all of the relevant facts and circumstances. *See id.* subpara. (2).

Section 170(c) requires that charitable contributions be made to government entities or to corporations, trusts, community chests, funds, or foundations for the purposes listed therein and specifically prohibits inurement to the benefit of private individuals. *See* § 170(c)(1) and (2).

If the donation is a small amount, any written or other evidence from the donee charitable organization acknowledging receipt is generally sufficient. *See* Treas. Reg. § 1.170A-13(a)(2)(i)(C). Nevertheless, contributions of $250 or more require donee written acknowledgment containing specified information. *See* § 170(f)(8). Furthermore, additional information is required to support a deduction exceeding $500 for a charitable contribution of property. Specifically, the taxpayer must also maintain written records establishing: (1) the item's manner of acquisition as well as either the item's approximate date of acquisition or the approximate date the property was substantially completed and (2) the cost or other basis, adjusted as provided by section 1016, of property donated by the taxpayer during the taxable year. *See* § 170(f)(11)(A)(i), (B); Treas. Reg. § 1.170A-13(b)(3)(i). For contribution of a qualified motor vehicle with a claimed value that exceeds $500, the donee must provide a written acknowledgment that contains specific information. *See* § 170(f)(12)(A) and (B).

Respondent disallowed any deduction for $6,586 of petitioner's reported charitable contributions. That amount included $3,441 of noncash charitable contributions in the form of food, clothing, laundry detergent, and other donations either to a food pantry or directly to homeless students and other individuals. Petitioner's contributions to individual students and community members do not qualify as charitable contributions deductible under section 170. *See* § 170(c)(2). Moneys and other items given directly to individuals for their personal benefit are deemed private gifts and are not deductible charitable contributions under section 170 because they are not given to or for the use of a charitable organization as defined therein. *See*, *e.g.*, *Thomason v. Commissioner*, 2 T.C. 441, 443–44 (1943); *Dohrmann v. Commissioner*, 18 B.T.A. 66 (1929). In addition petitioner has not provided the required written evidence for any donations to food pantries. *See* Treas. Reg. § 1.170A-13(a)(2)(i)(C). Therefore, petitioner is not entitled to deduct the $3,441 of noncash charitable contributions in the form of food, clothing, and other household goods.

Petitioner also reported a $1,000 noncash charitable contribution related to the donation of her 2006 Chevrolet Equinox to the National

Veterans Services Fund, of which respondent disallowed $500. Petitioner has not provided the substantiating information required for a donation of property valued over $500. *See* Treas. Reg. § 1.170A-13(b)(3)(i). She did not produce a written acknowledgment from the donee organization to substantiate her claimed deduction, nor did she produce the information necessary to establish the manner and date of acquisition or calculate the cost basis for the vehicle. Therefore, the portion of petitioner's charitable contribution deduction for the year in issue that is attributable to the donation of her car is limited to the amount respondent allowed.

Finally, we consider petitioner's cash donations. As noted above, respondent agrees that petitioner made cash donations totaling $2,645 during the year in issue. Petitioner has failed to produce substantiating evidence that would allow for a greater amount of cash donation deductions. Consequently, the portion of petitioner's charitable contribution deduction for the year in issue that is attributable to cash donations is limited to the amount respondent allowed.

III. *Unreimbursed Employee Business Expenses*

Section 162(a) allows deductions for all ordinary and necessary business expenses paid or incurred during the taxable year in carrying on a trade or business. *Boyd v. Commissioner*, 122 T.C. 305, 313 (2004). The taxpayer bears the burden of proving that expenses were of a business nature rather than personal and that they were ordinary and necessary. Rule 142(a); *Welch v. Helvering*, 290 U.S. at 115. Performing services as an employee constitutes a trade or business. *Primuth v. Commissioner*, 54 T.C. 374, 377–78 (1970).

When a taxpayer establishes that she has paid a deductible trade or business expense but is unable to adequately substantiate the amount, the Court may estimate the amount and allow a deduction to that extent. *Cohan v. Commissioner*, 39 F.2d 540, 543–44 (2d Cir. 1930). To apply the *Cohan* rule, however, the Court must have a reasonable basis upon which to make an estimate. *Vanicek v. Commissioner*, 85 T.C. 731, 742–43 (1985).

Congress overrode the *Cohan* rule with section 274(d), which requires strict substantiation for certain categories of expenses. *Sanford v. Commissioner*, 50 T.C. 823, 827–28 (1968), *aff'd per curiam*, 412 F.2d 201 (2d Cir. 1969). Expenses subject to section 274(d) include travel and meals expenses as well as expenses for listed property such

as passenger automobiles. § 280F(d)(4). A taxpayer must substantiate by adequate records or by sufficient evidence corroborating her own statement the amount, time, place, and business purpose of these expenditures. § 274(d); Temp. Treas. Reg. § 1.274-5T(c)(1).

Substantiation by adequate records requires the taxpayer to maintain an account book, a diary, a log, a statement of expense, trip sheets, or a similar record prepared contemporaneously with the expenditure and documentary evidence (e.g., receipts or bills) of certain expenditures. Treas. Reg. § 1.274-5(c)(2)(iii); Temp. Treas. Reg. § 1.274-5T(c)(2). Substantiation by other sufficient evidence requires the production of corroborative evidence in support of the taxpayer's statement specifically detailing the required elements. Temp. Treas. Reg. § 1.274-5T(c)(3).

Petitioner reported vehicle, travel, meals and entertainment, and other business expenses totaling $30,433 for the year in issue.[5] She reported zero in reimbursements from her employers. According to respondent, petitioner has failed to establish that she is entitled to deduct unreimbursed employee business expenses beyond those that respondent allowed in the notice of deficiency.

A. *Vehicle*

Petitioner deducted $19,133 in vehicle expenses, of which respondent allowed $12,890. Petitioner's 2016 vehicle expenses are subject to the strict substantiation rules of section 274(d), and thus they cannot be estimated. For expenses relating to vehicles, a taxpayer must substantiate with adequate records or sufficient evidence: (1) the amount of each separate expense using either actual costs or the standard mileage rate; (2) the mileage for each business use of the passenger automobile and the total mileage for all purposes during the taxable period; (3) the date of the business use; and (4) the business purpose of the use. *See* Treas. Reg. § 1.274-5(j)(2); Temp. Treas. Reg. § 1.274-5T(b)(6).

[5] There is no explanation in the record for the discrepancy of $845 between the unreimbursed employee expenses reported on petitioner's Form 2106 ($30,433) and on line 21 of her Schedule A ($31,278). The Court sustains respondent's disallowance of this amount of discrepancy.

In support of her reported vehicle expenses of $19,133, petitioner produced a handwritten mileage log and a "vehicle service history report" for a 2015 Jeep Renegade. Petitioner testified that the mileage calculations respondent provided are incorrect because she had two cars which she used for business and the vehicle service history report related to only one car. Although she claims to have provided the estimated mileage for both of her vehicles to her tax return preparer, her tax return refers to only one vehicle. Petitioner did not provide further evidence to corroborate her testimony that she incurred expenses for the second vehicle and that it was used for business purposes.

Thus petitioner has not provided substantiating documentation that would allow her to deduct vehicle expenses in excess of those respondent allowed under section 274(d).

B. *Travel, Meals, and Entertainment Expenses*

Petitioner deducted $4,372 in travel expenses and $1,330 in meals and entertainment expenses, all of which respondent disallowed. A taxpayer may deduct travel expenses while away from home if the expenses are ordinary, necessary, and attributable to the business of the taxpayer. § 162(a)(2); *Crawford v. Commissioner*, T.C. Memo. 2014-156, at *12. Travel, meals, and entertainment expenses are subject to the strict substantiation requirements of section 274(d).

If a "trip is undertaken for both business and personal reasons, travel expenses are deductible only if the primary purpose of the trip is business." *Crawford*, T.C. Memo. 2014-156, at *12 (citing Treas. Reg. § 1.162-2(b)). Determining the purpose of a trip is a fact-based analysis which depends, in part, on the ratio of time the taxpayer spends on personal and business activities. *See id.* At trial petitioner testified that her travel, meals, and entertainment expenses related to trips she took while visiting prospective locations to move to.[6] None of the trips was required by her employers. Although petitioner testified that she also used these trips to create assignments for certain of her courses after the fact, the Court concludes that the primary purpose of each trip was personal rather than business related. Furthermore, petitioner has failed to meet the strict substantiation requirements of section 274(d). As a result, petitioner's travel, meals, and entertainment expenses for the year in issue are properly considered personal expenditures rather

[6] Petitioner did not describe these expenses as relating to a job search.

than ordinary and necessary business expenses, and respondent properly disallowed the related deductions.

C. *Other Expenses*

Respondent allowed a deduction for $1,504 out of $5,598 of the other business expenses reported on petitioner's 2016 Form 1040 on the basis of entries listed on petitioner's bank statements. Petitioner asserts that she is entitled to deduct the full amount of reported other business expenses because the additional expenses relate to subscriptions, film viewings, and other activities necessary for her work as a business and entertainment marketing professor. At trial petitioner testified that she kept track of her course expenses through discussion notes on the Blackboard educational tool. She did not provide the Court with those notes, however, and did not otherwise track which of her expenses were related to coursework and which were personal. Petitioner did not provide information about whether she attempted to obtain reimbursement for these expenses from her employers. She further testified that the expenses were not required by any of her employers but were within her academic discretion. For these reasons, petitioner is not entitled to additional deductions for other business expenses beyond those respondent already allowed in the notice of deficiency.

IV. *Accuracy-Related Penalty*

Respondent determined that petitioner is liable for an accuracy-related penalty for the year in issue. Section 6662(a) and (b)(2) imposes an accuracy-related penalty of 20% of the underpayment of tax attributable to a substantial understatement of income tax. An understatement of federal income tax is substantial if the amount of the understatement for the taxable year exceeds the greater of 10% of the tax required to be shown on the return or $5,000. § 6662(d)(1)(A).

The Commissioner bears the burden of production with respect to a section 6662 penalty. § 7491(c). To satisfy that burden the Commissioner must offer sufficient evidence to indicate that it is appropriate to impose the penalty. *See Higbee*, 116 T.C. at 446. Once the Commissioner meets his burden of production, the taxpayer must come forward with evidence sufficient to show the Court that the determination is incorrect. *Id.* at 446–47.

The Commissioner must first show that he complied with the procedural requirements of section 6751(b)(1). *See* § 7491(c); *Chai v.*

Commissioner, 851 F.3d 190, 217–18, 221–22 (2d Cir. 2017), *aff'g in part, rev'g in part* T.C. Memo. 2015-42; *Graev v. Commissioner*, 149 T.C. 485, 493 (2017), *supplementing and overruling in part* 147 T.C. 460 (2016). Section 6751(b)(1) provides that no penalty shall be assessed unless "the initial determination" of the assessment was "personally approved (in writing) by the immediate supervisor of the individual making such determination."

Respondent provided the Court with a copy of the penalty lead sheet as well as the CEAS report and the case history report. These documents confirm that the initial determination to impose the penalty in issue was made by Examiner McMorise on October 2, 2018. Examiner McMorise's immediate supervisor approved the penalty in writing on October 3, 2018. On October 4, 2018, respondent mailed a 30-day letter to petitioner, which constituted the first formal communication to her of the determination to assert a penalty for the year in issue. *See Clay v. Commissioner*, 152 T.C. 223, 249 (2019), *aff'd*, 990 F.3d 1296 (11th Cir. 2021). This is sufficient to show that respondent complied with the requirements of section 6751(b). *See Graev v. Commissioner,* 149 T.C. at 493.

Second, if the understatement of income tax for the year in issue is substantial, the Commissioner has satisfied the burden of producing evidence that the penalty is justified. Respondent proposed an increase in tax of $5,062 for the year in issue, increasing petitioner's total tax liability from a reported $14,666 to $19,728. Respondent met his burden because the amount of petitioner's understatement for the year in issue was "substantial," in that it exceeded the greater of 10% of the tax required to be shown on the return or $5,000. *See* § 6662(d)(1)(A).

Once the Commissioner has met his burden, the taxpayer may avoid a section 6662(a) accuracy-related penalty to the extent she can demonstrate (1) she had reasonable cause for the underpayment and (2) that she acted in good faith with respect to the amount paid. § 6664(c)(1). The decision as to whether a taxpayer acted with reasonable cause and in good faith is made on a case-by-case basis, taking into account all pertinent facts and circumstances, including: (1) the taxpayer's efforts to assess the proper tax liability, (2) the knowledge and experience of the taxpayer, and (3) reliance on the advice of a tax professional. Treas. Reg. § 1.6664-4(b)(1). To prove reliance on the advice of a professional tax preparer, the taxpayer must show that: (1) the adviser was a competent professional with sufficient expertise to justify reliance, (2) the taxpayer provided necessary and accurate

information to the adviser, and (3) the taxpayer actually relied in good faith on the adviser's judgment. *Neonatology Assocs., P.A. v. Commissioner*, 115 T.C. 43, 99 (2000), *aff'd*, 299 F.3d 221 (3d Cir. 2002).

An honest misunderstanding of the law that is reasonable in the light of the facts and circumstances may support a conclusion that a taxpayer acted with reasonable cause and in good faith with respect to a reported position. *See Higbee,* 116 T.C. at 448–49. Generally, the most important factor is the extent of the taxpayer's efforts to assess her proper tax liability. Treas. Reg. § 1.6664-4(b)(1). Statutory complexity alone does not constitute reasonable cause. *Barnes v. Commissioner*, T.C. Memo. 2012-80, 2012 WL 952760, at *15, *aff'd*, 712 F.3d 581 (D.C. Cir. 2013).

The record does not reflect that petitioner responded to the 30-day letter. Petitioner failed to adequately support substantial amounts of claimed deductions for the year in issue. Although petitioner hired H&R Block to prepare her tax return, the Court is not convinced that she provided necessary and accurate information to her return preparer and that she actually relied in good faith on the return preparer's judgment. Petitioner failed to keep adequate records of her reported business expenses and charitable contributions. Furthermore, she testified at trial that she included certain expenses on her tax return against the advice of her paid tax preparer. In addition petitioner failed to establish reasonable cause for the deduction of expenses associated with personal trips as business expenses. On the basis of these conclusions, respondent's determination as to the applicability of the accuracy-related penalty is sustained for the year in issue.

We have considered all of petitioner's arguments, and, to the extent not addressed herein, we conclude that they are moot, irrelevant, or without merit.

To reflect the foregoing,

Decision will be entered for respondent.