



7. The proposed assessment included interest but no penalties.
8. Taxpayers protested the disallowance of the miscellaneous itemized deductions.
9. Taxpayers paid the portion of the assessment attributable to the disallowed Schedule A medical deduction.
10. The Section agreed in its post-hearing memorandum that the deduction of the K-1 expenses of \$[REDACTED] was proper and should be allowed. The Section included with its post-hearing memorandum a modified proposed assessment dated February 13, 2013 reflecting the change.
11. The only issue to be decided is whether Taxpayers' miscellaneous itemized deduction of \$[REDACTED] was properly disallowed by the Section.
12. Taxpayers' miscellaneous itemized deduction of \$[REDACTED] was comprised of \$[REDACTED] tax preparation fees, \$[REDACTED] investment expenses, \$[REDACTED] depreciation less the 2% limit of \$[REDACTED].
13. Taxpayers testified that the investment expenses of \$[REDACTED] were incurred primarily for travel to visit companies that Taxpayers had invested in, planned to invest in or traded in.
14. Other expenses were for items such as periodicals, newsletters and quote services. The hearing record does not show the amount of the expenses incurred for travel to visit companies and the other expenses.
15. Taxpayers did not submit into the hearing record a travel log showing the amount of the travel expense, the time and place of the travel or the business purpose of the expense.
16. Taxpayers did not provide documentation into the hearing record relating to the specifics of their travel expenses and other investment expenses.

## CONCLUSIONS OF LAW

1. Arizona taxpayers may deduct on their Arizona income tax return itemized deductions calculated under the Internal Revenue Code (I.R.C.) Arizona Revised Statutes (A.R.S.) § 43-1042.
2. The burden is on the taxpayer to show he is entitled to a deduction or exemption from tax. See *Ebasco Servs., Inc. v. Ariz. State Tax Comm'n*, 105 Ariz. 94, 99, 459 P.2d 719, 724 (1969).
3. An individual may deduct the ordinary and necessary expenses paid or incurred during the taxable year for the production or collection of income or for the management, conservation, or maintenance of property held for the production of income. I.R.C. § 212.
4. Expenses, to be deductible under section 212, must be “ordinary and necessary”. Thus, such expenses must be reasonable in amount and must bear a reasonable and proximate relation to the production or collection of taxable income or to the management, conservation, or maintenance of property held for the production of income. Treas. Reg. §1.212-1(d).
5. Taxpayers have not shown that the travel expenses bore a reasonable and proximate relation to the production or collection of taxable income or to the management, conservation, or maintenance of property held for the production of income.
6. The deductions under I.R.C. § 212 are subject to certain exceptions and limitations. I.R.C. § 211.
7. I.R.C. § 274(d) provides that no deduction is allowed under either I.R.C. § 162 or I.R.C. § 212 for any travel expense unless the taxpayer substantiates by adequate records or sufficient evidence corroborating the taxpayer's own statement (1) the amount of such expense, (2) the time and place of the travel, (3) the business purpose of the expense.

8. To claim a deduction for business travel, meals or entertainment, a taxpayer must keep a log or similar record that sets forth the amounts, date, description and business purpose for the expense. In addition, the taxpayer must keep documentary evidence, such as receipts, cancelled checks, or bills to support the expense. IRS Pub. 463, pp. 26-27.
9. Based on the hearing record, Taxpayers have not met the strict substantiation requirements of I.R.C. § 274(d).
10. Taxpayers' uncorroborated testimony is insufficient in the instant case to satisfy Taxpayers' burden of proof. See, *Connelly v. C.I.R.* T.C. Memo. 1994-436, (U.S.Tax Ct.,1994), affd. 99 F.3d 1154 (11th Cir.1996).
11. Taxpayers have not shown that knowledge gained at any of the companies Taxpayers visited affected any specific investments. See, *Connelly v. C.I.R. supra*.
12. Investigatory expenses incurred in looking for potential investments are not deductible either as business expenses or expenses incurred in the production or collection of income or in the management, conservation or maintenance of property held for the production of income. See, *Morton Frank*, 20 TC 511, (1953); Rev. Rul. 77-254, 1977-2 CB 63.
13. Taxpayers have not met the burden to show they were entitled to a deduction for their claimed investment expenses for tax year 2008.
14. The Section properly disallowed Taxpayers' claimed investment expenses for tax year 2008.
15. The record does not show that Taxpayers' other claimed miscellaneous itemized deductions exceeded the 2% limit of \$[REDACTED].
16. A.R.S. § 42-1123(C) provides that if the tax "or any portion of the tax is not paid" when due "the department shall collect, as a part of the tax, interest on the unpaid amount" until the tax has been paid.

17. The Section's modified proposed assessment dated February 13, 2013 for tax year 2008 was proper.

## DISCUSSION

Taxpayers timely filed their 2008 Arizona income tax return. Taxpayers claimed miscellaneous itemized deductions on Schedule A that included investment expenses of \$[REDACTED]. Taxpayers' investment expenses were incurred primarily for travel to visit companies that they had invested in, planned to invest in or traded in. Some of the expenses were for items such as periodicals, newsletters and quote services. The Section disallowed Taxpayers' investment expenses.

Under I.R.C. § 212, expenses incurred for the production or collection of income or for the management, conservation, or maintenance of property held for the production of income may be deducted as a miscellaneous itemized deduction. To be deductible however, the taxpayer must demonstrate that the expense sought to be deducted bore a reasonable and proximate relation to the production or collection of taxable income or to the management, conservation, or maintenance of property held for the production of income.

Taxpayers have not demonstrated that their travel expenses bore a reasonable and proximate relationship to the production of income or the management of property held for the production of income. Investigatory expenses regarding possible investments are not deductible either as business expenses or expenses incurred in the production or collection of income or in the management, conservation or maintenance of property held for the production of income. In addition, Taxpayers have not shown that knowledge gained at any of the companies Taxpayers visited affected any specific investments or that such travel expenses for visiting companies are deductible.

Taxpayers have also not substantiated in the record their travel expense as required by I.R.C. § 274(d). Taxpayers here have not submitted into the hearing record a travel log or other evidence showing the amount of the travel expense, the time and

place of the travel, the business purpose of the expense and documentary evidence, such as receipts, cancelled checks, or bills supporting the expenses.

The record does not show that Taxpayers' other claimed miscellaneous itemized deductions exceed the 2% limit of \$[REDACTED]. Therefore, based on the foregoing, the Section's modified proposed assessment dated February 13, 2013 is upheld.

DATED this 24th day of April, 2013.

ARIZONA DEPARTMENT OF REVENUE  
HEARING OFFICE

[REDACTED]  
Hearing Officer

Original of the foregoing sent by  
certified mail to:

[REDACTED]

Copy of the foregoing delivered to:

Arizona Department of Revenue  
Individual Income Tax Audit Section