United States Tax Court

T.C. Memo. 2022-117

STEVEN F. HOAKISON AND JUDY C. HOAKISON,
Petitioners

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent

Docket No. 16577-17. Filed December 5, 2022.

James R. Monroe, for petitioner.

Dennis R. Onnen, *Robert C. Teutsch*, and *Douglas S. Polsky*, for respondent.

MEMORANDUM FINDINGS OF FACT AND OPINION

PARIS, *Judge*: By notice of deficiency dated June 14, 2017, respondent determined deficiencies in federal income tax of $55,485, $44,781, and $34,325 and accuracy-related penalties under section 6662(a)[1] of $11,097, $8,956.20, and $6,865 for petitioners' tax years 2013, 2014, and 2015, respectively.

After concessions, discussed below, the issues for decision are whether petitioners are:

[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.

[*2] 1. entitled to deduct depreciation claimed on Schedule F, Profit or Loss From Farming, beyond those amounts respondent has allowed;

2. entitled to deduct expenses for utilities; insurance (other than health insurance); gasoline, fuel, and oil; repairs and maintenance; and other expenses reported on Schedule F beyond those amounts respondent has allowed;

3. liable for the penalties.

FINDINGS OF FACT

I. *Background*

Petitioners, husband and wife, are farmers. They resided in Iowa when the Petition was timely filed.

Mr. Hoakison has a high school education and has been farming since he completed high school in 1971. He also worked for United Parcel Service (UPS) for more than two decades. During the years at issue, he worked full time as a delivery driver, driving his route from about 8 a.m. until he completed his route, typically between 5 p.m. and 7 p.m. Mrs. Hoakison was employed full time as a receptionist at a veterinary clinic during the years at issue.

Mr. Hoakison began farming after graduating from high school in 1971. In 1975 he purchased his first farm property (the Home Place) and began his own cow-calf operation. The Home Place consisted of 101.89 acres of cropland and 19.81 acres of pasture. Petitioners married in 1977 and have lived together on the Home Place ever since.

Petitioners encountered difficult times during the farm crisis of the 1980s, suffering serious financial hardship and nearly losing their farm. At times they had to turn to public assistance just to get by, but they managed to pull through and since that time have conducted both their personal lives and their farm operation with determined frugality. Petitioners live in a 100-year-old house on the Home Place, which is heated with propane and does not have air conditioning. They purchase used vehicles and rarely vacation or travel beyond the occasional family reunion. They avoid debt whenever possible, generally buying used equipment, which they pay for in cash. Mr. Hoakison performs a significant amount of his own repairs and maintenance, as well. By working tirelessly and managing their financial affairs in this way,

[*3] petitioners have been able to weather downturns in the farm economy and by 2013 owned 422 acres of land debt-free.

II. *Farm Operation*

A. *Background*

During the years at issue petitioners farmed five noncontiguous tracts of land, totaling approximately 482 acres. Petitioners owned four of those tracts outright. In addition to the Home Place, petitioners owned a tract consisting of 36.62 acres of cropland and 36.96 acres of pasture (Oscar's), which they acquired in the early 2000s; a tract consisting of 51.02 acres of cropland and 32 acres of pasture (Cherry Street), acquired around 2009; and a tract consisting of 144.37 acres of cropland (the Barn Farm), acquired around 2009. Petitioners farmed the fifth, a 59.33-acre tract of cropland (Doug's Place), on a crop share basis. The Barn Farm was previously owned by Mr. Hoakison's mother, and Cherry Street was previously owned by his brother. Petitioners purchased the Barn Farm and Cherry Street in an effort to settle his family members' debt problems and save the farm operations.

The Home Place is about 14 miles from Oscar's, 11 miles from Cherry Street, 12 miles from the Barn Farm, and 6 miles from Doug's Place. Driving a tractor from the Home Place to one of the other farms could take between 45 and 60 minutes each way.

Petitioners grew row crops, alternating between corn and beans. They also ran a cow-calf operation, for which they kept approximately 30 cows and 4 bulls. Petitioners' farming activities, especially the cow-calf operation, required significant work and physical activity, most of which Mr. Hoakison performed himself. During the years at issue Mr. Hoakison received some assistance from various family members, including his adult son, his brother, and his nephew, but they had full-time jobs or their own farms, so that help was limited.

Because he was also working a full-time job during the years at issue, Mr. Hoakison would typically perform most of his farm work either before his UPS shift in the morning or at night after finishing his shift. Mr. Hoakison would typically work from 6 a.m. until after 10 p.m. During planting or harvest season, he would usually work as late as midnight.

In 2011 Mr. Hoakison suffered a heart attack and underwent triple bypass surgery. Following his surgery, Mr. Hoakison continued to

[*4] work his full-time job with UPS and still put in the necessary time and effort with his farms.

B. *Tractor Purchases*

Petitioners used numerous tractors in their farm operation. Mr. Hoakison believed that buying older, used tractors carried several advantages. An older tractor costs a small fraction of a new tractor's price, allowing him to purchase a few at a time and still pay entirely in cash. In addition, the types of tractors that Mr. Hoakison purchased were the same types that he had been using all his life. He was familiar with their operation and could perform most maintenance and repairs himself rather than hiring someone.

With the acquisition of the new farms in 2009 and his declining health after his surgery, Mr. Hoakison sought ways to make his farming operation more efficient and maximize the limited time he had available to work each day before and after his shift with UPS. Mr. Hoakison would typically keep tractors at each of the farm locations, rather than spending 45 to 60 minutes to move one from the Home Place to another farm each day.

Before 2013 petitioners had purchased during their 50-year farming career at least 17 tractors that were still in use during the years at issue. Petitioners acquired another 8 tractors during 2013, 12 during 2014, and 9 during 2015.

Petitioners purchased, and claimed section 179 expense deductions for the purchase price of, the following tractors placed in service during 2013:

2013 Tractor Purchases	*Price*
Ford NAA tractor	$2,500
D-17 AC[2] tractor	2,300
IH 284 tractor	3,100
Ford 1210 tractor	3,000

[2] Within petitioners' returns and workpapers, "AC" refers to Allis Chalmers, "IH" to International Harvester, and "JD" to John Deere.

[*5]

Oliver Super 55 tractor	3,300
D-17 diesel tractor	4,750
B Farmall tractor	2,700
Super C Farmall tractor	2,000

Petitioners purchased, and claimed section 179 expense deductions for the purchase price of, the following tractors placed in service during 2014:

2014 Tractor Purchases	*Price*
JD MT tractor	$3,500
Three AC tractors (616, 620, and 720)	8,200
AC D-10 tractor	3,950
1954 Case SC tractor	3,450
1946 Farmall A tractor	3,450
Farmall 450 tractor	2,700
Oliver 66 tractor	5,000
Case DC tractor	2,500
JD 530 tractor	5,408
1954 Super H Farmall tractor	4,160

Petitioners purchased, and claimed section 179 expense deductions for the purchase price of, the following tractors placed in service during 2015:

[*6]

2015 Tractor Purchases	*Price*
Cub Farmall tractor	$1,458
AC 210 tractor	7,020
1954 JD 70 tractor	3,848
1941 Farmall M tractor	3,848
JD 5020 tractor	8,000
JD 730 tractor	1,137
1959 JD 630 tractor	497
AC D-21 tractor	1,786
1955 Ford 960 tractor	400

All of the tractors petitioners acquired during the years at issue were manufactured in the 1940s, 1950s, or 1960s, with the exceptions of the IH 284 and the Ford 1210, which were manufactured in 1979 and 1986, respectively.

Petitioners' tractors had specific features or used a variety of mounted implements to perform the many tasks necessary to operate the farms,[3] and not every tractor petitioners owned was compatible with every implement or suitable for every task the farms required. Mr. Hoakison would often dedicate a particular tractor to a particular implement at each farm location, leaving the implement attached to the tractor. Doing so also helped reduce the time and physical effort involved in taking the implements off and reattaching them.

C. *Pickup Trucks*

Petitioners used five pickup trucks in their farm operation during the years at issue: a 1995 Ford F250 diesel engine, a 1999 Ford F350

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[3] Among the implements petitioners used in the farm operation were one or more of the following: planters (a 16-row planter for corn and a 31-row planter for beans), blades, baler, grain drill, controls, rake, harrow, post digger, scoop, cultivator, auger, bush hog, rotary hoe, sprayer, fertilizer spreader, wagons, and post driver.

[*7] one-ton diesel engine, a 1999 Dodge Dakota, a 2008 Ford F350 one-ton diesel engine, and a 2011 Ford F350 one-ton diesel engine. The 1995 Ford F250 had an attached hay bale stabber that was not readily detachable, and Mr. Hoakison used the truck for transporting hay. He used the 1999 Ford F350 as his tool truck; it was equipped with a torch and an air compressor and carried tools and two 60-gallon fuel tanks to service the farm equipment. The 1999 Dodge Dakota had mud tires, and Mr. Hoakison used it primarily to go out into pastures. He would sometimes drive it to the UPS office as well. The 2008 and 2011 Ford F350 one-ton diesel trucks were used primarily with petitioners' two trailers to transport cattle from farm to farm, to the veterinarian, or to market in Anita, Iowa. The 30-foot livestock trailer required a one-ton truck and almost always stayed hooked to one of the Ford F350s.

D. *Machine Shed*

In 2012 petitioners had a machine shed constructed on the Home Place for a cost of $108,856, which they paid in cash. During the years at issue the machine shed housed petitioners' farming equipment, including the tool truck, welder, torch, auger wagons, combines, and tractors during the winter or when otherwise not in use. The machine shed had two sections: a smaller section, approximately 3,840 square feet, and a tall section to store the combine, approximately 7,200 square feet.

When it was built, the machine shed had no electricity, insulation, or heat, and the floor was dirt. Petitioners added these items over the next few years as they could afford to pay for them in cash.

In 2013 petitioners paid $2,979 to add electricity. In 2013 they also paid $16,408 to pour a concrete floor for the smaller section of the machine shed. Before adding the concrete, petitioners placed gravel around the smaller section to serve as a base. Petitioners also laid gravel in front of the machine shed. In total, the gravel cost $715.77. In 2014 petitioners added insulation to the smaller section using supplies purchased from Menard's for a total cost of $4,473.11.

III. *Return Preparation*

Petitioners' tax returns for 2013, 2014, and 2015 were prepared by Ray Powell. Mr. Powell holds a master's degree in agricultural education and completed coursework for a Ph.D. in agricultural economics. Mr. Powell began his career as a farm management specialist in the Creston area agricultural extension office, then later served as a

[*8] vice president and loan supervisor with the Production Credit Association. Since the early 1980s he has been self-employed as a farm business consultant, assisting with economic problems and preparing income tax returns for farmers in the Creston area.

Mr. Powell has known Mr. Hoakison for nearly 50 years and prepared petitioners' tax returns for nearly 30 years. He taught Mrs. Hoakison how to keep records for the farm operation and provided her with worksheets to help track income and expenses. Mr. Powell relied on the information petitioners provided to him to prepare their returns for the years at issue.

On petitioners' timely filed 2013 tax return, the Schedule F reported gross farm income of $245,996 and farm expenses totaling $294,336. Among the reported expenses were $95,873 for depreciation and section 179 expense; $3,143 for utilities; $5,714 for insurance (other than health insurance); $9,724 for gasoline, fuel, and oil; $67,386 for repairs and maintenance; and $20,022 for "other expenses." Petitioners reported taxable income of $28,670, which included wages from their employers, taxable interest, and a farm loss of $48,340.

On petitioners' timely filed 2014 tax return, the Schedule F reported gross farm income of $194,002 and farm expenses totaling $248,012. Among the reported expenses were $95,741 for depreciation and section 179 expense; $3,254 for utilities; $5,435 for insurance (other than health insurance); $9,306 for gasoline, fuel, and oil; $28,602 for repairs and maintenance; and $18,151 for "other expenses." Petitioners reported taxable income of $33,399, which included wages from their employers, taxable interest, and a farm loss of $54,010.

On petitioner's timely filed 2015 tax return, the Schedule F reported gross farm income of $169,317 and farm expenses totaling $214,251. Among the reported expenses were $75,888 for depreciation and section 179 expense; $3,432 for utilities; $5,502 for insurance (other than health insurance); $7,074 for gasoline, fuel, and oil; $33,541 for repairs and maintenance; and $14,672 for "other expenses." Petitioners reported taxable income of $30,817, which included wages from their employers, taxable interest, pensions and annuities, Social Security benefits, and a farm loss of $44,934.

For 2013, 2014, and 2015, petitioners made section 179 elections on Forms 4562, Depreciation and Amortization, in the allowable amounts of $54,300, $54,168, and $25,000 for the acquisition of property

[*9] placed in service for those years, respectively. These amounts are included in the total depreciation and section 179 expenses of $95,873, $95,741, and $75,888 reported on Schedules F for those years. The expenses reported as "other expenses" on Schedules F of petitioners' returns were based on worksheets prepared by Mrs. Hoakison. The worksheets for 2013, 2014, and 2015 listed amounts in the categories of (1) Auto, farm share, (2) PU-Truck expense, (3) Legal-accounting, and (4) Publ-dues. Mr. Powell transferred these amounts to the other expense section of Schedule F for each year. He then combined the auto and pickup truck expenses onto one line for 2013 and combined the legal-accounting and publication expenses onto one line for each year.

IV. *Examination*

Respondent selected petitioners' 2013, 2014, and 2015 returns for examination. Revenue Agent Anna Smith (RA Smith) conducted the examination and determined that petitioners were not entitled to deductions for a number of expenses reported on their Schedule F for each of the years. Respondent determined a deficiency of $55,485 for 2013, on the basis of the following adjustments to petitioners' 2013 return:

Item	*Amount*
1. Other Gains or Losses From Form 4797	$10,189 Petitioners concede
2. Sch F1 – Utilities	2,223
3. Sch F1 – Insurance (Other Than Health)	1,308
4. Sch F1 – Gasoline, Fuel, and Oil	2,802
5. Sch F1 – Depreciation and Section 179 Expense	59,761 Respondent concedes $16,028; petitioners concede $12,305
6. Sch F1 – Sales–Raised Livestock/Produce/Grains/Etc.	3,371 Respondent concedes
7. Sch F1 – Other Expenses	19,986

[*10]

8. Sch F1 – Repairs and Maintenance	51,922
9. Sch F1 – Custom Hire (Machine Work)	17,892 Respondent concedes $16,489, petitioners concede the balance
10. Sch F1 – Cost/Other Basis of Livestock/Other	6,000 Petitioners concede
11. SE AGI Adjustment	(8,261)
Total Adjustments[4]	167,193

Respondent determined a deficiency of $44,781 for 2014 on the basis of the following adjustments to petitioners' 2014 return:

Item	*Amount*
1. Sch F1 – Utilities	$2,306
2. Sch F1 – Insurance (Other Than Health)	1,295
3. Sch F1 – Gasoline, Fuel, and Oil	3,483

[4] Rows 1, 6, 9, and 10 are amounts fully conceded by the parties and will not be further addressed. In row 5, the Schedule F depreciation and section 179 expenses, petitioners concede deductions totaling $12,305 relating to the Ford Dept Hack and the 2010 farm pickup. Respondent concedes that petitioners are entitled to additional depreciation of $5,228 with respect to a combine and an additional section 179 deduction of $9,800 with respect to a flatbed trailer. Petitioners further concede that they are not entitled to depreciation deductions for a fifth-wheel trailer for any of the years at issue; because the 5th wheel trailer depreciation was not claimed on petitioners' returns but raised for the first time during the examination, this concession does not affect the deficiency determination. Any amounts conceded by the parties will not be further addressed. In addition, the adjustments to self-employment tax, the self-employment tax deduction, and the retirement savings credit are computational, and the Court will not further address them. The parties have made further concessions with respect to other deductions still at issue, which the Court will address in the body of this Opinion.

[*11]

4. Sch F1 – Depreciation and Section 179 Expense	71,444 Respondent concedes $5,228; petitioners concede $5,805
5. Sch F1 - Sales–Raised Livestock/Produce/Grains/Etc.	6,915 Petitioners concede
6. Sch F1 – Other Expenses	17,830
7. Sch F1 – Repairs and Maintenance	17,129
8. Sch F1 – Custom Hire (Machine Work)	1,958 Respondent concedes $1,882, petitioners concede the balance
9. Sch F1 – Cost/Other Basis of Livestock/Other	24,000 Petitioners concede
10. SE AGI Adjustment	(6,525)
Total Adjustments[5]	139,835

Respondent determined a deficiency of $34,325 for 2015, on the basis of the following adjustments to petitioners' 2015 return:

Item	*Amount*
1. Sch F1 – Utilities	$2,415
2. Sch F1 – Insurance (Other Than Health)	1,455
3. Sch F1 – Gasoline, Fuel, and Oil	2,648

[5] Rows 5, 8, and 9 are amounts fully conceded by the parties and will not be further addressed. In row 4, the Schedule F depreciation and section 179 expenses, petitioners concede $5,805 with respect to the 2010 farm pickup. Respondent concedes that petitioners are entitled to additional depreciation of $5,228 with respect to a combine.

[*12]

4. Sch F1 – Depreciation and Section 179 Expense	63,184 Respondent concedes $5,228; petitioner concedes $3,785
5. Sch F1 – Other Expenses	14,652
6. Sch F1 – Repairs and Maintenance	18,031
7. Sch F1 – Custom Hire (Machine Work)	200 Petitioners concede
8. Sch F1 – Cost/Other Basis of Livestock/Other	15,000 Petitioners concede
9. SE AGI Adjustment	(5,193)
10. Sch F1 - Interest – Other	858 Petitioners concede
11. Social Security RRB	1
Total Adjustments[6]	113,251

Respondent's adjustments to petitioners' Schedule F depreciation and section 179 expense deductions were based on the following disallowed items:

	2013	*2014*	*2015*
Grain Vac	$1,500	$1,500	$1,500
NH Rake	359	359	359
Disc	214	214	214
30' Trailer	1,100	1,100	1,100

[6] Rows 7, 8, and 10 are amounts fully conceded by the parties and will not be further addressed. In row 4, the Schedule F depreciation and section 179 expenses, petitioners concede $2,902 with respect to the 2010 farm pickup and $883 with respect to a JD G tractor. Respondent concedes that petitioners are entitled to additional depreciation of $5,228 with respect to a combine.

[*13]

7060 Tractor	929	929	929
7240 CIH Mag Tractor	8,322	8,322	8,322
CIH Field Cultivator	2,643	2,643	2,643
118 Dozer	1,607	1,607	1,607
Total	16,674	16,674	16,674

The above items were placed into service in previous years not at issue and were expensed under section 179. The items were erroneously included in the subsequent depreciation schedules and petitioners concede the claimed straight line method depreciation deduction of $16,674 for each year. These items will not be further addressed.

Respondent's adjustments to petitioners' Schedule F depreciation and section 179 expense deductions continued as follows:

	2013	*2014*	*2015*
Machine Shed	2,721	2,721	2,721
G Allis tractor	557	557	557
5020 AC tractor	357	357	357
2010 Farm PU	5,805	5,805	5,805
2011 Ford Pickup	4,259	4,259	4,259
D-19 tractor	571	571	571
F350 – 99 Tool Truck	850	850	850
Ford Dept Hack	6,500	—	—

[*14]

Tractor purchases[7]	23,650	42,318	27,994
JD G	—	—	883
Farm vehicle	—	—	5,181
Trailer Featherlite	(1,698)	(1,698)	(1,698)
Moved from Repairs	(485)	(969)	(969)
Total	43,087	54,771	46,510

After the concessions detailed in footnotes 4–6, the following Schedule F depreciation items remain in dispute:

	2013	*2014*	*2015*
Machine Shed	$2,721	$2,721	$2,721
D-17 tractor	572	572	572
G Allis tractor	557	557	557
5020 AC tractor	357	357	357
1999 Dodge pickup	787	787	394
D-15 tractor	357	357	357
2011 Ford pickup	4,259	4,259	4,259
D-19 tractor	571	571	571
Farm tractors[8]	2,603	2,603	2,603

[7] The detailed list of petitioners' tractor purchases during the years at issue was previously discussed. *See supra* Findings of Fact section II.B.

[8] The Farm tractors entry consists of six tractors and a wagon, acquired in 2011. Petitioners initially claimed a total basis of $18,222, but now concede the correct basis is $14,500, as follows:

[*15] The following section 179 expense deductions remain in dispute:

Ford NAA tractor	2,500	—	—
D-17 AC tractor	2,300	—	—
IH 284 tractor	3,100	—	—
Ford 1210 tractor	3,000	—	—
Oliver Super 55 tractor	3,330	—	—
D-17 diesel tractor	4,750	—	—
B Farmall tractor	2,700	—	—
Super C Farmall tractor	2,000	—	—
JD MT tractor	—	3,500	—
AC tractors	—	8,200	—
AC D-10 tractor	—	3,950	—
1954 Case SC tractor	—	3,450	—
1946 Farmall A tractor	—	3,450	—

D-12 tractor	$3,250
D-14 tractor	1,600
G Allis tractor	2,850
Oliver 88 tractor	1,700
D-14 tractor	2,100
Wagon	1,700
H Farmall tractor	1,300

[*16]

Farmall 450 tractor	—	2,700	—
Oliver 66 tractor	—	5,000	—
Case DC tractor	—	2,500	—
JD 530 tractor	—	5,408	—
1954 Super H Farmall tractor	—	4,160	—
Cub Farmall tractor	—	—	1,458
AC 210 tractor	—	—	7,020
1954 JD 70 tractor	—	—	3,848
1941 Farmall M tractor	—	—	3,848
JD 5020 tractor	—	—	8,000
JD 730 tractor	—	—	1,137
1959 JD 630 tractor	—	—	497
AC D-21 tractor	—	—	1,786
Farm vehicle[9]	—	—	7,253
1955 Ford 960	—	—	400

In addition respondent determined accuracy-related penalties for underpayments attributable to substantial understatements of income tax under section 6662(a) and (b)(2) of $11,097, $8,956.20, and $6,865 for the years at issue.

[9] Depreciation of $7,253 was claimed for 2015 for a Farm vehicle which represents a 2014 Lincoln Navigator. On brief, petitioners concede that they are not entitled to this deduction.

[*17] By letter dated April 3, 2017, petitioners were notified of the proposed changes to their federal income tax for the years at issue, including the imposition of accuracy-related penalties, via Letter 950 (30-day letter) and an accompanying Form 4549–A, Income Tax Examination Changes (examination report). The 30-day letter provided petitioners with the opportunity to protest the proposed changes with the Office of Appeals and bears the signature of Supervisory Revenue Agent Kathleen Roberts, who was RA Smith's immediate supervisor when the letter was mailed. The administrative file reflects that, as of May 30, 2017, there was no signed Civil Penalty Approval Form signed by the Group Manager. Ms. Roberts electronically signed Work Paper #300-1.1, Civil Penalty Approval Form, on June 5, 2017. At that time, she was on temporary detail and was not RA Smith's immediate supervisor.

Respondent issued the notice of deficiency on June 14, 2017, and petitioners timely petitioned the Court for redetermination.

OPINION

I. *Introduction*

Generally, the Commissioner's determinations set forth in a notice of deficiency are presumed correct, and the taxpayer bears the burden of showing the determinations are in error.[10] Rule 142(a); *Welch v. Helvering*, 290 U.S. 111, 115 (1933). Deductions are a matter of legislative grace, and petitioners have the burden of establishing entitlement to any claimed deductions. *See INDOPCO, Inc. v. Commissioner*, 503 U.S. 79, 84 (1992); *Van Velzor v. Commissioner*, T.C. Memo. 2014-71, at *3; *see also* Rule 142(a). Section 6001 requires every person subject to income tax to maintain books and records sufficient to establish the amount of gross income and deductions shown on its income tax return. *See also* Treas. Reg. § 1.6001-1(a).

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[10] Section 7491(a) provides that if, in any court proceeding, a taxpayer introduces credible evidence with respect to any factual issue relevant to ascertaining the liability for tax and meets other prerequisites, the burden of proof rests on the Commissioner as to that factual issue. *See Higbee v. Commissioner*, 116 T.C. 438, 440–41 (2001). Petitioners do not contend that the burden of proof should shift to respondent under section 7491(a), nor have they established that the requirements for shifting the burden of proof have been met. Accordingly, the burden of proof remains on petitioners. *See* § 7491(a)(2).

[*18] Section 274(d)(4) provides that no deduction shall be allowed "with respect to any listed property (as defined in section 280F(d)(4))" unless the taxpayer substantiates "by adequate records or by sufficient evidence corroborating the taxpayer's own statement." Listed property includes, among other things, any passenger automobile or any other property used as a means of transportation. § 280F(d)(4)(A)(i) and (ii). The flush text of section 274(d), however, excludes from the strict substantiation requirements any "qualified nonpersonal use vehicle." A "qualified nonpersonal use vehicle" is "any vehicle which, by reason of its nature, is not likely to be used more than a de minimis amount for personal purposes." § 274(i). The strict substantiation requirements of section 274(d) generally apply to any pickup truck or van "unless the truck or van has been specially modified with the result that it is not likely to be used more than a de minimis amount for personal purposes." Treas. Reg. § 1.274-5(k)(7). Other qualified nonpersonal use vehicles not subject to the strict substantiation requirements of section 274(d) include several relevant categories. Those include any vehicle designed to carry cargo with a loaded gross vehicle weight over 14,000 pounds, combines, flatbed trucks, and tractors and other special purpose farm vehicles. Treas. Reg. § 1.274-5(k)(2)(ii)(C), (F), (J), (Q). Respondent has previously conceded additional depreciation of $5,228 for each year with respect to a combine and an additional section 179 deduction of $9,800 with respect to a flatbed trailer for 2013.

Respondent argues that the depreciation and other deductions claimed in connection with petitioners' pickup trucks and other vehicles are subject to the strict substantiation requirements of section 274(d). Petitioners argue that section 274(d) is inapplicable to the pickup trucks because each was modified in some way to be used on the farm and was not likely to be used more than a de minimis amount for personal purposes. With respect to the 1995 Ford F250 and the 1999 Ford F350, the Court agrees. The 1995 Ford F250 had a bale stabber attached and was used exclusively to transport hay, and the 1999 Ford F350 was equipped with tools and equipment, including a torch, oil, and two 60-gallon fuel tanks. The Court finds that both were modified with the result that they were not likely to be used more than a de minimis amount for personal purposes and that the strict substantiation requirements of section 274(d) do not apply with respect to those two trucks.

The 2008 Ford F350 and the 2011 Ford F350 were both one-ton diesel engines that petitioners used to transport livestock between farms, to the veterinarian, or to market. Petitioners kept trailers

[*19] attached to both trucks at nearly all times, including a 24-foot flatbed and a 30-foot livestock trailer for transporting livestock to the veterinarian in the case of an emergency. On the basis of petitioners' credible testimony, as well as the weight and function of the vehicles and the attached trailers, the Court finds that strict substantiation requirements of section 274(d) do not apply with respect to the 2008 Ford F350 and the 2011 Ford F350.

With respect to the 1999 Dodge Dakota, which was equipped with mud tires, Mr. Hoakison testified that he used the truck primarily in the field and that it was not suitable for driving more than a few miles over roads. Petitioners also testified, however, that he used the 1999 Dodge Dakota to travel from farm to farm, as well as from the Home Place to the UPS office. Petitioners have not shown that the modifications to the 1999 Dodge Dakota were such that it was "not likely to be used more than a de minimis amount for personal purposes." Accordingly, the Court finds that the strict substantiation requirements of section 274(d) are applicable to the 1999 Dodge Dakota.

II. *Depreciation Deductions*

A. *Overview*

On Schedules F attached to their returns, petitioners claimed depreciation and section 179 deductions totaling $95,873, $95,741, and $75,888 for 2013, 2014, and 2015, respectively. Respondent disallowed depreciation totaling $59,761, $71,444, and $63,184 for 2013, 2014, and 2015, respectively. After concessions, the remaining amounts in dispute relate to 40 tractors, the machine shed, and two pickup trucks.

B. *Tractors*

Respondent disallowed claimed Schedule F depreciation and section 179 deductions totaling $30,831, $49,499, and $35,175 for 2013, 2014, and 2015, respectively, relating to a total of 40 tractors. Petitioners argue that they are entitled to depreciation deductions for the following tractors in the following amounts:

[*20]

	2013	*2014*	*2015*
D-17 tractor	$572	$572	$572
G Allis tractor	557	557	557
5020 AC tractor	357	357	357
D-15 tractor	357	357	357
D-19 tractor	571	571	571
Farm tractors[11]	2,603	2,603	2,603

Petitioners assert the following tractors purchased and placed in service in 2013 qualify for section 179 expense deductions:

Tractor	*Amount*
Ford NAA tractor	2,500
D-17 AC tractor	2,300
IH 284 tractor	3,100
Ford 1210 tractor	3,000
Oliver Super 55 tractor	3,330
D-17 diesel tractor	4,750
B Farmall tractor	2,700
Super C Farmall tractor	2,000

[11] The depreciation deductions for the "Farm tractors" claimed for 2013, 2014, and 2015 were calculated using a basis of $18,222. The parties have stipulated that the correct basis for those items is $14,500. The depreciation deductions should be adjusted accordingly.

[*21] Petitioners assert the following tractors purchased and placed in service in 2014 qualify for section 179 expense deductions:

Tractor	*Amount*
JD MT tractor	3,500
AC tractors	8,200
AC D-10 tractor	3,950
1954 Case SC tractor	3,450
1946 Farmall A tractor	3,450
Farmall 450 tractor	2,700
Oliver 66 tractor	5,000
Case DC tractor	2,500
JD 530 tractor	5,408
1954 Super H Farmall tractor	4,160

Petitioners assert the following tractors purchased and placed in service in 2015 qualify for section 179 expense deductions:

Tractor	*Amount*
Cub Farmall tractor	1,458
AC 210 tractor	7,020
1954 JD 70 tractor	3,848
1941 Farmall M tractor	3,848
JD 5020 tractor	8,000

[*22]

JD 730 tractor	1,137
1959 JD 630 tractor	497
AC D-21 tractor	1,786
1955 Ford 960	400

Respondent contends that petitioners are not entitled to the deductions because they have not established that the tractors were used in their business and, further, that they have failed to show that the tractors were not acquired for personal reasons. Respondent further contends that petitioners have not established their bases in the G Allis tractor and the 5020 AC tractor, both acquired in 2009 and for which depreciation deductions were claimed for all three years at issue.

Section 167(a) allows as a depreciation deduction a reasonable allowance for exhaustion and wear and tear (including a reasonable allowance for obsolescence) of property used in a trade or business or held for the production of income. Section 168(a) specifies that the amount allowed as a depreciation deduction under section 167(a) is determined by using the applicable depreciation method, the applicable recovery period, and the applicable convention. The basis on which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property is the adjusted basis as provided in section 1011. § 167(c).

A taxpayer may elect to deduct as a current expense the cost of section 179 property acquired and used in the active conduct of a trade or business and placed in service during the year. § 179(a), (b), (d)(1); Treas. Reg. § 1.179-4(a). Section 179 property includes tangible property (to which section 168 applies) that is section 1245 property which is acquired by purchase for use in the active conduct of a trade or business. § 179(d)(1). The deduction under section 179 is allowable for the tax year in which the qualifying property is placed in service. During the years at issue, qualifying property included used property purchased and placed in service. The aggregate cost of section 179 property was limited to $25,000 in 2015, but in 2010 through 2014, up to $500,000 of newly purchased business property per year could be expensed under section 179. § 179(b)(1).

When applying sections 167 and 179 in the context of particular items of property, the initial question is whether ownership and

[*23] maintenance of the property are related primarily to business or personal purposes. *Int'l Artists, Ltd. v. Commissioner*, 55 T.C. 94, 104 (1970); *Deihl v. Commissioner*, T.C. Memo. 2005-287, 2005 WL 3446081, at *10. If acquisition and maintenance of the property are associated primarily with profit-motivated purposes and any personal use is distinctly secondary and incidental, expenses and depreciation are deductible. *Deihl v. Commissioner*, 2005 WL 3446081, at *10. If, however, acquisition and maintenance is motivated primarily by personal considerations, deductions are disallowed. *Id.* Where substantial business and personal motives exist, allocation becomes necessary. *Id.*

Respondent contends that Mr. Hoakison is a collector of antique tractors and that the acquisition and maintenance of the 40 tractors in dispute were motivated primarily by personal considerations and served no business purpose. Respondent emphasizes the age of the tractors, pointing out that 37 of the 40 tractors in dispute were more than 40 years old at the time Mr. Hoakison purchased them, and that the remaining three tractors were between 27 and 34 years old at the time of purchase. Respondent underscores this argument by insisting that there "is obviously an element of nostalgia" involved, as the tractors were similar to those that Mr. Hoakison grew up using.

Further, respondent maintains that Mr. Hoakison could not have actually needed the number of tractors reported for the years at issue. Respondent argues that, because the work performed by each of the tractors acquired in the years at issue could also have been performed by the tractors acquired before 2013, the newly acquired tractors "clearly served no business purpose." Respondent alleges that there was no increase in petitioners' acreage or farm income that would suggest the acquisition of the additional tractors was necessary or beneficial. Finally, respondent contrasts petitioners, who farmed 482 acres during the years at issue, with Mr. Powell, who testified that he uses "five or six tractors" to farm approximately 240 acres.

Respondent's position glosses over or ignores many critical details of Mr. Hoakison's situation. Mr. Hoakison credibly testified that he used each of the tractors in his farm operation. At trial, petitioners introduced photographs of all of the tractors and their attachments and provided detailed testimony regarding their use on the farms. Mr. Hoakison explained that he buys older, used tractors because he can afford to purchase several tractors at a time, in cash and without incurring debt, while a single newer model tractor could cost $120,000 or more. Further,

[*24] Mr. Hoakison had a better understanding of the mechanics of older tractors, allowing him to perform most repairs and maintenance himself, saving time and avoiding the need to hire someone else to do so, as he would need to do with modern, more sophisticated tractors.

As to the number of tractors petitioners acquired, respondent fails to take into account the nature of petitioners' operation. Petitioners' farms consisted of five noncontiguous pieces of property located miles apart. Driving a tractor from the Home Place to one of the other farms could take between 45 and 60 minutes each way. Mr. Hoakison worked a full-time, often physically demanding job as a delivery driver. To make the best use of the limited time he had available to farm each day, he would leave his tractors at the different farms, rather than driving them from the Home Place and back, or from farm to farm, each day. Mr. Hoakison credibly testified that he would typically leave implements mounted to his tractors, essentially designating each tractor to a specific task.

Respondent's assertion that there was no increase in acreage that would possibly require more tractors in 2013, 2014, and 2015 is also misplaced. Respondent ignores that, in 2009, petitioners acquired two additional farms totaling almost 200 acres. Moreover, Mr. Hoakison underwent triple bypass surgery in 2011. Given the limitations on his time and physical capacity relatively soon after his acreage nearly doubled, the Court finds Mr. Hoakison's explanation credible. The fact that petitioners could have performed the same work with other tractors, as respondent argues, is inapposite to the question of deductibility, provided that the requirements of sections 167 and 168 are satisfied. Nowhere in the language of section 168 is there a suggestion that availability of the depreciation deduction is dependent on the ordinary, necessary, and reasonable requirements of section 162. *Noyce v. Commissioner*, 97 T.C. 670, 689–90 (1991); *see also Simon v. Commissioner*, 103 T.C. 247, 259 (1994), *aff'd*, 68 F.3d 41 (2d Cir. 1995); *Liddle v. Commissioner*, 103 T.C. 285, 292–93 (1994), *aff'd*, 65 F.3d 329 (3d Cir. 1995). The only requirement is that the depreciable property be used in the taxpayer's trade or business. *Noyce*, 97 T.C. at 690. The type or number of tractors whether new or used in the farm operation is within petitioners' business judgment, and it is not respondent's or the Court's role to second-guess that judgment or substitute its own unless the facts and circumstance require us to do so. *See Snow Mfg. Co. v. Commissioner*, 86 T.C. 260, 269 (1986).

[*25] The evidence shows, and the Court so finds, that petitioners purchased the tractors for use in their farming business and did so use them in the years at issue. With respect to the G Allis tractor and the 5020 AC tractor, both acquired in 2009, petitioners claimed depreciation deductions of $557 and $357, respectively, for each year at issue. Petitioners have not introduced any evidence to substantiate their bases in those items. Accordingly, petitioners have not demonstrated their entitlement to deduct the depreciation for those two items for each of the years at issue. Petitioners are therefore entitled to the depreciation and section 179 deductions, other than those attributable to the G Allis and 5020 AC tractors and subject to the adjustments to the bases of the "Farm tractors" discussed above.

C. *Machine Shed*

For each of the years at issue, petitioners claimed a depreciation deduction of $5,443 with respect to the machine shed. Respondent disallowed $2,771, or approximately 50% of that amount, for each year on the grounds that, because the costs of the tractors were personal and not business expenses, the portion of the machine shed in which they were stored was also personal. Having found, *supra*, that the tractors were purchased for and used in petitioners' farming operation, the Court also finds that the machine shed was used entirely for business purposes. Petitioners are entitled to the disallowed $2,771 depreciation deduction for each year at issue.

D. *Pickup Trucks*

Petitioners claimed, and respondent disallowed, depreciation deductions of $787, $787, and $394 with respect to a 1999 Dodge Dakota for 2013, 2014, and 2015, and $4,259 with respect to a 2011 Ford F350 pickup truck for each of the years at issue. Respondent contends that petitioners are not entitled to the depreciation deductions because they have not met the substantiation requirements of section 274(d) and have not shown that the vehicles were used in their farming operation.

Petitioners introduced into evidence receipts, credit card statements, and canceled checks relating to the use of the pickup trucks but acknowledge that they did not maintain a mileage log or other record of the vehicles' use. Petitioners argue that the claimed depreciation deductions should be allowed because the bases of the pickup trucks have been substantiated and they were used almost exclusively on the farm. With respect to the 2011 Ford F350, the Court agrees and will

[*26] allow the claimed depreciation for all three years. With respect to the 1999 Dodge Dakota, however, the strict substantiation requirements of section 274(d) are applicable, and petitioners' documentation is insufficient. Although the Court generally may estimate the amount of a deductible expense when the taxpayer shows that a deductible expense was incurred but is unable to substantiate the amount, *see Cohan v. Commissioner*, 39 F.2d 540, 543–44 (2d Cir. 1930), the Court may not use the *Cohan* doctrine to estimate expenses covered by section 274(d), *Sanford v. Commissioner*, 50 T.C. 823, 827–28 (1968), *aff'd per curiam*, 412 F.2d 201 (2d Cir. 1969); *Hough v. Commissioner*, T.C. Memo. 2006-58, 2006 WL 784856, at *2. The strict substantiation requirements must be satisfied before a deduction is allowable. Accordingly, petitioners are entitled to an additional depreciation deduction of $4,259 for each of the years at issue with respect to the 2011 Ford F350. Respondent's disallowance of the claimed depreciation deductions with respect to the 1999 Dodge Dakota is sustained.

III. *Disallowed Schedule F Expenses*

A. *Overview*

Respondent disallowed petitioners' reported Schedule F expenses as follows:

	2013	*2014*	*2015*
Utilities	$2,223	$2,306	$2,415
Insurance (other than health)	1,308	1,295	1,455
Gasoline, fuel, and oil	2,802	3,483	2,648
Other expenses	19,986	17,830	14,652
Repairs and maintenance	51,922	17,129	18,031

Section 162(a) allows a deduction for all ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business. An ordinary and necessary expense is one which is appropriate and helpful to the taxpayer's business and results from an activity that is common and accepted practice in the business. *Amdahl Corp. v. Commissioner*, 108 T.C. 507, 523 (1997); *Blossom Day Care Ctrs., Inc. v. Commissioner*, T.C. Memo. 2021-87, at *36. Whether a

[*27] payment qualifies as a deduction under section 162(a) is a factual issue which must be decided on the basis of all relevant facts and circumstances. *Commissioner v. Heininger*, 320 U.S. 467, 475 (1943). To prove entitlement to deduct an expense, the taxpayer must prove not only the fact of the expenditure but also the business purpose (or other deductible character) of the expense. "Business expenses deductible from gross income include the ordinary and necessary expenditures directly connected with or pertaining to the taxpayer's trade or business . . . ." Treas. Reg. § 1.162-1(a). The taxpayer must show that a reported business expense was incurred primarily for business rather than personal reasons and that there was a proximate relationship between the expense and the business. *Walliser v. Commissioner*, 72 T.C. 433, 437 (1979); *Rogers v. Commissioner*, T.C. Memo. 2014-141, at *18.

As discussed above, petitioners bear the burden of proving their entitlement to the disallowed expense deductions. *See* Rule 142(a); *Welch v. Helvering*, 290 U.S. at 115. Section 274(d) disallows any deduction for any listed property, including automobile expenses, unless the taxpayer substantiates by adequate records or sufficient evidence corroborating the taxpayer's own statement the amount, time, place, and business purpose of the expense. No deduction is allowed for personal, living, or family expenses. § 262(a).

B. *Utilities*

Petitioners deducted utilities expenses of $3,143, $3,254, and $3,432 reported on Schedules F attached to their returns for 2013, 2014, and 2015, respectively. Respondent disallowed $2,223, $2,306, and $2,415 of the claimed deductions for 2013, 2014, and 2015, respectively.

Petitioners' deductions for utilities included electricity, cell phone, internet, and water.[12] Petitioners did not maintain separate accounts for their farm and personal utilities but, instead, attempted to apportion them on their returns. Respondent does not dispute that the amounts in question were paid but only how petitioners apportioned them between personal and business.

Petitioners paid a total of $2,281, $2,717, and $2,559 to Alliant Energy for electricity in 2013, 2014, and 2015, respectively, and claimed deductions for 65% of those amounts, or $1,483, $1,766, and $1,663, for

[12] Petitioners do not raise any argument with respect to adjustment to the claimed internet or water expense deductions. The Court deems that petitioners have conceded those adjustments.

[*28] 2013, 2014, and 2015. Petitioners did not have separate electric meters to track their electricity use at home versus in the farm operation. Respondent allowed a deduction for 20% of the amounts paid and disallowed the difference.

When a taxpayer establishes that he has paid deductible expenses but is unable to substantiate the exact amounts, the Court may estimate the deductible amounts, bearing heavily upon the taxpayer whose inexactitude is of his own making. *See Cohan v. Commissioner*, 39 F.2d at 543–44. Petitioners' home is over 100 years old, does not have air conditioning, and is heated by propane, while the farm requires substantial electricity to run the water pump, the hydrants, the machine shed, the power tools, and the heater for cattle water. The Court agrees with petitioners that their electricity use in their farming operation was substantial in comparison to their use in their home; and, applying the principles of *Cohan*, the Court agrees that petitioners are entitled to a deduction of 65% of the amount paid for electricity for each year, or $1,483, $1,766, and $1,663 for 2013, 2014, and 2015, respectively. Accordingly, petitioners are entitled to deductions in excess of those amounts respondent allowed of $1,027, $1,223, and $1,151 for electricity.

With respect to petitioners' reported cell phone expenses, the parties agree that petitioners paid $1,985, $1,634, and $2,235 to Chat Mobility for cellular phone service in 2013, 2014, and 2015, respectively. Petitioners claimed 60% of those amounts as utilities on Schedule F but concede on brief that they are entitled to deduct no more than 43.3% of the amounts paid. Respondent allowed a deduction for 16.7% of the payments, allocating one-third of the expense to Mr. Hoakison, allowing a deduction for 50% of that amount for each year, and disallowing the remaining amounts.

Petitioners' cell phone bills covered three phone lines: one for Mr. Hoakison, one for Mrs. Hoakison, and one for Mrs. Hoakison's mother. Petitioners did not maintain any log or records regarding their cell phone use, however, but estimate that Mr. Hoakison used his phone 75% to 80% for business purposes, Mrs. Hoakison used hers 50% for business purposes, and that Mrs. Hoakison's mother's phone use was not business related. Mrs. Hoakison testified that her business use of the phone was "probably 50[%]", and Mr. Hoakison testified that he used his phone almost exclusively for business. The Court found petitioners' testimony

[*29] credible. Under the principles of *Cohan*,[13] bearing against petitioners whose inexactitude is of their own making, the Court finds that they are entitled to deduct 33.3% of the total cell phone use. That amount represents allocation of one-third of the total cell phone expenses to each individual line, with business use of 75% by Mr. Hoakison, business use of 25% by Mrs. Hoakison, and no business use by Mrs. Hoakison's mother. Accordingly, petitioners are allowed deductions of $330, $271, and $371 above those amounts allowed by respondent for 2013, 2014, and 2015, respectively.

On the basis of the foregoing, the Court holds that petitioners are entitled to additional Schedule F deductions for utilities of $1,357, $1,494, and $1,522 in excess of those amounts respondent allowed or otherwise conceded for 2013, 2014, and 2015, respectively.

C. *Insurance*

Generally, premiums paid on insurance policies are deductible if the insurance coverage is ordinary and necessary for a taxpayer's trade or business, Treas. Reg. § 1.162-1(a), but no deduction is allowed for insurance with respect to property that is not used in a trade or business, *Rogers*, T.C. Memo. 2014-141, at *30. Respondent disallowed claimed Schedule F insurance (other than health) expense deductions of $1,308, $1,295, and $1,455 for 2013, 2014, and 2015, respectively. After concessions by both parties,[14] two items remain in dispute for each year: payments of $410, $426, and $542 to State Farm, representing 50% of the insurance payments for the machine shed in 2013, 2014, and 2015, respectively; and payments of $201, $229, and $229 to State Farm for an umbrella policy in 2013, 2014, and 2015, respectively. The parties agree that these amounts were in fact paid; at issue is their deductibility as business expenses.

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[13] Although the Court may not approximate business expenses that are subject to the strict substantiation requirements of section 274(d), *Boyd v. Commissioner*, 122 T.C. 305, 320 (2004), section 274(d) does not apply to cell phone or internet expenses, *see* Small Business Jobs Act of 2010, Pub. L. No. 111-240, § 2043(a), 124 Stat. 2504, 2560 (removing cell phones from the definition of section 280F(d)(4) listed property for tax years beginning after December 31, 2009); *Kellett v. Commissioner*, T.C. Memo. 2022-62, at *8 n.10.

[14] Respondent concedes that petitioners are entitled to additional Schedule F deductions for insurance (other than health) of $640, $640, and $676 for 2013, 2014, and 2015, respectively, and petitioners concede $57 and $8 for 2013 and 2015, respectively.

[*30] As with other disallowed deductions relating to the machine shed, respondent disallowed the insurance payments on the basis that petitioners' tractors were personal expenditures, rather than business expenses. Having found *supra* that the tractors were purchased for and used in petitioners' farm operation, the Court holds the payments for insurance on the machine shed were appropriately claimed as business expense deductions.

Respondent determined that petitioners' umbrella insurance policy payments were nondeductible personal expenses because the policy covered all potential liability, regardless of whether personal or business, and the $1 million amount covered more than their regular home policy. Petitioners argue that the coverage extended beyond home coverage and that they purchased the insurance to protect against farm catastrophes. Petitioners maintain a farming operation that includes over 400 acres of land, heavy machinery, and a cattle herd of over 30 head of cattle, and maintaining an insurance policy to protect against potential liability is a common business expense. Because the insurance covered both personal and business liability, however, the Court must allocate the expense. The size and value of the farming operation far exceeding that of petitioners' home (which was already covered by petitioners' homeowners insurance policy), the Court concludes that 75% of the umbrella policy premiums were business-related expenses.

The Court holds that petitioners are entitled to Schedule F deductions for insurance (other than health) of $560.75, $597.75, and $713.75 above the amounts respondent allowed in the notice or otherwise conceded.

D. *Gasoline, Fuel, and Oil*

Petitioners claimed Schedule F deductions for gasoline, fuel, and oil expenses of $9,724, $9,306, and $7,074 for 2013, 2014, and 2015, respectively. Respondent determined that petitioners were entitled to deduct $6,922, $5,823, and $4,426 for 2013, 2014, and 2015, respectively, but disallowed payments to Farmers Cooperative Co. for ethanol totaling $1,233 in 2013, $785 in 2014, and $1,022 in 2015, for highway diesel totaling $2,142 in 2013, $3,141 in 2014, and $3,646 in 2015, and for unleaded gasoline totaling $215 in 2013.[15] Petitioners further claim

[15] Respondent concedes that petitioners are entitled to a fuel expense deduction of $374 for ag diesel purchased from Farmers Cooperative Co. in 2014, over and above the $5,823 that was allowed in the Notice.

[*31] that they are entitled to additional fuel expense deductions of payments totaling $494 to True Value for propane and payments of $119 to Farm and Home in 2013 and two payments totaling $84 to Pokorny BP for oil and filter in 2015.

Mr. Hoakison testified that he used the ethanol for his smaller tractors and the 1999 Dodge Dakota, while the highway diesel was used for a semi-truck and the four Ford pickup trucks. The evidence supports Mr. Hoakison's testimony, and the Court finds that he is entitled to the claimed deductions for the highway diesel. As discussed above, however, the strict substantiation requirements of section 274(d) are applicable to the 1999 Dodge Dakota, and petitioners have not provided the requisite evidence to satisfy those requirements. Petitioners thus have not demonstrated that they are entitled to the deductions for the ethanol.

Nor have petitioners provided sufficient evidence to satisfy the strict substantiation requirements for the unleaded gasoline purchases or the 2015 oil and filter purchases. With respect to the $494 and $119 payments in 2013, Mr. Hoakison testified that the propane was used for the space heater in his machine shed and cutting torch and the $119 was for grease. The Court accepts Mr. Hoakison's testimony on these points and will allow those deductions. Accordingly, the Court holds that petitioners are entitled to additional deductions for gasoline, fuel, and oil expenses of $2,755, $3,141, and $3,646 for 2013, 2014, and 2015, respectively.

E. *Other Expenses*

Respondent disallowed deductions for Schedule F "other expenses" of $19,986, $17,830, and $14,652 for 2013, 2014, and 2015, respectively. After concessions by both parties,[16] the amounts still in dispute are pickup truck and other vehicle expenses, including insurance and license and registration fees, totaling $15,504, $14,361, and $8,750 for 2013, 2014, and 2015, respectively, and payments for

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[16] Respondent concedes that petitioners are entitled to additional Schedule F deductions for other expenses totaling $2,798, $1,913, and $1,568 for 2013, 2014, and 2015, respectively. Petitioners concede Schedule F deductions for other expenses totaling $1,627, $1,463, and $1,460 for 2013, 2014, and 2015, respectively. Petitioners additionally concede that they are not entitled to any of the claimed deductions related to the 2004 Lincoln Navigator or the 2014 Navigator.

[*32] magazine subscriptions totaling $57, $93, and $155 for 2013, 2014, and 2015, respectively.

The vehicle and pickup truck expenses for 2013 include payments to State Farm, EMC Insurance, and the Union County Treasurer with respect to those vehicles as follows:

Amount	*Payee*	*Vehicles*
$1,102	State Farm	1995 Ford F250 1999 Ford F350 2011 Ford F350
2,578	EMC Insurance	various
520	Union County Treasurer	1995 Ford F250 2008 Ford F350 2011 Ford F350

The automobile and pickup truck expenses for 2014 include payments to State Farm, Farmers Mutual,[17] and the Union County Treasurer with respect to petitioners' vehicles as follows:

Amount	*Payee*	*Vehicle*
$1,011	State Farm	1995 Ford F250 1999 Ford F350 2011 Ford F350
2,924	Farmers Mutual	various
50	Union County Treasurer	1999 Dodge Dakota
520	Union County Treasurer	1995 Ford F250 2008 Ford F350 2011 Ford F350

The automobile and pickup truck expenses for 2015 include payments to State Farm, Farmers Mutual, and the Union County Treasurer with respect to petitioners' vehicles as follows:

[17] Petitioners changed their insurance carrier from EMC to Farmers Mutual beginning in 2014.

[*33]

Amount	*Payee*	*Vehicle*
$884	State Farm	1995 Ford F250 1999 Ford F350 2011 Ford F350
61	State Farm	1992 Chevy S10
2,950	Farmers Mutual	various
50	Union County Treasurer	1999 Dodge Dakota
440	Union County Treasurer	2008 Ford F350 2011 Ford F350

The Court held *supra* that the strict substantiation requirements of section 274(d) are not applicable to the 1995 Ford F250, the 1999 Ford F350, which served as Mr. Hoakison's tool truck, the 2008 Ford F350, or the 2011 Ford F350. Petitioners have demonstrated the business use and purpose of those vehicles, and the payments to State Farm and the Union County Treasurer with respect to those vehicles will be allowed as deductions. The strict substantiation requirements are applicable to the 1999 Dodge Dakota, however, and petitioners have not satisfied those requirements. They have not provided sufficient substantiation of the business use of the vehicle. Accordingly, those deductions will not be allowed. Similarly, petitioners have not introduced any information regarding the use of the 1992 Chevy S10, and respondent's disallowance of a deduction for the insurance payment for that vehicle is also sustained.

With respect to the payments to Farmers Mutual, petitioners introduced into evidence pages from a 2015 invoice showing $1,492 due and bank records showing payment of the invoice. The invoice lists several vehicles and other equipment covered by the policy, but petitioners have not introduced any additional evidence connecting those items with the farming operation or, in the case of the vehicles, have not satisfied the requirements of section 274(d). On the basis of the invoice and petitioners' other records, the Court will allow an additional deduction of $36, representing the premiums paid for equipment designated on the invoice as "Farm Use Only." The remaining amounts paid to EMC and Farmers Mutual are disallowed.

[*34] The remaining vehicle expenses relate to items charged on petitioners' Discover credit card, the bulk of which were at Casey's General Store in Creston, Iowa. Petitioners argue that these amounts represented fuel and other purchases related to their vehicles. However, they did not introduce receipts or other evidence demonstrating what those charges represent or allocating the fuel purchases among their personal and business vehicles. Although Mrs. Hoakison documented the purchases in her ledger, the ledgers do not provide sufficient detail to allow the Court a basis for allocation.

Finally, respondent disallowed petitioners' claimed deductions of $57, $93, and $155 for the cost of magazine subscriptions to *Farm Show* in 2013, *Ageless Iron Almanac* and *Farm Show* in 2014, and *Farm Show*, *Farm Collector*, and *Ageless Iron Almanac* in 2015, respectively. Mr. Hoakison testified that he used the magazines for information about farming, tractors, and tractor maintenance. On review of the evidence, the Court will allow deductions of $50 and $20 for 2014 and 2015, respectively, for the cost of *Ageless Iron Almanac*. The Court finds that petitioners have not sufficiently demonstrated that the remaining amounts were not personal expenses and will disallow the deductions.

Petitioners are entitled to deductions for other expenses of $1,622, $1,581, and $1,380 over and above those amounts respondent allowed in the notice or otherwise conceded for 2013, 2014, and 2015, respectively.

F. *Repairs and Maintenance*

The parties have made significant concessions regarding the reported Schedule F repairs and maintenance expenses and agree that several of the items were not repairs or maintenance but capital improvements that should be added to the basis of the machine shed and depreciated.[18] After concessions, payments totaling $20,335.73 for 2013, $11,758.93 for 2014, and $15,032.74 for 2015 remain in dispute. There is no dispute that the amounts in question were paid, only whether the

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[18] Petitioners concede $30,522, $16, and $1,102 for 2013, 2014, and 2015, respectively, and respondent concedes $2,134, $3,239, and $728 for 2013, 2014, and 2015, respectively. The conceded amounts include disallowed repairs expense deductions of $2,979 for electrical work and $16,408 for the pouring of concrete for the floor of the machine shed for 2013 and 2014, respectively, for which respondent allowed depreciation deductions for 2013, 2014, and 2015, and a deduction of $7,500 for a bale processor purchased in 2013, which was claimed on Schedule F as both a repairs expense and a depreciation deduction. On brief, petitioners concede an additional $315, $2,115, and $1,168 for 2013, 2014, and 2015, respectively, on the basis of Mr. Hoakison's testimony at trial.

[*35] payments were business rather than personal expenses. Respondent's primary contention is that petitioners have not demonstrated the business purpose of the expenses and, more specifically, the expenses that related to tractor parts and maintenance lacked specificity as to which tractor the purchases pertained to.

At trial Mr. Hoakison testified as to the nature of the purchases, nearly all of which related to parts, labor, or other expenses for the maintenance of petitioners' tractors and other farm equipment. Mr. Hoakison identified a number of payments as personal expenditures, and petitioners have conceded those amounts. *See supra* note 18. Mr. Hoakison also identified a payment of $715.77 to Schildberg Construction in 2013 as payment for gravel for the machine shed, and payments totaling $4,473.11 to Menard's in 2014 as payments for building materials to install insulation in the machine shed. The Court has found *supra* that the tractors at issue and the machine shed were used in petitioners' farm operation. On the basis of Mr. Hoakison's testimony and the other evidence in the record, the Court finds that petitioners have demonstrated entitlement to additional repairs and maintenance expense deductions of $19,619.96, $7,285.82, and $15,032.74 for 2013, 2014, and 2015, respectively. In addition, the amounts expended on improvements to the machine shed, $715.77 and $4,473.11 in 2013 and 2014, respectively, are business related, but represent capital improvements that should be depreciated rather than deducted, consistent with the parties' treatment of the related work on the machine shed.

IV. *Penalties*

A. *Burden of Production*

Respondent determined that petitioners are liable for section 6662(a) accuracy-related penalties on the basis of underpayments due to substantial understatements of income tax for the years at issue. Section 6662(a) and (b)(2) imposes a 20% accuracy-related penalty on any portion of an underpayment of tax required to be shown on a return if the underpayment is attributable to a substantial understatement of income tax. An understatement of income tax is a "substantial understatement" if it exceeds the greater of 10% of the tax required to be shown on the return or $5,000. § 6662(d)(1)(A). Taxpayers may avoid a section 6662(a) penalty if they can show that they had reasonable cause for the underpayments and acted in good faith. § 6664(c)(1).

[*36] The Commissioner bears the burden of production with respect to an individual taxpayer's liability for any penalty, requiring the Commissioner to come forward with sufficient evidence indicating that the imposition of the penalty is appropriate. *See* § 7491(c); *Higbee*, 116 T.C. at 446–47. As part of that burden, the Commissioner must produce evidence that he complied with the procedural requirements of section 6751(b)(1). *See Graev v. Commissioner*, 149 T.C. 485, 492–93 (2017), *supplementing and overruling in part* 147 T.C. 460 (2016). Section 6751(b)(1) requires the initial determination of certain penalties to be "personally approved (in writing) by the immediate supervisor of the individual making such determination." *See Graev*, 149 T.C. at 492–93; *see also Clay v. Commissioner*, 152 T.C. 223, 248 (2019) (quoting section 6751(b)(1)), *aff'd*, 990 F.3d 1296 (11th Cir. 2021).

Where the taxpayer has challenged the Commissioner's penalty determination, the Commissioner must come forward with evidence of penalty approval as part of his initial burden of production under section 7491(c). *Frost v. Commissioner*, 154 T.C. 23, 34 (2020). Once the Commissioner makes that showing, the taxpayer must come forward with contrary evidence. *Id.* The supervisory approval must be secured no later than (1) the date on which the IRS issues the notice of deficiency or (2) the date, if earlier, on which the IRS formally communicates to the taxpayer the Examination Division's determination to assert a penalty.[19] *Belair Woods, LLC v. Commissioner*, 154 T.C. 1, 15 (2020). The written supervisory approval of an initial penalty determination is not required to take any specific form. *See Palmolive Bldg. Invs., LLC v. Commissioner*, 152 T.C. 75, 85–86 (2019).

The parties agree that the April 3, 2017, 30-day letter with RA Smith's examination report embodied the initial determination that assertion of the penalties in this case was warranted, and petitioners do

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[19] In *Kroner v. Commissioner*, 48 F.4th 1272 (11th Cir. 2022), *rev'g in part* T.C. Memo. 2020-73, the U.S. Court of Appeals for the Eleventh Circuit disagreed with the Tax Court regarding the timing of the section 6751(b) approval requirement. The Eleventh Circuit concluded that "the IRS satisfies [s]ection 6751(b) so long as a supervisor approves an initial determination of a penalty assessment before it assesses those penalties." *Id.* at 1276; *see also Laidlaw's Harley Daivdson Sales, Inc. v. Commissioner*, 29 F.4th 1066, 1071 (9th Cir. 2022) (finding agent's timely approval where supervisor signed approval nearly three months after revenue agent's formal communication of proposed section 6707A penalty but before assessment), *rev'g and remanding* 154 T.C. 68 (2020). The U.S. Court of Appeals for the Eighth Circuit has not directly addressed the timing requirement under section 6751(b). Because the immediate supervisor's signature on the 30-day letter is timely under either standard, the Court does not address the potential conflict.

[*37] not claim that respondent formally communicated his initial penalty determination before April 3, 2017. Petitioners contend that respondent has failed to satisfy his burden of production, arguing that no supervisory approval was obtained for the penalties. When the 30-day letter was sent, Ms. Roberts had not signed the Civil Penalty Approval Form and when she did so, on June 5, 2017, she was on temporary detail and no longer RA Smith's immediate supervisor. This Court has previously found, however, that a supervisor's signature on a cover letter sent to a taxpayer along with an examination report is sufficient to satisfy the written supervisory approval requirement. *See, e.g.*, *PBBM-Rose Hill, Ltd. v. Commissioner*, 900 F.3d 193, 213 (5th Cir. 2018); *Flume v. Commissioner*, T.C. Memo. 2020-80, at *34. Ms. Roberts signed the 30-day letter, which included the examination report explaining the determination of penalties for substantial understatements, before RA Smith's providing it to petitioners. Accordingly, the supervisory approval requirement of section 6751(b) has been satisfied.

Petitioners reported income tax of $3,343, $4,021, and $3,666 for 2013, 2014, and 2015, respectively. Even allowing for the adjustments the Court has made to respondent's determinations, petitioners' understatements of income tax were substantial for all years at issue. Accordingly, respondent's burden of production has been met, and petitioners now bear the burden of showing that respondent's determination is incorrect or that they had reasonable cause for the understatements. *See Higbee*, 116 T.C. at 446–47.

B. *Reasonable Cause*

Petitioners argue that they should not be liable for the penalties because they acted in good faith and reasonably relied on the advice of Mr. Powell. Section 6664(c)(1) provides that the accuracy-related penalty shall not be imposed with respect to any portion of an underpayment "if it is shown that there was a reasonable cause for such portion and that the taxpayer acted in good faith" with respect to it. The decision as to whether the taxpayer acted with reasonable cause and in good faith is made on a case-by-case basis, considering all pertinent facts and circumstances. *See* Treas. Reg. § 1.6664-4(b)(1). Generally, the most important factor in determining the existence of reasonable cause is the taxpayer's effort to ascertain his or her correct tax liability. *Id.* Circumstances that may signal reasonable cause and good faith "include an honest misunderstanding of fact or law that is reasonable in light of

[*38] all of the facts and circumstances, including the experience, knowledge, and education of the taxpayer." *Id.*

A taxpayer acts with reasonable cause when he or she exercises ordinary business care and prudence with respect to a disputed tax item. *Neonatology Assocs., P.A. v. Commissioner*, 115 T.C. 43, 98 (2000), *aff'd*, 299 F.3d 221 (3d Cir. 2002). Good-faith reliance on the advice of an independent, competent professional as to the tax treatment of an item may meet this requirement. *See* Treas. Reg. § 1.6664-4(b)(1). A taxpayer acts in good faith when he or she acts upon honest belief and with intent to perform all lawful obligations. *See Rutter v. Commissioner*, T.C. Memo. 2017-174, at *45.

A taxpayer alleging reasonable, good-faith reliance on the advice of an independent, competent professional must prove that (1) the adviser was a competent professional who had 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.*, 115 T.C. at 99. A taxpayer's unconditional reliance on an otherwise qualified professional does not constitute reasonable reliance in good faith for purposes of section 6664(c)(1). *See Stough v. Commissioner*, 144 T.C. 306, 323 (2015). A taxpayer asserting reasonable reliance must show that the opinion of a qualified adviser considered all facts and circumstances and was not based on unreasonable facts or legal assumptions. Treas. Reg. § 1.6664-4(c)(1).

1. *Competent Tax Adviser*

There is no precise threshold of competence that a tax adviser must have to justify a taxpayer's reliance. Rather, the Court looks for expertise in the context of the facts of each case. *CNT Invs., LLC v. Commissioner*, 144 T.C. 161, 224 (2015); *see also 106 Ltd. v. Commissioner*, 136 T.C. 67, 77 (2011) (finding the taxpayer's longtime attorney and accounting firm, who "would have appeared competent to a layman," and especially so to the taxpayer, had adequate expertise), *aff'd*, 684 F.3d 84 (D.C. Cir. 2012); *Rogerson v. Commissioner*, T.C. Memo. 2022-49, at *35.

Examining the facts in this case, the Court finds that Mr. Powell was a competent tax adviser with sufficient expertise to justify petitioners' reliance. Mr. Powell held a master's degree in agricultural education and had decades of experience assisting farmers with

[*39] economic and financial matters, including preparing income tax returns for farmers since 1981. He had met Mr. Hoakison nearly 50 years earlier and had prepared petitioners' returns for nearly 30 years. He was familiar with petitioners' personal and business affairs through his long relationship with them and provided detailed instruction on what information they would need to collect for their tax returns each year. Nothing in the record indicates that petitioners had any reason to doubt his competence to provide the advice they sought.

2. *Provision of Information*

To satisfy the second requirement of reasonable reliance, the taxpayer must provide necessary and accurate information to the adviser. *See Alt. Health Care Advocs. v. Commissioner*, 151 T.C. 225, 246 (2018); *Rogerson*, T.C. Memo. 2022-49, at *35. This element requires that the taxpayer disclose all facts that he knows, or reasonably should know, are relevant to the proper tax treatment of an item. *See* Treas. Reg. § 1.6664-4(c)(1)(i).

Mr. Powell taught Mrs. Hoakison how to track income and expenses related to their farm, and Mrs. Hoakison maintained detailed records based on his instruction. Each year, Mr. Powell provided petitioners with a yearend tax worksheet, which asked for information concerning farm income and expenses, including depreciation, and petitioners dutifully filled it out before their annual appointment with Mr. Powell. Petitioners supplied Mr. Powell with everything that he requested from them and withheld nothing that they or Mr. Powell believed relevant to the preparation of their returns.

3. *Good Faith Reliance on Advice*

The last requirement is that a taxpayer must have actually received advice and relied upon it in good faith. *Neonatology Assocs., P.A.*, 115 T.C. at 99. Good faith, or lack thereof, is determined by looking at all of the facts and circumstances in the case, including the taxpayers' "experience, knowledge, and education." Treas. Reg. § 1.6664-4(b)(1).

Petitioners are farmers with no training or educational background in accounting or tax return preparation. Mr. Hoakison has a high school education. They retained Mr. Powell to prepare their returns for nearly three decades and followed his instructions regarding tracking of expenses and the depreciation of their tractors and other equipment. Mr. Powell credibly testified that petitioners followed his instructions.

[*40] With respect to the items for which petitioners claimed depreciation deductions, despite having previously expensed them under section 179, the Court finds that petitioners' reliance was not reasonable. Petitioners knew or should have known that the claimed depreciation deductions, totaling $16,674 for each year at issue, were duplicates and were not proper. Petitioners are liable for the penalties with respect to portions of the underpayment attributable to those adjustments. With respect to the remaining adjustments, however, in view of the above considerations, the Court holds that petitioners had reasonable cause and acted in good faith.

V. *Conclusion*

Petitioners are liable for deficiencies for 2013, 2014, and 2015 to the extent discussed herein. Petitioners are not liable for the penalties to the extent discussed herein.

The Court has considered all of the arguments made by the parties, and to the extent they are not addressed herein, they are considered moot, irrelevant, or otherwise without merit.

To reflect the foregoing,

Decision will be entered under Rule 155.