

Personal Use of Inmate Food Fund Is Taxable Income to Sheriff

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A former Alabama sheriff who used government funds earmarked to feed inmates to defend her prior withdrawal of \$160,000 of those funds must pay tax on that income, the Tax Court ruled.

In a January 22 [memorandum opinion](#) in *Franklin v. Commissioner*, Tax Court Judge Elizabeth Crewson Paris found that nearly \$45,000 in personal legal and other expenses petitioner Ana M. Franklin paid from the inmate food fund weren't gross income from a trade or business and weren't deductible expenses.

Franklin was the elected sheriff of Morgan County, Alabama, from 2011 to 2019. As sheriff, she was responsible for using funds received from federal and state governments to ensure that inmates at the Morgan County Jail were properly fed, according to the opinion.

Franklin included Schedule C with her 2018 tax return, listing her business as "Sheriff's Jail Food Account." She claimed \$44,967 she had withdrawn from the inmate food fund account as gross income to the business and offsetting expenses totaling \$44,967. The expenses were for accounting fees for preparing Franklin's personal tax returns and legal fees incurred in investigations of the \$160,000 withdrawal in 2015, the court found.

Paris concluded that Franklin wasn't engaged in the operation of a trade or business when she operated the jail food account and used those funds to pay her legal and professional expenses.

However, the court found that Franklin's 2015 withdrawal should be considered an unauthorized loan of \$155,000 from the food funds, later repaid, and not taxable embezzlement income to her, as the IRS had claimed. Because it was a loan, she wasn't entitled to a net operating loss carryback for its repayment, the court ruled.

Investing Public Funds

In June 2015 Franklin withdrew \$160,00 from an account established with federal, state, and county funds to provide food for inmates at the Morgan County Jail, according to the opinion. The withdrawal was made through cashier's checks in Franklin's name.

On the advice of her then-boyfriend, Steve Ziaja, Franklin transferred \$150,000 of the money to Princeville Partners LLC as a short-term investment, the court found. The company, a used car and title loan business, represented that it would repay the money in 30 days and pay 17 percent interest.

Princeville Partners didn't issue a promissory note memorializing those terms, didn't return the funds, and didn't pay the interest, according to the opinion. In March 2016 the company filed for bankruptcy protection.

Ziaja repaid the \$150,000 as guarantor on behalf of Princeville Partners in December 2016, the court found.

An Alabama court presiding over a preexisting class action consent decree governing the Morgan County Jail food funds held Franklin in contempt for her 2015 diversion of the funds. However, because of the repayment, she received a nominal fine.

Franklin pleaded guilty in January 2019 to a federal misdemeanor charge of failing to file a tax return for 2015. She was sentenced to two years of probation.

The petitioner in *Franklin v. Commissioner*, T.C. Memo. 2025-8, was represented by William P. Gray Jr. of Bill Gray & Associates LLC.

DOCUMENT ATTRIBUTES

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