

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 21896
[Redacted])	
Petitioner.)	DECISION
)	
_____)	

On April 29, 2009, the Revenue Operations division of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer) proposing additional income tax for the taxable year 2008 in the amount of \$185.

The taxpayer filed a timely appeal. He did not request a hearing. The Tax Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

The sole issue for the decision is whether the taxpayer is entitled to a dependency exemption deduction for [Redacted] and [Redacted], the children of [Redacted], who reside with the taxpayer.

Deductions are a matter of legislative grace, and taxpayers bear the burden of proving that they are entitled to the deductions claimed. INDOPCO, Inc. v. Commissioner, 503 U.S. 79, 84, 112 S.Ct. 1039, 117 L.Ed.2d 226 (1992); New Colonial Ice Co. v. Helvering, 292 U.S. 435, 440, 54 S.Ct. 788, 78 L.Ed. 1348 (1934). Internal Revenue Code (IRC) section 151(c) allows a taxpayer a deduction of the exemption amount for each dependent as defined in IRC section 152.

Under IRC section 152(a), the term “dependent” means a qualifying child or qualifying relative. A qualifying child is defined as an individual who (1) bears a certain relationship to the taxpayer, such as the taxpayer’s child; (2) has the same principal place of abode as the taxpayer for more than one-half of the taxable year; (3) meets certain age requirements; and (4) has

provided over one-half of the individual's own support for the taxable year. IRC section 152(c)(1)-(3). A qualifying relative is defined as an individual (1) who bears a certain relationship to the taxpayer, such as the taxpayer's child or grandchild; (2) whose gross income for the taxable year is less than the exemption amount; (3) with respect to whom the taxpayer provides over one-half of the individual's support for the taxable year; and (4) who is not a qualifying child of the taxpayer or of any other taxpayer for the taxable year. IRC section 152(d)(1) and (2).

To claim a dependent exemption, the taxpayer must show he has either a qualifying child or a qualifying relative. Regarding a qualifying child, the taxpayer does not meet the relationship requirement. As for meeting the requirements for a qualifying relative of the taxpayer, the taxpayer failed to show that he provided over one-half of [Redacted] and [Redacted] support for the taxable year. The taxpayer has also failed to show that either child's principal place of abode was with him for more than one-half the taxable year. The taxpayer has not carried the burden of proving [Redacted] or [Redacted] were his qualifying relatives in 2008.

Because the taxpayer has failed to establish that [Redacted] or [Redacted] were either a qualifying child or qualifying relative for purposes of IRC section 152, the Tax Commission finds that the taxpayer is not entitled to a dependency exemption for either child in 2008. And since the taxpayer is not entitled to the dependency exemptions, the taxpayer cannot claim an additional grocery credit for [Redacted] or [Redacted] per Idaho Code section 63-3024A.

WHEREFORE, the Notice of Deficiency Determination directed to [Redacted] dated April 29, 2009, is APPROVED, AFFIRMED, and MADE FINAL.

The additional tax has been collected; no DEMAND for payment is required or necessary.

An explanation of the taxpayer's right to appeal this decision is enclosed.

DATED this _____ day of _____, 2009.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2009, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

Receipt No.