

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

|   |   |                  |
|---|---|------------------|
| In the Matter of the Protest of           | ) |                  |
|   | ) | DOCKET NO. 22072 |
| [Redacted]                                | ) |                  |
| Petitioner.                               | ) | DECISION         |
|   | ) |                  |
|   | ) |                  |
| <hr style="width: 40%; margin-left: 0;"/> | ) |                  |

On July 10, 2009, the staff of the Taxpayer Accounting section of the Revenue Operations Division of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayer) proposing additional income tax and interest for taxable year 2008 in the total amount of \$181.08.

The taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not respond to the Tax Commission's hearing rights letter and has provided nothing further for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayer timely filed his 2008 Idaho individual income tax return. During the processing of the taxpayer's return, the Taxpayer Accounting section (Taxpayer Accounting) found that the taxpayer claimed a dependent exemption for an individual ([Redacted]) that filed an income tax return and claimed herself on her return. Taxpayer Accounting sent the taxpayer a tax correction notice, which the taxpayer protested.

The taxpayer stated he believed [Redacted] had no income, they lived in the same household the entire year of 2008, and he provided well over half of her support in 2008. He stated that because of these facts, [Redacted] qualified as a qualifying relative as provided in the Internal Revenue Code. The taxpayer stated that [Redacted] told him no one else had the right to

claim her, since she was a widow for the past five years and only lived with him in 2008. Taxpayer Accounting reviewed the information and sent the matter for administrative review.

The Tax Commission reviewed the matter and sent the taxpayer a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayer failed to respond to the Tax Commission's hearing rights letter or its follow-up letter, so the Tax Commission decided the matter based upon the information available.

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.

The taxpayer stated he provided over half of the support for [Redacted] and he has the right to claim her as a dependent. IRC section 152 defines a dependent as either a "qualifying child" or a "qualifying relative." The taxpayer stated that [Redacted] meets the requirements for a qualifying relative.

IRC section 152(d) defines a qualifying relative as an individual: (1) who bears a certain relationship to the taxpayer, such as an individual who has the same principal place of abode as the taxpayer and is a member of the taxpayer's household; (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. See IRC section 152(d)(1) and (2).

Therefore, for [Redacted] to be the taxpayer's qualifying relative, she must meet all the above criteria. According to the taxpayer, [Redacted] principal place of abode was the same as his, [Redacted] had no income, he provided for over half of [Redacted] support, and [Redacted] was not a qualifying child since she has been widowed for five years. However, the taxpayer failed to provide any support for those claims and, therefore, he has not met his burden of proof. INDOPCO, Inc. v. Commissioner, supra; New Colonial Ice Co. v. Helvering, supra. Furthermore, [Redacted] filed an income tax return which showed she had income greater than the exemption amount.

Because the taxpayer failed to support his claim that [Redacted] was a qualifying relative for purposes of IRC section 152, and more importantly, because [Redacted] filed a return that reported she had income in excess of the exemption amount, the Tax Commission finds that the taxpayer is not entitled to a dependent exemption deduction for [Redacted] for 2008. And since the taxpayer is not entitled to the dependent exemption, the taxpayer cannot claim an additional grocery credit for [Redacted] per Idaho Code section 63-3024A.

WHEREFORE, the Notice of Deficiency Determination dated July 10, 2009, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax and interest:

| <u>YEAR</u> | <u>TAX</u> | <u>INTEREST</u> | <u>TOTAL</u> |
|-------------|------------|-----------------|--------------|
| 2008        | \$177      | \$ 2            | \$179        |
|             |            | Less Remittance | <u>(179)</u> |
|             |            | Balance Due     | <u>\$ 0</u>  |

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioner'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.