

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 22135
[REDACTED]	)	
Petitioner.	)	DECISION
	)	
_____	)	

On July 14, 2009, the staff of the Revenue Operations Division of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer) reducing a claimed refund for the taxable year 2008 in the total amount of \$236.

The taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing. The 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 another taxpayer claimed a dependent exemption for the same child, [Redacted], as the taxpayer claimed on his income tax return. Taxpayer Accounting sent the taxpayer a letter requesting information to support the dependency exemption claim. The taxpayer did not respond. Taxpayer Accounting determined the taxpayer was not entitled to the dependent exemption, disallowed the exemption on the taxpayer's return, and sent him a Tax Computation Change letter that shows the tax effect of disallowing the dependent exemption and grocery credit.

The taxpayer protested the change in tax by sending in a copy of one page from a Paternity and Child Support Judgment and Order. The Order required the taxpayer to pay child support and stated that a dependency exemption for [Redacted] would be assigned to the

taxpayer. Taxpayer Accounting reviewed the information and determined the taxpayer was not entitled to the dependent exemption. Taxpayer Accounting issued a Notice of Deficiency Determination to the taxpayer 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 did not respond to the Tax Commission's hearing rights letter and has failed to make further contact with the Tax Commission. The Tax Commission, having reviewed the file, hereby issues its decision.

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.

IRC section 152(c) defines a "qualifying child" 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 not provided over one-half of the individual's own support for the taxable year. IRC section 152(c)(1) through (3).

IRC section 152(d) defines a "qualifying relative" as an individual (1) who bears a certain relationship to the taxpayer, such as the taxpayer's child; (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 the dependent is either a qualifying child or a qualifying relative. Regarding a qualifying child, the taxpayer has not shown that [Redacted] principal place of abode was with him for more than one-half the taxable year. Consequently, the taxpayer has no qualifying child for 2008. As for meeting the requirements for a qualifying relative of the taxpayer, the taxpayer failed to show that he provided over one-half the support of [Redacted] for the taxable year, or that [Redacted] was not a qualifying child of any other taxpayer for the taxable year.

It is presumed from the fact that the taxpayer is required to pay child support that he may have provided nearly one-half, one-half, or over one-half of his child's support. However, the taxpayer did not provide any evidence to show the child's total support or the amount he paid toward his support. The taxpayer has not carried his burden of proving this requirement of a qualifying relative. In addition to the support issue, [Redacted] likely qualifies as the qualifying child of his mother, another taxpayer. In either case, [Redacted] does not meet the requirements of a qualifying relative for the taxpayer.

Because [Redacted] does not meet the requirements for either a qualifying child or a qualifying relative as defined in IRC section 152, the Tax Commission finds that the taxpayer is not entitled to a dependency exemption deduction for [Redacted] for 2008. And since the taxpayer is not entitled to the dependency exemption, the taxpayer cannot claim the additional grocery credit for the child per Idaho Code section 63-3024A.

WHEREFORE, the Notice of Deficiency Determination dated July 14, 2009, is hereby APPROVED, AFFIRMED, and MADE FINAL.

Since the taxpayer's refund was only reduced and no additional tax is owed, 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

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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.