

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22245
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On September 24, 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 \$106.29.

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. The taxpayer's return was processed, and the refund claimed was seized [Redacted]. As the processing of income tax returns continued, the Taxpayer Accounting Section (Taxpayer Accounting) found that another taxpayer claimed a dependent exemption for the same child as the taxpayer claimed on his income tax return. Taxpayer Accounting requested information from the taxpayer. The taxpayer did not respond. Taxpayer Accounting ultimately determined the taxpayer was not entitled to the dependent exemption and sent him a Notice of Deficiency Determination.

The taxpayer protested Taxpayer Accounting's determination. He provided a partial copy of an ORDER ON WAIVER, ADMISSION OF SERVICE AND STIPULATION that

stated he was assigned the dependent exemption [Redacted]. Taxpayer Accounting reviewed the document and referred 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, so the Tax Commission decided the matter based upon the information available.

The taxpayer was found to be the father of [Redacted]. Through an action [Redacted] and by order of the Court, the taxpayer was ordered to pay child support. The taxpayer was also awarded the dependent exemption [Redacted] pursuant to the Idaho Child Support Guidelines.

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). 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 defines a dependent as a “qualifying child” or a “qualifying relative.” 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).

The taxpayer provided a judgment from the Court that stated he is assigned a dependent exemption [Redacted]. However, the Internal Revenue Code is controlling in determining matters of income tax deductions ("State courts, by their decisions, cannot determine issues of Federal tax law." White v. CIR, T.C. Memo 1996-438 (1996); Commissioner v. Tower, 327 U.S. 280 (1946); Kenfield v. United States, 783 F.2d 966 (10th Cir.1986); Nieto v. Commissioner, T. C. Memo. 1992-296), and IRC section 152 is clear in its requirements for an individual to be claimed as a dependent. Therefore, 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. The information available indicates that [Redacted] did not live with the taxpayer at all. Consequently, [Redacted] cannot be qualifying child for the taxpayer for 2008.

As for the requirements [Redacted] to be a qualifying relative, the taxpayer failed to show that he provided over one-half of the total support [Redacted] in 2008 or that [Redacted] was not a qualifying child of any other taxpayer for the taxable year. As previously stated, [Redacted] did not live with the taxpayer. Therefore, if [Redacted] lived with her other parent, a grandparent, an uncle, or an aunt, [Redacted] was a qualifying child of another taxpayer and could not be a qualifying relative for the taxpayer.

Because [Redacted] did not meet the requirements of 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 dependent exemption deduction [Redacted] for taxable year 2008. And since the

taxpayer is not entitled to the dependent exemption, the taxpayer cannot claim the additional grocery credit [Redacted] per Idaho Code section 63-3024A.

Furthermore, the taxpayer reported his filing status as head of household. IRC section 2 states that an individual shall be considered a head of household if the individual is not married and he maintains as his home a household which constitutes for more than one-half the taxable year the principal place of abode of a son or daughter. As previously stated, the information available indicates [Redacted] did not live with the taxpayer in 2008. Since the taxpayer had no one else to qualify him for the head of household filing status, the Tax Commission finds the taxpayer's filing status should be changed to single.

WHEREFORE, the Notice of Deficiency Determination dated September 24, 2009, is hereby MODIFIED in accordance with the provisions of this decision and, as so modified, is 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	\$ 284	\$ 20	\$ 304

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

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

DATED this _____ day of _____ 2010.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2010, 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.
