

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 22376
[Redacted]	)	
Petitioner.	)	DECISION
	)	
	)	
<hr style="width: 40%; margin-left: 0;"/>	)	

On August 12, 2009, the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer) proposing additional tax in the amount of \$289 for taxable year 2008.

The taxpayer filed a timely appeal. He did not request a hearing. The 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 his son, [Redacted]. For taxable year 2008, [Redacted] filed an income tax return and claimed a dependency exemption for himself on his return.

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(a) defines the term “dependent” as 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 under IRC section 152(a), the taxpayer must show he has either a qualifying child or qualifying relative. Regarding a qualifying child, the taxpayer did not show that [Redacted] principal place of abode was with him for more than one-half the taxable year or that [Redacted] met the age requirements. As for meeting the requirements for a qualifying relative of the taxpayer, the taxpayer failed to show that he provided more than one-half of [Redacted] support for the taxable year or that [Redacted] gross income for the taxable year is less than the exemption amount. In fact, the return filed by [Redacted] reported income in excess of the exemption amount.

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

WHEREFORE, the Notice of Deficiency Determination directed to [Redacted] dated August 12, 2009, 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	\$289	\$16	\$305

Interest is calculated through May 28, 2010.

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.  
  
\_\_\_\_\_