

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 23532
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On July 8, 2010, the Idaho State Tax Commission (Tax Commission) issued a Notice of Deficiency Determination to [Redacted] (taxpayer) proposing additional tax in the amount of \$456 for taxable year 2009.

The taxpayer, through her appointed representative, filed a timely appeal. She 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 this decision is whether the taxpayer is entitled to a dependency exemption deduction for her niece and nephew.

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.

Taxpayers may claim dependency exemption deductions for their dependents as defined in IRC § 152. Under IRC § 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 § 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 § 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 her niece and nephew's principal place of abode was with her for more than one-half of the taxable year. Consequently, the taxpayer has no qualifying child for taxable year 2009. As for meeting the requirements for a qualifying relative of the taxpayer, the taxpayer failed to show that she provided over one-half the support of her niece and nephew for the taxable year or that they were not qualifying children of any other taxpayer for the taxable year.

The taxpayer has not carried her burden of proving that her niece and nephew were either qualifying children or qualifying relatives for purposes of IRC § 152. Therefore, the taxpayer is not entitled to the dependency exemption deductions for taxable year 2009.

And since the taxpayer is not entitled to the dependency exemption, the taxpayer cannot claim the additional grocery credit for the children per Idaho Code section 63-3024A.

WHEREFORE, the Notice of Deficiency Determination directed to [Redacted] dated July 8, 2010, is APPROVED, AFFIRMED, and MADE FINAL.

It is ordered and this does order, the taxpayer pays the following tax:

<u>YEAR</u>	<u>TAX</u>	<u>TOTAL</u>
2009	\$456	\$456

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 _____ 2011.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2011, 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.
