

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 23655
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On December 22, 2010, the staff of the Revenue Operations Division (Division) of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer) proposing additional tax, penalty, and interest for taxable year 2009 in the total amount of \$1,806.85.

The taxpayer filed a timely appeal and petition for redetermination. The taxpayer requested a hearing, and a hearing date was set. However, the taxpayer was unable to attend and requested the appointment be re-scheduled. On May 3, 2011, and May 26, 2011, the taxpayer was sent a letter requesting a list of dates and times in which he was available for a hearing. No response was received. Therefore, the Commission, having reviewed the file, hereby issues its decision.

The sole issue for this decision is whether the taxpayer is entitled to a dependency exemption for his three children from a prior marriage.

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 that the dependent is either a qualifying child or a qualifying relative. Regarding a qualifying child, the taxpayer has not shown that any of his three children’s principal places of abode was with him for more than one-half 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 he provided over one-half the support of the three children for the taxable year or that they were not a qualifying child of any other taxpayer for the taxable year.

Because none of the three children meet the requirements for either a qualifying child or a qualifying relative as defined in IRC section 152, the Commission finds that the taxpayer is not entitled to a dependency exemption deduction for any of the three children for taxable year 2009. And since the taxpayer is not entitled to the dependency exemptions, the taxpayer cannot claim the additional grocery credits for the children per Idaho Code section 63-3024A.

THEREFORE, the Notice of Deficiency Determination directed to [Redacted] dated December 22, 2010, is AFFIRMED.

IT IS ORDERED that the taxpayer pay the following amount of tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2009	\$1,584	\$158.40	\$107.67	\$1,850.07

Interest is calculated through October 21, 2011.

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.
