

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
) DOCKET NO. 23662
[Redacted],)
)
)
Petitioner.) DECISION
)
_____)

On September 16, 2010, the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer) proposing tax and interest in the amount of \$686.19 for taxable year 2009.

The taxpayer filed an appeal and provided a copy of pages 1 and 10 of a Findings of Fact, Conclusions of Law, and Order issued by the Third Judicial District Court of Idaho on September 29, 2005. Page 10 of the Order stated the taxpayer would pay child support and would be awarded the tax exemption.

The taxpayer did not request a hearing nor did he provide any information for consideration other than the Order. The Commission, having reviewed the file, hereby issues its decision.

The sole issue for this decision is whether the taxpayer is entitled to the dependency exemption deduction for the taxpayer’s daughter from a previous relationship.

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 his daughter’s principal place 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 his daughter for taxable year 2009 or that his daughter was not a qualifying child of any other taxpayer for taxable year 2009.

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 daughter’s support. However, the taxpayer did not provide any evidence to show the child’s total support or the amount he paid toward her support. The taxpayer has not carried his burden of proving this requirement of a qualifying relative.

Because the taxpayer's child does not 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 his daughter for taxable year 2009. And, since the taxpayer is not entitled to the dependency exemption, the taxpayer cannot claim the additional grocery credit for his daughter per Idaho Code section 63-3024A.

WHEREFORE, the Notice of Deficiency Determination directed to [Redacted] dated September 16, 2010, 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>
2009	\$673	\$39	\$712

Interest is calculated through July 22, 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.
