

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 24141
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On June 23, 2011, the staff of the Revenue Operations Division of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer) reducing a claimed refund for taxable year 2010 in the total amount of \$234.

The taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing. The Commission, having reviewed the file, hereby issues its decision.

The taxpayer timely filed his 2010 Idaho individual income tax return. During the processing of the taxpayer's return, the Taxpayer Accounting Section (Taxpayer Accounting) found that another taxpayer claimed a dependent exemption for the same two children, [Redacted], as the taxpayer claimed on his income tax return. Taxpayer Accounting sent the taxpayer a letter requesting information to support the dependency exemption claims. The taxpayer did not respond. Taxpayer Accounting determined the taxpayer was not entitled to the dependent exemptions, disallowed the exemptions on the taxpayer's return, and sent him a Tax Computation Change letter that shows the tax effect of disallowing the dependent exemptions and grocery credits.

The taxpayer protested the change in tax by sending in a copy of a Judgment and Order for Child Support. The Order required the taxpayer to pay child support and stated that a dependency exemption would be assigned to the taxpayer. Taxpayer Accounting reviewed the

information and determined the taxpayer was not entitled to the dependent exemptions. Taxpayer Accounting issued an NODD to the taxpayer and sent the matter for administrative review.

The Commission reviewed the matter and sent the taxpayer a letter that discussed the methods available for redetermining a protested NODD. The taxpayer did not respond to the Commission's hearing rights letter and has failed to make further contact with the Commission. The Commission, having reviewed the file, hereby issues its decision.

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 either [Redacted] 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 2010. 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 [Redacted] for taxable year 2010 or that [Redacted] was not a qualifying child of any other taxpayer for the taxable year. 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 children's support. However, the taxpayer did not provide any evidence to show the children's total support or the amount he paid toward their support. The taxpayer has not carried his burden of proving this requirement of a qualifying relative. In addition to the support issue, [Redacted] most likely qualify as the qualifying children of their mother, another taxpayer. In either case, neither [Redacted] meets the requirements of a qualifying relative for the taxpayer.

Because [Redacted] do 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 [Redacted] for taxable year 2010. 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 NODD dated June 23, 2011, and directed to [Redacted] is hereby AFFIRMED.

Since the taxpayer's refund was only reduced and no additional tax is owed, no DEMAND for payment is required or necessary.

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.