



Tax Reduction Letter

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Kingsley v. Commissioner

11 B.T.A. 296 (B.T.A. 1928)

Docket No. 12288.

Board of Tax Appeals.

Promulgated March 29, 1928.

Louise Kingsley pro se.

A. S. Lisenby, Esq., for the respondent.

This is a proceeding for the redetermination of deficiencies in income tax for the years 1922, 1923, and 1924 in the respective amounts of \$39.81, \$63.66, and \$32.04. The answer of the respondent admits certain errors in the adjustment of net income for each of the taxable years. The points in issue are (1) the correctness of the disallowance by the respondent of a deduction of \$125.20 from the gross income of 1922 for repairs upon rental property; (2) the correctness of the disallowance of \$40 for contributions to charitable and religious organizations for the year 1924; and (3) the disallowance of a credit of \$2,900 for each of the taxable years and an allowance of a credit of only \$1,000 as personal exemption.

FINDINGS OF FACT.

The petitioner is a high school teacher residing in the District of Columbia.

Petitioner is the owner of a rented house from which she derived rents. In her return for 1922 she deducted \$740.33 spent for repairs upon the rental property. Of this amount \$125.20 was disallowed as a deduction upon the ground that it represented in part a cost of placing a new roof upon the property. The expense was incurred, however, in a repair of the roof, certain broken tiles being replaced by a tin covering.

In 1924 the petitioner made a contribution of \$25 to the American Red Cross.

The petitioner lived with her mother in an apartment. The petitioner was the lessee of the apartment. Petitioner's mother, who is an elderly lady, lived with her and did most of the housework. During each of the taxable years she acted as housekeeper for a relative and for five months' service in each year received compensation of \$500 for such services. The mother also received a compensation from the Government of \$360 for each of the taxable years and dividends upon shares of stock owned by her of \$120 for each year.

OPINION.

SMITH:

The evidence is conclusive that the total amount claimed as a deduction from gross income of 1922 for repairs of the rental property in the amount of \$743.33 is a legal deduction from gross income, the entire amount for repairs. A disallowance of any part of the deduction was in error.

The evidence further shows that the petitioner is entitled to deduct from the gross income of 1924, \$25 as a contribution to the American Red Cross. The petitioner claimed a deduction of \$40 but could not give details as to the balance of the contributions. Upon the evidence only \$25 is a legal deduction from gross income.

Section 216 of the Revenue Act of 1921 provides that certain credits shall be allowed individuals for the purpose of computing the normal tax:

(c) In the case of a single person, a personal exemption of \$1,000; or in the case of the head of a family or a married person living with husband or wife, a personal exemption of \$2,500, unless the net income is in excess of \$5,000, in which case the personal exemption shall be \$2,000.

The question to be decided is whether the petitioner is entitled to the exemption granted the head of a family in the amount of \$2,500, plus \$400 for an alleged dependent mother, or to an exemption of only \$1,000. The basis of the petitioner's contention that she was the head of a family was that her mother was with her seven months out of twelve; that she was only five months with a relative and that the petitioner considered that what she received for her services as housekeeper to a relative changed her status as being dependent upon the petitioner; that the petitioner rented the apartment in which both she and her mother lived and attended to all business matters. The evidence does not show how great an expense the support of the mother was to the petitioner. The mother bought her own clothes and paid her traveling expenses to her relative and return. The petitioner paid all the expenses of the apartment.

In article 302 of Regulations 62, a head of a family is defined as:

* * * An individual who actually supports and maintains in one household one or more individuals who are closely connected with him by blood relationship, relationship by marriage, or by adoption, and whose right to exercise family control and provide for these dependent individuals is based upon some moral or legal obligation.

We are of the opinion that the evidence adduced in the present proceeding does not warrant a finding that the petitioner was the head of a family within the meaning of the Revenue Act of 1921, and of the regulations of the Commissioner prescribed thereunder. Cf. *Hannah D. Stratton*, 5 B. T. A. 1025; *Chester F. Morrow*, 9 B. T. A. 448. The allowance of a personal exemption of the petitioner of only \$1,000 is sustained.

Judgment will be entered on 15 days' notice, under Rule 50.