

The definition of Entire Year:

IRC Section 152(a)(9):

(9) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has as his principal place of abode the home of the taxpayer and is a member of the taxpayer's household.

The regulation 1.152-1(b) states in part:

(b) Section 152(a)(9) applies to any individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 153, of the taxpayer) who lives with the taxpayer and is a member of the taxpayer's household during the **entire** taxable year of the taxpayer. An individual is not a member of the taxpayer's household if at any time during the taxable year of the taxpayer the relationship between such individual and the taxpayer is in violation of local law. It is not necessary under section 152(a)(9) that the dependent be related to the taxpayer.

IRS Conclusion:

REV. RUL. 76-35

Advice has been requested whether, under the circumstances described below, a taxpayer may claim dependency exemptions for a Vietnamese refugee family.

The taxpayer, as sponsor of an unrelated refugee family, is committed to provide the family with housing and financial support for a period of two years. Pursuant to this commitment, the refugee family became part of the taxpayer's household on May 1, 1975.

Under section 212(d)(5) of the Immigration and Nationality Act, 8 U.S.C. section 1182(d)(5) (1970), Vietnamese refugees are admitted into the United States as parolees. However, as stated in Rev. Rul. 57-331, 1957-2 C.B. 11, and Rev. Rul. 61-118, 1961-1 C.B. 5, political refugees admitted to the United States as parolees are classified as resident aliens for Federal income tax purposes.

In general, section 151(e)(1) of the Internal Revenue Code of 1954 provides an exemption of \$750 for each dependent (as defined in section 152) whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than \$750, or who is a child of the taxpayer and (has not attained the age of 19 at the close of the calendar year in which the taxable year of the taxpayer begins, or (ii) is a student.

Section 152 of the Code and the Income Tax Regulations thereunder provide, in general, that in order to claim a dependency exemption the following tests must be met:

1. The taxpayer must furnish over one-half of the individual's support during the calendar year,

2. The individual must be related to the taxpayer, or must be a member of the taxpayer's household, and live with the taxpayer for the entire taxable year, and

3. The individual must be a United States citizen or resident.

In *Trowbridge v. Commissioner*, 268 F. 2d 208 (9th Cir. 1959), the United States Court of Appeals in affirming a decision of the United States Tax Court involving a taxpayer who claimed dependency exemptions for three unrelated persons who lived with the taxpayer from March 5, through December 31, 1954, ruled that section 152 of the Code precluded exemptions for unrelated persons who were not members of the taxpayer's household throughout the taxable year. The appellate court stated that the interpretation placed on section 152 by the Commissioner and the Tax Court was supported by the regulations as well as the Congressional intent in enacting this Code section.

Accordingly, in the instant case, dependency exemptions for the refugee family members will not be available to the taxpayer for 1975, since the refugees were not members of the taxpayer's household throughout the entire calendar year.

Court Opinion(s)

Trowbridge v. Commissioner 30 T.C. 879 July 8, 1958

JUDGES: Tietjens, *Judge*.

OPINION: [*879] The Commissioner determined a deficiency in income tax for the year 1954 in the amount of \$ 377.

The only question for decision is whether petitioner could properly claim dependency exemptions for a woman and her two [****2**] minor sons who lived in petitioner's home from March 5, 1954, through the remainder of the year.

FINDINGS OF FACT.

Petitioner is an individual residing in Laton, California. He filed his individual income tax return for 1954 with the district director of internal revenue in San Francisco, California.

On his 1954 return petitioner claimed exemptions for himself and for three other persons consisting of a woman and her two minor sons. They were not related to petitioner by blood or marriage. These persons came to live in petitioner's home about March 5, 1954, and continued to reside there during the remainder of the year.

The Commissioner disallowed the exemptions claimed for the three **dependents** because they were not related to petitioner by blood or marriage and did not have petitioner's home as their principal place of abode during the entire year 1954.

OPINION.

The only question raised in this case is whether the claimed **dependents** fall within the definition of a **dependent** contained in section 152 (a) (9), I. R. C. 1954. That section defines a **dependent** to be --

An individual who, for the taxable year of the taxpayer, has as his principal place of abode the home of [^{**3}] the taxpayer and is a member of the taxpayer's household, or lived with the taxpayer for the entire year.

The issue is narrowed to the meaning of the phrase "for the taxable year of the taxpayer." Concededly the claimed **dependents** did not live in petitioner's home during the entire year 1954. They did not live at petitioner's home nor become members of his household until March of that year. The Commissioner's Income Tax Regulations, 1954 Code, section 1.152-1 (b), state, in part:

Section 152 (a) (9) applies to any individual * * * who lives with the taxpayer and is a member of the taxpayer's household during the *entire taxable year* of the taxpayer. * * * The taxpayer and **dependent** will be considered as occupying the household for such entire taxable year notwithstanding temporary absences from the household due to special circumstances. * * * [Emphasis supplied.]

If the regulations correctly interpret the Code, the Commissioner's action must be approved. We think the regulations are correct.

To sustain petitioner's view we would have to construe the words "for the taxable year" as meaning "for a part of," or "during some part of," or "at any time during," the taxable year. But in its ordinary sense the word "for" [^{**4}] as defined in Webster's New International Dictionary (2d ed. 1953) means "[expressing] duration of time or extension of space; during; throughout; in or through the space or time of; to the extent of." Most of these definitions, if applied here, indicate to us that the individuals claimed as **dependents** must have been members of petitioner's household throughout the taxable year in order to meet the statutory requirement for a **dependent**. They were not.

The interpretation placed on section 152 (a) (9) in the regulations also finds support in the report of the Ways and Means Committee of the House and the report of the Finance Committee of the Senate where it is stated:

Paragraph 9 is intended to apply only when the taxpayer and such other members of his household live together in such household during the entire taxable year (except for temporary absences due to special circumstances).

H. Rept. No. 1337, 83d Cong., 2d Sess. (1954), p. A41; S. Rept. No. 1635, 83d Cong., 2d Sess. (1954), p. 193.

Petitioner has not shown error in the Commissioner's determination.

Decision will be entered for the respondent.

Appeals Court

TROWBRIDGE v. COMMISSIONER 268 F.2d 208; 59-2 U.S. TC (CCH) P9546
June 15, 1959

This case is here on appeal from a holding of the Tax Court (30 T.C. 879).

The petitioner in his 1954 tax return claimed exemptions for himself and three other persons, a woman and her two minor sons, none of whom were related to him by blood or marriage. These persons came to live with petitioner on March 5, 1954.

The only question at issue is whether or not the claimed dependents [**2] fall within the definition of dependents as contained in section 152(a)(9), Revenue Code of 1954, 26 U.S.C.A. 152(a)(9), in the absence of their being members of petitioner's household throughout the taxable year.

The interpretation placed on the section by the Commissioner and the Tax Court finds support in the Regulations as well as in the Reports of both the Senate and House Committees.

The judgment of the Tax Court is accordingly affirmed.