

UNITED STATES TAX COURT
WASHINGTON, DC 20217

PA

RICHARD ALAN SAUNDERS & SHELIA)
CANDY SAUNDERS,)
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Petitioners,)
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v.) Docket No. 13352-15S.
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COMMISSIONER OF INTERNAL REVENUE,)
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Respondent)
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ORDER

This Court issued T.C. Summary Opinion 2019-29 in the instant case on September 30, 2019.

Inter alia, for tax year 2012 petitioners claimed as a dependent for purposes of the section 151 exemption petitioner wife’s father, Mr. Steed. Respondent disallowed the exemption, contending that petitioners failed to show that Mr. Steed lived with them and that they provided support for him during the year. Petitioners testified and presented evidence that Mr. Steed resided with them during 2012; that they spent roughly \$2,880 per month to support their six-person household and \$80 per month for Mr. Steed’s transportation; and that Mr. Steed received \$733 per month in Supplemental Security Income (SSI).

In our opinion, we found that petitioners were not entitled to claim Mr. Steed as a dependent because he did not meet the section 152(d) definition of a “qualifying relative”. Saunders v. Commissioner, T.C. Summary Opinion 2019-29 (slip op. at 9). While this conclusion is correct, on the Court’s own motion, we deem it necessary to make a technical correction to our reasoning to comply with the relevant statutory prerequisites. We found that because Mr. Steed’s SSI exceeded the section 151(d)(1)(B) exemption amount, he failed to meet the

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requirement of section 152(d)(1)(B). We also noted that it was unclear whether petitioners provided for more than one-half of Mr. Steed's support, as required by section 152(d)(1)(C).

SSI is not taken into account for purposes of the section 152(d)(1)(B) requirement; it is, however, taken into account for purposes of the section 152(d)(1)(C) requirement. Sec. 1.152-1, Income Tax Regs.; See Daya v. Commissioner, T.C. Memo. 2000-360. During 2012, Mr. Steed received \$733 per month in SSI. Petitioners did not provide an estimate or evidence of the amount of total support Mr. Steed received per month. We do not know the fair market value of the lodging petitioners provided to Mr. Steed. We noted in our opinion that Mr. Steed's share of the household expenses varies depending on whether it is calculated on a per room or a per person basis. We now consider that each member of the household received an equal part of petitioners' contributions as part of his or her support. See id. slip op. at 20. Using a per person basis and adding the \$80 per month in transportation costs, we estimate that petitioners provided Mr. Steed with monthly support of \$560. This amount is less than the \$733 in SSI, and therefore less than half of Mr. Steed's total support. Accordingly, Mr. Steed does not meet the definition of a "qualifying relative". See sec. 152(d)(1)(C).

Accordingly and for cause, it is

ORDERED that the Court's Summary Opinion filed September 30, 2019, is hereby amended as follows:

On page 9, line 5, delete:

[Mr. Steed's income, however, prevents him from meeting the definition of a "qualifying relative". See sec. 151(d)(1)(B). Mr. Steed received during 2012 SSI of \$733 per month, or \$8,796 for the year, which exceeds the section 151(d) exemption amount of \$3,800.]

and substitute in lieu thereof:

[Mr. Steed nevertheless fails to meet the definition of a “qualifying relative”. See sec. 152(d)(1)(C). The statute requires that petitioners have provided “over one-half of the individual’s support for the calendar year in which such taxable year begins”. Id. During 2012, Mr. Steed received \$733 per month in SSI. Petitioners failed to provide evidence regarding the fair market value of Mr. Steed’s lodging. See Daya v. Commissioner, T.C. Memo. 2000-360, slip op. at 20. Petitioners also failed to provide an estimate of, or supporting documentation for, the amount of total support Mr. Steed received per month. Based on petitioners’ rough estimate of monthly household expenses totaling \$2,880, we estimate that they provided Mr. Steed monthly with \$480 in housing and \$80 in transportation. This amount of \$560 is less than the \$733 in SSI, and therefore less than half of Mr. Steed’s support. Accordingly, Mr. Steed does not meet the definition of a “qualifying relative”. See sec. 152(d)(1)(C).]

On page 9, delete footnote 6. It is further

ORDERED that the Summary Opinion, filed September 30, 2019 (T.C. Summary Opinion 2019-29), in all other respects remains unchanged.

(Signed) Thomas B. Wells
Judge

Dated: Washington, D.C.
November 1, 2019