

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 21970
[Redacted])	
Petitioners.)	DECISION
)	
)	
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On May 29, 2009, the Revenue Operations division of the Idaho State Tax Commission issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayers) reducing the refund claimed for the taxable year 2008 in the total amount of \$162.

The taxpayers did not request a hearing. The Tax Commission, having reviewed the file, hereby issues its decision.

The sole issue for this decision is whether the taxpayers are entitled to a dependency exemption for [Redacted], [Redacted] son 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.

Under IRC section 152(a), the term “dependent” means a qualifying child or qualifying relative. A qualifying child is defined 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 provided over one-half of the individual’s own support for the taxable year. IRC section 152(c)(1)-(3). A qualifying relative is defined as an individual (1) who bears a certain

relationship to the taxpayer, such as the taxpayer's child or grandchild; (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 taxpayers must show the dependent is either a qualifying child or a qualifying relative. Regarding a qualifying child, the taxpayers have not shown that [Redacted] principal place of abode was with them for more than one-half of the taxable year. The taxpayers stated that the custody arrangement between [Redacted] parents is 50/50, with [Redacted] being the primary custodian, but no documentation was provided to support this claim. Consequently, [Redacted] is not the taxpayers' qualifying child for 2008. As for meeting the requirements for a qualifying relative of the taxpayers, the taxpayers failed to show that they provided over one-half the support of [Redacted] for the taxable year or that [Redacted] was not a qualifying child of any other taxpayer for the taxable year.

Because the taxpayers' child does not meet the requirements for either a qualifying child or a qualifying relative as defined in IRC section 152, the Tax Commission finds that the taxpayers are not entitled to a dependency exemption deduction for [Redacted] for 2008. And since the taxpayers are not entitled to the dependency exemption, the taxpayers cannot claim the additional grocery credit for [Redacted] per Idaho Code section 63-3024A.

WHEREFORE, the Notice of Deficiency Determination dated May 29, 2009, is hereby APPROVED, AFFIRMED, and MADE FINAL.

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

An explanation of the taxpayers' right to appeal this decision is enclosed.

DATED this _____ day of _____, 2009.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____, 2009, 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.
