

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 22233
[Redacted]	)	
	)	DECISION
Petitioners.	)	
_____	)	

On September 25, 2009, the staff of the Taxpayer Accounting Section of the Revenue Operations Division of the Idaho State Tax Commission (Tax Commission) issued a Notice of Deficiency Determination to [Redacted] (taxpayers) proposing additional income tax and interest for taxable year 2008 in the total amount of \$298.03.

The taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not respond to the Tax Commission’s hearing rights letter and have provided nothing further for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayers timely filed their 2008 Idaho individual income tax return. The taxpayers’ return was processed along with their payment in full of the tax due. As the processing of income tax returns continued, the Taxpayer Accounting Section (Taxpayer Accounting) found that another taxpayer claimed a dependent exemption for the same child, [Redacted] son from a previous marriage, as the taxpayers claimed on their income tax return. Taxpayer Accounting determined the taxpayers were not entitled to the dependent exemption, disallowed the exemption on the taxpayers’ return, and sent them a Notice of Deficiency Determination.

The taxpayers protested the determination and provided a copy of [Redacted] 1997 divorce decree that awarded her physical custody of her son [Redacted]. Taxpayer Accounting reviewed the information and sent the matter for administrative review.

The Tax Commission reviewed the matter and sent the taxpayers a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayers did not respond. Therefore, the Tax Commission decided the matter based upon the information available.

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 § 152(a), the term “dependent” means a qualifying child or qualifying relative.

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).

Therefore, to claim a dependent exemption, the taxpayer must show the dependent is either a qualifying child or a qualifying relative. In this case, the dependent claimed, [Redacted], is [Redacted] son from a previous marriage. [Redacted] divorce was final on July 14, 1997.

[Redacted] was four years old at the time, and [Redacted] was awarded physical custody. The taxpayers have not provided any more recent documentation, and the information available to the Commission indicates that [Redacted] principal place of abode for more than half of 2008 may have been with another taxpayer. The taxpayers provided no information on how many days [Redacted] resided with them in 2008. Consequently, the taxpayers have not proved that [Redacted] met the definition of a qualifying child.

As to a qualifying relative, the taxpayers failed to show that they provided over one-half the support of [Redacted] for the taxable year. The taxpayers stated they received no support from [Redacted] father, but failed to document what, if any, support they provided [Redacted]. Consequently, the taxpayers have not proved that [Redacted] met the definition of a qualifying relative.

Since the taxpayers did not show that [Redacted] was 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 the 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 September 25, 2009, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers pay the following tax and interest (computed to March 31, 2010):

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2008	\$289	\$14	\$303

DEMAND for immediate payment of the foregoing amount is hereby made and given.

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.

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