

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22240
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

On August 6, 2009, the staff of the Taxpayer Accounting Section of the Revenue Operations Division of the Idaho State Tax Commission issued a Notice of Deficiency Determination to [Redacted] (taxpayers) proposing income tax, penalty, and interest for taxable year 2008 in the total amount of \$293.43.

On September 21, 2009, the taxpayers filed a timely appeal and petition for redetermination. The taxpayers requested a telephonic hearing and the opportunity to submit any additional information the Tax Commission deemed necessary. 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, and the refund claimed was sent to the taxpayers. Subsequent to the taxpayers filing their Idaho income tax return, another taxpayer filed an Idaho income tax return claiming a dependent exemption for the same child that the taxpayers claimed. The Taxpayer Accounting Section (Taxpayer Accounting) requested information from the taxpayers. They replied with a copy of a court order that awarded the tax exemption [Redacted] to the taxpayers. The court order was dated February 11, 2009.

Taxpayer Accounting ultimately determined the taxpayers were not entitled to the dependent exemption deduction and sent the taxpayers a Notice of Deficiency Determination. The taxpayers protested Taxpayer Accounting's determination stating that the dependent was

rightfully claimed per the Internal Revenue Service guidelines. The taxpayers stated the dependent child resided with them for over one-half of the taxable year, and that the child custody order, in process in November 2008, changed custody to reflect the current situation.

Taxpayer Accounting reviewed the information provided and referred 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 requested a telephone hearing. The taxpayers provided additional information about the situation and a calendar that showed the days (nights) [Redacted] stayed with them.

The Tax Commission obtained a calendar from the other party and did a comparative analysis of the days (nights) claimed by both parties. After the initial review of the calendars, it was apparent that less than two-thirds of the calendar days were agreed to by the two parties. The Tax Commission contacted both parties and obtained additional information on the contested days. The Tax Commission reviewed the information and allocated the majority of the contested days to one or the other of the two parties. The remaining days (20) were not allocated due to a lack of solid evidence pointing to one party or the other. The results of the Tax Commission's analysis of the calendars were that the taxpayers had [Redacted] 193 days in 2008 and the other party had [Redacted] 153 days.

Internal Revenue Code (IRC) section 152 defines a dependent as either a "qualifying child" or a "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).

Since [Redacted] stayed with the taxpayers for over one-half of the taxable year, she meets the requirements of a qualifying child of the taxpayers. Therefore, the Tax Commission finds that the taxpayers are entitled to the dependent exemption deduction [Redacted] for 2008. And because the taxpayers can claim [Redacted] as a dependent, they can also claim the grocery tax credit [Redacted] as provided in Idaho Code section 63-3024A.

WHEREFORE, the Notice of Deficiency Determination dated August 6, 2009, is hereby CANCELLED.

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

DATED this _____ day of _____ 2010.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2010, 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.
