

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22257
[Redacted])	
)	DECISION
Petitioner.)	
_____)	

On September 22, 2009, the Revenue Operations division of the Idaho State Tax Commission (Tax Commission) issued a Notice of Deficiency Determination to [Redacted] (petitioners) proposing additional tax and interest in the total amount of \$717 for taxable year 2008.

The petitioners filed a timely appeal. They did not request a hearing. The Commission, having reviewed the file, hereby issues its decision based upon the information contained in the file.

The sole issue for the decision is whether the petitioners are entitled to a dependency exemption deduction for three of [Redacted] children from a previous marriage; [Redacted].

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. A child of a taxpayer is generally a dependent of the taxpayer. IRC section 152(e) provides a special rule for divorced parents. It states in pertinent part:

- (1) In general.
Notwithstanding subsection (c)(1)(B), (c)(4), or (d)(1)(C), if—
 - (A) a child receives over one-half of the child's support during the calendar year from the child's parents—
 - (i) who are divorced or legally separated under a decree of divorce or separate maintenance,
 - (ii) who are separated under a written separation agreement, or
 - (iii) who live apart at all times during the last 6 months of the calendar year, and—

(B) such child is in the custody of 1 or both of the child's parents for more than one-half of the calendar year, such child shall be treated as being the qualifying child or qualifying relative of the noncustodial parent for a calendar year if the requirements described in paragraph (2) or (3) are met.

(2) Exception where custodial parent releases claim to exemption for the year. For purposes of paragraph (1), the requirements described in this paragraph are met with respect to any calendar year if—

(A) the custodial parent signs a written declaration (in such manner and form as the Secretary may by regulations prescribe) that such custodial parent will not claim such child as a dependent for any taxable year beginning in such calendar year, and

(B) the noncustodial parent attaches such written declaration to the noncustodial parent's return for the taxable year beginning during such calendar year.

The taxpayers provided a copy of [Redacted] divorce decree dated February 1, 1996. The decree states that primary residential custody of the three children in question will be with [Redacted]. [Redacted] would be considered the custodial parent and entitled to the dependency exemptions. However, according to statements made by [Redacted] on June 18, 2008, [Redacted] changed her principal place of abode to be with that of the non-custodial parent.

Therefore, the Commission finds that the petitioners are entitled to a dependency exemption deduction for only [Redacted] in 2008. And since the petitioners are only entitled to the dependency exemption for the two children, they can only claim two additional grocery credits per Idaho Code section 63-3024A.

WHEREFORE, the Notice of Deficiency Determination directed to [Redacted] dated September 22, 2009, is MODIFIED, and as modified, APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER, the petitioners pay the following tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2008	\$189	\$7	\$196

Interest is calculated through March 11, 2010.

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

An explanation of the petitioners' 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.
