

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 22379
[Redacted]	)	
	)	DECISION
Petitioner.	)	
_____	)	

On August 25, 2009, the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination to [Redacted] (taxpayers) proposing additional tax in the amount of \$289 for taxable year 2008.

The taxpayers, through their CPA, 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 [Redacted] daughter, [Redacted], from a previous marriage.

According to the appeal letter submitted by the taxpayers' CPA, [Redacted] was 18 years old in 2008 and a full time student. The letter also stated that the original divorce decree granted the dependency exemption for [Redacted] to [Redacted]. However, in 1995, an informal agreement was reached between [Redacted] and his ex-spouse where the dependency exemption would alternate every other year. A copy of the informal agreement was provided. According to the CPA, the taxpayers did not claim a dependency exemption for [Redacted] in 2007. They did claim [Redacted] as a dependent on their 2008 income tax return.

Taxpayers may claim dependency exemption deductions for their dependents as defined in Internal Revenue Code (IRC) § 152. IRC § 152(a) defines the term "dependent" as 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 § 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 § 152(d)(1) and (2).

To claim a dependent exemption under IRC § 152(a), the taxpayers must show they have either a qualifying child or qualifying relative. Regarding a qualifying child, the taxpayers did not show that [Redacted] principal place of abode was with them for more than one-half of the taxable year. As for meeting the requirements for a qualifying relative of the taxpayers, the taxpayers failed to show that they provided more than one-half of [Redacted] support for the taxable year or that [Redacted]

Because the taxpayers have failed to establish that [Redacted] was either a qualifying child or qualifying relative for the purpose of IRC § 152, the Commission finds that the taxpayers are not entitled to a dependency exemption deduction for 2008. And since the petitioners are not entitled to the dependency exemption, they cannot claim an additional grocery credit for [Redacted] per Idaho Code § 63-3024A.

WHEREFORE, the Notice of Deficiency Determination directed to [Redacted] dated August 25, 2009, is APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2008	\$289	\$16	\$305

Interest is calculated through May 15, 2010.

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 \_\_\_\_\_ 2010.

IDAHO STATE TAX COMMISSION

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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.

Copy mailed to:

[Redacted]