

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22505
[Redacted],)	
)	
Petitioners.)	DECISION
)	
_____)	

On March 6, 2010, 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) denying the refund claimed and proposing income tax and interest for taxable year 2008 in the total amount of \$2.04.

The taxpayers filed a timely appeal and petition for redetermination. The taxpayers did not request a hearing but chose to provide additional information to support their position. The Tax Commission, having reviewed the file, hereby issues its decision.

The taxpayers timely filed their 2008 Idaho individual income tax return. During the processing of the taxpayers' return it was found that the taxpayers claimed a dependent that was also claimed by another taxpayer. The Taxpayer Accounting Section (Taxpayer Accounting) requested additional information from the taxpayers. The taxpayers did not respond. Taxpayer Accounting determined the taxpayers were not entitled to claim the dependent exemption and corrected the taxpayers' Idaho return. Taxpayer Accounting sent the taxpayers a letter showing the change made to their Idaho return. The taxpayers disagreed with Taxpayer Accounting's change and protested the determination.

The taxpayers stated they provided support [Redacted]. They stated they were the ones that filed to get [Redacted] a taxpayer identification number. The taxpayers stated they have been sending [Redacted] money for her support. The taxpayers provided copies of wire transfers

to show the amount of money they have sent [Redacted]. The taxpayers also provided copies of prior year's returns to show that they have been claiming [Redacted] as a dependent for many years. The taxpayers stated they should be able to claim [Redacted] since they have provided her support.

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 discussing the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayers failed to respond, so the Tax Commission sent a follow-up letter to the taxpayers. The taxpayers contacted the Tax Commission and discussed the issue. The taxpayers stated they would provide the Tax Commission with a letter that explained the support they were providing [Redacted]. The Tax Commission received the taxpayers' letter, reviewed it, and made its decision 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). IRC section 151(c) allows a taxpayer a deduction of the exemption amount for each dependent as defined in IRC section 152.

IRC section 152 defines a dependent as either a "qualifying child" or a "qualifying relative." A qualifying child is defined as an individual who 1) bears a certain relationship to the taxpayer, 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).) A qualifying relative is defined as an individual 1) who bears a certain relationship to the taxpayer, 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).)

In addition to a qualifying child and a qualifying relative, IRC section 152(b) provides exceptions to the general rule for dependents. The exception of concern here is exception (3) – Citizens or nationals of other countries. This exception states that a dependent can also be a resident of a country contiguous to the United States.

[Redacted]. She is the sister of [Redacted]. The taxpayers stated they provided her with money, clothing, and other basic necessities to live [Redacted]. The taxpayers stated by living in [Redacted], [Redacted] does not have to pay rent or property taxes which makes her living expenses very small in comparison to the United States. The taxpayers stated the money and other things they provided [Redacted] provides her with what she needs to live [Redacted].

Based upon the information provided, the Tax Commission found that [Redacted] was a qualifying relative of the taxpayers. Therefore, the taxpayers could claim [Redacted] as a dependent on their 2008 Idaho income tax return.

The taxpayers also claimed the Idaho grocery credit [Redacted]. Idaho Code section 63-3024A allows a credit for each dependent claimed on the taxpayer's Idaho income tax return. However, the credit is not allowed for nonresident individuals. (See Administrative Income Tax Rule 770.06.) The information the taxpayers provided clearly shows that [Redacted] lived in and was a resident [Redacted]. The taxpayers also stated that another claimed dependent, [Redacted] father, [Redacted], lived and resided [Redacted]. Since the

grocery credit is not available to nonresidents, the Tax Commission hereby upholds the adjustment to the taxpayers' grocery credit and disallows the grocery credit [Redacted].

WHEREFORE, the Notice of Deficiency Determination dated March 6, 2010, is hereby MODIFIED, in accordance with the provisions of this decision and, as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayers receive the following refund of tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2008	\$(226)	\$(16)	\$(242.00)
	PLUS 2009	REFUND SIEZED	<u>(2.04)</u>
		TOTAL REFUND	<u>\$(244.04)</u>

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

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.
