

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 22920
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

On May 21, 2010, the Revenue Operations Division of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination to [Redacted] (taxpayers) reducing the amount of refund claimed in the amount of \$325 for taxable year 2009.

The taxpayers 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 taxpayers are entitled to a dependency exemption deduction for [Redacted], [Redacted] son from a previous marriage.

The taxpayers provided a copy of [Redacted] divorce decree dated October 19, 1999. The decree states that the parties would share joint legal and physical custody of [Redacted], with [Redacted] being the primary caretaker. Child support was ordered to be paid by [Redacted] ex-husband, and [Redacted] was granted the dependency exemption for [Redacted]. At the time of the divorce, [Redacted] was six years of age. As [Redacted] got older, according to the taxpayers, he was allowed to spend more time with his father. In a response to a request for information, the taxpayers stated [Redacted] lived with them for seven months in taxable year 2009 and then began living with his father full-time.

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 that they have either a qualifying child or qualifying relative. Regarding a qualifying child, the taxpayers provided a document stating that [Redacted] resided with them for seven months in taxable year 2009. Information obtained from a third-party substantiates the timeframe with the exception of a statement that [Redacted] alternated his place of abode every week between the taxpayers' residence and his father's during the months of January through July 20, when he moved in full-time with his father. According to the third-party information, and information provided by the taxpayers, [Redacted] did not continue alternating weeks between residences after he moved in with his father in July. When the alternating weeks during the months of January through July 20, are taken into consideration, [Redacted] principal place of abode would not be with the taxpayer for more than one-half the taxable year and, therefore, would not meet the requirements of a qualifying child. As for meeting the requirements for a qualifying relative of the taxpayers, the taxpayers failed to provide any records establishing the total amount of support [Redacted]

received in taxable year 2009 and the amount they provided. Nor did they show that [Redacted] was not the qualifying child of another taxpayer for the taxable year.

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 taxable year 2009. And, since the taxpayer is not entitled to the dependency exemption, he cannot claim an additional grocery credit for [Redacted] per Idaho Code § 63-3024A.

WHEREFORE, the Notice of Deficiency Determination directed to [Redacted] dated May 21, 2010, is APPROVED, AFFIRMED, and MADE FINAL.

Since the taxpayers' refund was only reduced, and no additional tax is owed, no DEMAND for payment is required or necessary.

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.
