

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 22975
[Redacted],	)	
	)	
Petitioner.	)	DECISION
_____	)	

On June 4, 2010, the Revenue Operations Division of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination to [Redacted] (taxpayer) reducing the amount of refund claimed in the amount of \$303 for taxable year 2009.

The taxpayer filed a timely appeal. She 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 taxpayer is entitled to a dependency exemption deduction for [Redacted], her daughter from a previous marriage.

The taxpayer provided a copy of her divorce decree dated December 27, 2001. The decree states that the parties would share joint legal and physical custody of [Redacted]. No primary caretaker was named in the decree, both parties agreed to waive any right to child support, and both parties agreed to share equally in all costs and expenses of raising [Redacted]. As for the dependency exemption, the decree states the parties agree to alternate declaring [Redacted] as a dependent.

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), taxpayers must show they have either a qualifying child or qualifying relative. The taxpayer has provided nothing to show that [Redacted] meets the requirements of either definition of a dependent except the divorce decree and a statement that reiterates the 50-50 split as to the support and custody of [Redacted]. Because the taxpayer has failed to establish that [Redacted] was either a qualifying child or qualifying relative for the purpose of IRC § 152, the Commission finds that the taxpayer is not entitled to a dependency exemption deduction for taxable year 2009. And since the taxpayer is not entitled to the dependency exemption, she cannot claim an additional grocery credit for [Redacted] per Idaho Code § 63-3024A.

WHEREFORE, the Notice of Deficiency Determination directed to [Redacted] dated June 4, 2010, is APPROVED, AFFIRMED, and MADE FINAL.

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

An explanation of the taxpayer's 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.