

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

In the Matter of the Protest of )  
[Redacted], ) DOCKET NO. 23267  
 )  
 )  
Petitioner. ) DECISION  
 )  
\_\_\_\_\_ )

On August 20, 2010, the staff of the Revenue Operations Division of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted](taxpayer) proposing additional tax and interest for taxable year 2009 in the total amount of \$289.30.

The taxpayer filed a timely appeal and petition for redetermination. The taxpayer did not request a hearing. The Commission, having reviewed the file, hereby issues its decision.

The taxpayer timely filed his 2009 Idaho individual income tax return. During the processing of the taxpayer's return, the Taxpayer Accounting Section (Taxpayer Accounting) found that another taxpayer claimed a dependent exemption for the same child, [Redacted], as the taxpayer claimed on his income tax return. Taxpayer Accounting sent the taxpayer a letter requesting information to support the dependency exemption claim. The taxpayer responded and provided a copy of a Modification Order dated December 14, 2009, and a Health and Welfare financial analysis report that showed he was current on child support. In response to the question of how many days [Redacted] lived with him, the taxpayer stated [Redacted] lives with her mother. Taxpayer Accounting determined the taxpayer was not entitled to the dependent exemption, disallowed the exemption on the taxpayer's return, and sent him a Tax Computation Change letter that shows the tax effect of disallowing the dependent exemption and grocery credit.

The taxpayer protested the change in tax stating that he should be allowed to claim the exemption and grocery credit because it is part of his child custody agreement. Taxpayer Accounting issued an NODD to the taxpayer and sent the matter for administrative review.

The Commission reviewed the matter and sent the taxpayer a letter that discussed the methods available for redetermining a protested NODD. The taxpayer contacted the Commission requesting an explanation of the adjustment but did not provide any additional information for consideration. The Commission, having reviewed the file, hereby issues its decision.

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). 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.

IRC section 152(c) defines a “qualifying child” 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 not provided over one-half of the individual’s own support for the taxable year. IRC section 152(c)(1) through (3).

IRC section 152(d) defines a “qualifying relative” as an individual (1) who bears a certain relationship to the taxpayer, such as the taxpayer’s child, (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).

To claim a dependent exemption, the taxpayer must show the dependent is either a qualifying child or a qualifying relative. Regarding a qualifying child, the taxpayer has not shown that [Redacted] principal place of abode was with him for more than one-half the taxable year. Consequently, the taxpayer has no qualifying child for taxable year 2009. As for meeting the requirements for a qualifying relative of the taxpayer, the taxpayer failed to show that he provided over one-half the support of [Redacted] for the taxable year or that [Redacted] was not a qualifying child of any other taxpayer for the taxable year.

It is presumed from the fact that the taxpayer is required to pay child support that he may have provided nearly one-half, one-half, or over one-half of [Redacted] support. However, the taxpayer did not provide any evidence to show the child's total support or the amount he paid toward her support. The taxpayer has not carried his burden of proving this requirement of a qualifying relative. In addition to the support issue, [Redacted] likely qualifies as the qualifying child of her mother, another taxpayer. In either case, [Redacted] does not meet the requirements of a qualifying relative for the taxpayer.

Because [Redacted] does not meet the requirements for either a qualifying child or a qualifying relative as defined in IRC section 152, the Commission finds that the taxpayer is not entitled to a dependency exemption deduction for [Redacted] for taxable year 2009. And since the taxpayer is not entitled to the dependency exemption, the taxpayer cannot claim the additional grocery credit for the child per Idaho Code section 63-3024A.

WHEREFORE, the Notice of Deficiency Determination dated August 20, 2010, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pays the following tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2009	\$282	\$11	\$293

Interest is calculated through February 11, 2011.

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

An explanation of the taxpayer's 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.  
  
\_\_\_\_\_