

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 23264
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

On August 20, 2010, the Revenue Operations Division of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayers) proposing additional tax and interest in the total amount of \$333.41 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 this decision is whether the taxpayers are entitled to a dependency exemption deduction for [Redacted] daughter, [Redacted], from a previous marriage.

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 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] is not the qualifying child of another taxpayer for taxable year 2009.

As a part of their appeal letter, the taxpayers provided a copy of [Redacted] divorce decree that states he shall claim [Redacted] each year as a federal and state tax exemption. However, the mere fact that the state court granted the taxpayer the right to claim the dependency exemption deduction is immaterial because a state court cannot determine issues of Federal tax law. Id. See Commissioner v. Tower, 327 U.S. 280 (1946); Kenfield v. United States, 783 F.2d 966 (10th Cir.1986); Nieto v. Commissioner, T.C. Memo.1992-296. In addition, the divorce decree contains language and makes provisions for "minor" children. While [Redacted] decree does not specifically state that he cannot claim [Redacted] once she turns 18, generally once a child reaches the age of majority they are no longer under the provisions of a divorce decree. [Redacted] turned 18 on April 14, 2009. Therefore, even if the divorce decree was the determining factor of who is entitled to the dependency exemption, it would not be applicable.

The taxpayers have failed to establish that [Redacted] was either a qualifying child or qualifying relative for the purpose of IRC § 152, therefore, the Commission finds that the

taxpayers are not entitled to a dependency exemption deduction for [Redacted] for taxable year 2009. And since the taxpayers 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 20, 2010, 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 DUE</u>
2009	\$325	\$15	\$340

Interest is calculated through March 31, 2011.

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 _____ 2011.

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.
