

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 23318
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

On August 20, 2010, 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 \$215.44 for taxable year 2009.

The taxpayers filed a timely appeal and petition for redetermination. The taxpayers requested an informal hearing which was held telephonically on November 30, 2010. The taxpayers did not submit any additional information for consideration. The Commission therefore, hereby issues its decision based on the information in the file.

The sole issue for this decision is whether the taxpayers are entitled to a dependency exemption for [Redacted], [Redacted] child from a prior relationship. As part of their appeal, the taxpayers provided pages one and three of a Stipulation Modifying Child Support and Establishing Visitation issued by the Sixth Judicial District Court of Idaho. Item three of the document states that the dependency exemption shall be rotated. The mother of the child will be entitled to the tax exemption every even year and the father, [Redacted], shall be entitled to claim the tax exemption in every odd year.

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 taxpayers have not shown that [Redacted] principal place of abode was with them for more than one-half of the taxable year. In fact, when asked how many days in 2009 [Redacted] lived with the taxpayers, they responded, none. Consequently, the taxpayers have no qualifying child for taxable year 2009. As for meeting the requirements for a qualifying relative of the taxpayers, the taxpayers failed to show that they provided over one-half the support of [Redacted] for taxable year 2009 or that [Redacted] was not a qualifying child of any other taxpayer for the taxable year.

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 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, the taxpayers cannot claim the additional grocery credit for [Redacted] per Idaho Code section 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</u>
2009	\$210	\$10.04	\$220.04

Interest is calculated through April 20, 2010.

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.
