

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 23458
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On August 20, 2010, the Revenue Operations Division of the Idaho State Tax Commission (Tax Commission) issued a Notice of Deficiency Determination to [Redacted] (taxpayer) proposing additional tax and interest in the amount of \$262.63 for taxable year 2009.

The taxpayer filed a timely appeal. He did not request a hearing. The Tax 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 taxpayer is entitled to a dependency exemption deduction for [Redacted], his daughter from a previous marriage. As part of his appeal, the taxpayer provided a copy of his divorce decree which stated that he would have primary, physical custody of his daughter with liberal visitation given to [Redacted] mother.

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 taxpayer must show they have either a qualifying child or qualifying relative. Regarding a qualifying child, the taxpayer did not prove [Redacted] principal place of abode was with him for more than one-half the taxable year. The taxpayer provided documentation stating [Redacted] lived with him until June 13, 2010, when she went to stay with her mother for the summer. According to the taxpayer, [Redacted] was expected to return to his home in [Redacted] sometime in August and register for school, but she did not return. Information provided by the taxpayer, along with documentation submitted by a third party, substantiates this timeframe. Therefore, [Redacted] principal place of abode would not be with the taxpayer for more than one-half the taxable year, and she would not meet the requirements of a qualifying child. As for meeting the requirements for a qualifying relative of the taxpayer, the taxpayer failed to provide any records establishing the total amount of support [Redacted] received in taxable year 2009 and the amount he provided, nor did he show that [Redacted] was not the qualifying child of another taxpayer for the taxable year.

Because the taxpayer has failed to establish that [Redacted] was either a qualifying child or qualifying relative for the purpose of IRC § 152, the Tax Commission finds that the taxpayer is not entitled to a dependency exemption deduction for 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 August 20, 2010, is APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2009	\$256	\$12.24	\$268.24

Interest is calculated through April 20, 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.
