

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 23592
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

On December 6, 2010, the Revenue Operations Division of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination to [Redacted] (taxpayers) reducing the amount of refund claimed by \$651 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 issue for this decision is whether the taxpayers are entitled to a dependency exemption deduction for [Redacted] daughter from a previous marriage, [Redacted] daughter, [Redacted].

According to information provided by the taxpayers, [Redacted] was required to pay child support for [Redacted] until she turned 18 and graduated high school. An addendum to [Redacted] divorce decree was also provided which gave [Redacted] the tax credit for [Redacted] until she graduated from high school. In February 2009, [Redacted] turned 18. She graduated high school in June and, according to the taxpayers, began living on her own. The taxpayers, however, still claimed [Redacted] as a dependent on their 2009 income tax return. In regard to [Redacted], the taxpayers stated she also turned 18 in 2009, on July 22, but did not move from their residence until sometime in August 2009. According to the taxpayers, court documents related to [Redacted] do not stipulate which parent was to take the tax credit. The taxpayers state

[Redacted] has lived with [Redacted] since her birth and has been claimed on [Redacted] every year, including taxable year 2009.

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 of the taxable year. However, it appears that [Redacted] does meet the requirements of a qualifying child because she did reside with the taxpayers for more than one-half of taxable year 2009. As for [Redacted] 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 taxable year 2009 or that [Redacted] gross income for taxable year 2009 was less than the exemption amount.

Because the taxpayers failed to establish that [Redacted] was either a qualifying child or qualifying relative for the purpose of IRC § 152, the Commission finds that the taxpayers are not entitled to a dependency exemption deduction for [Redacted] for taxable year 2009, but they are entitled to the dependency exemption for [Redacted]. And, since the taxpayers are not entitled to the dependency exemption for [Redacted], they cannot claim an additional grocery credit for [Redacted] per Idaho Code § 63-3024A.

WHEREFORE, the Notice of Deficiency Determination directed to [Redacted] dated December 6, 2010, is MODIFIED and as modified, is APPROVED and MADE FINAL.

<u>YEAR</u>	<u>REFUND CLAIMED ON RETURN</u>	<u>REFUND ALLOWED PER ORIGINAL NODD</u>	<u>REFUND ALLOWED PER DECISION</u>	<u>REFUND DUE TAXPAYERS</u>
2009	\$843	\$192	\$268	\$76

Since the Notice of Deficiency Determination reduced the refund claimed by the taxpayers, a DEMAND for payment of tax is unnecessary.

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 _____ 2011, 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.
