

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 23602
[Redacted],	)	
	)	
Petitioner.	)	DECISION
_____	)	

[Redacted] (taxpayer) protested the Notice of Deficiency Determination dated November 3, 2010, denying an amended claim for refund of income tax in the total amount of \$419 for taxable year 2008. The taxpayer sought additional dependent exemption deductions for [Redacted]. The Tax Commission, having reviewed the file, hereby issues its decision.

**BACKGROUND**

The taxpayer timely filed an amended Idaho individual income tax return for taxable year 2008. During the processing of the amended return, the amended return was identified as having potential errors because of the additional claimed dependent exemption deductions. The Taxpayer Accounting Section (Taxpayer Accounting) requested additional information from the taxpayer in the form of a questionnaire. The taxpayer responded to Taxpayer Accounting's questionnaire stating that she was the mother and grandmother of the dependents claimed. The taxpayer stated the dependents lived with her for eight months and that she provided more than half the total support of the dependents. The taxpayer also provided additional information to support her claim.

Taxpayer Accounting reviewed the information and ultimately determined the taxpayer was not entitled to the dependent exemptions. Taxpayer Accounting sent the taxpayer a Notice of Deficiency Determination denying her refund claim, which the taxpayer protested. The taxpayer stated that [Redacted] lived with her throughout [Redacted] pregnancy in 2007 and

continued to live with her after [Redacted] was born on January 8, 2008. She stated [Redacted] did not go to live with [Redacted] father until August 2008 because of him being incarcerated. The taxpayer stated [Redacted] stays with [Redacted] father were never for very long because of their rocky relationship.

Taxpayer Accounting referred the matter for administrative review, and the Tax Commission sent the taxpayer a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayer contacted the Tax Commission to discuss the matter and initially stated she did not protest Taxpayer Accounting's determination. She later asked what was needed to prove she could claim the dependent exemptions. The Tax Commission asked the taxpayer to get a signed statement from [Redacted] stating where she resided in 2008 and who supported her. The taxpayer provided that information which the Tax Commission evaluated and compared with other information obtained.

### **LAW AND ANALYSIS**

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(a) defines a dependent as either a "qualifying child" or a "qualifying relative." A qualifying child is an individual who 1) bears a certain relationship to the taxpayer, 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, 4) has not provided over one-half of the individual's own

support for the taxable year, and 5) has not filed a joint return with the individual's spouse for the taxable year. IRC section 152(c)(1) through (3).

A qualifying relative is an individual 1) who bears a certain relationship to the taxpayer, 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).

In this case, the Tax Commission received conflicting information supposedly from the dependent [Redacted]. On the taxpayer's side, [Redacted] written statement is that she and her daughter [Redacted] lived with the taxpayer from August 2007 to July 31, 2008. [Redacted] also provided two other statements stating that she and [Redacted] lived the entire years of 2007 through 2010 with [Redacted] father. All three statements appear to be signed by [Redacted] but only one of the statements is notarized and only one appears to be in the handwriting of [Redacted], however, neither is the same document. The taxpayer's statement does not appear to be written by [Redacted] but rather by the taxpayer. The taxpayer's statement is not signed by [Redacted] but her name is printed. [Redacted] printed name has some inconsistencies when compared to other documents the taxpayer provided and documents obtained elsewhere.

The taxpayer provided a copy of a rental agreement between herself and [Redacted]. The agreement is dated August 12, 2007, and lists the tenants [Redacted]. It also identifies a bedroom and a child's bedroom as the premises to be rented. The conflict here is that [Redacted] was not born until January 2008. And, once again, [Redacted] name is printed, not written, and only matches the printed name on the taxpayer's statement [Redacted].

[Redacted] was born May 1, 1989. In 2008, [Redacted] was 19 years old. IRC section 152(c)(3) states that for a dependent to be considered a qualifying child, the dependent must not attain the age of 19 by the end of the calendar year in which the taxable year of the taxpayer begins. A special provision is available for students, but there is no indication that [Redacted] was a student in 2008. Therefore, [Redacted] could not be a qualifying child for the taxpayer or anyone else for taxable year 2008. [Redacted] on the other hand, does meet the relationship and age tests for a qualifying child. However, it is not clearly evident that [Redacted] principal place of abode for more than half the taxable year was the same as the taxpayer's. It is also questionable whether a taxpayer can claim an individual as a dependent if that individual is being supported by a parent paying rent to the taxpayer. Regardless, IRC section 152(c)(4) provides a special rule for an individual that is a qualifying child for more than one taxpayer. The special rule is a tie-breaking rule, and the first tie-breaker is the parent of the individual gets the dependent exemption. Since one of the individuals claiming [Redacted] is a parent, the tie-breaker rule goes to the parent, and the exemption deduction is not allowed to the taxpayer.

Regarding a qualifying relative, the taxpayer did not show that she provided over one-half of [Redacted] support for the taxable year. The information available shows [Redacted] was on public assistance and received support from [Redacted] father. The taxpayer may have provided rooms for [Redacted] but she also charged rent for those rooms. Nothing in the record shows that the taxpayer financially supported [Redacted] in taxable year 2008. Therefore, [Redacted] cannot be qualifying relatives for the taxpayer. Furthermore, because [Redacted] is a qualifying child of another taxpayer, [Redacted] cannot be a qualifying relative for the taxpayer.

**CONCLUSION**

Because [Redacted] do not meet the requirements for either a qualifying child or a qualifying relative as defined in IRC section 152, the Tax Commission finds that the taxpayer is not entitled to the dependent exemption deductions for either [Redacted] for taxable year 2008. And since the taxpayer is not entitled to the dependent exemptions, the taxpayer cannot claim the additional grocery credit [Redacted] per Idaho Code section 63-3024A.

THEREFORE, the Notice of Deficiency Determination dated November 3, 2010, and directed to [Redacted] is AFFIRMED.

Since the Notice of Deficiency Determination denied a refund claim on an amended return, no additional tax is owed and, therefore, an ORDER is not necessary.

An explanation of the taxpayer’s 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.

\_\_\_\_\_