

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 23663
[Redacted],	)	
	)	
Petitioners.	)	DECISION
_____	)	

On December 15, 2010, the Revenue Operations Division of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayers) proposing tax and interest in the total amount of \$188.36 for taxable year 2009.

The taxpayers filed a timely appeal and provided a copy of [Redacted] Stipulation to Child Support Order Modification issued by the First Judicial District Court of Idaho. The Order required [Redacted] to pay child support and stated a dependency exemption will be assigned to [Redacted] pursuant to the Idaho Child Support Guidelines.

The taxpayers did not request a hearing, nor did they provide any information for consideration, other than the Order. The Commission, having reviewed the file, hereby issues its decision.

The sole issue for this decision is whether the taxpayers are entitled to the dependency exemption deduction for [Redacted], [Redacted] son from a previous marriage.

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 taxpayers 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. 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 of the support of [Redacted] for taxable year 2009 or that [Redacted] was not a qualifying child of any other taxpayer for the taxable year.

It is presumed from the fact that [Redacted] is required to pay child support that he may have provided nearly one-half, one-half, or over one-half of [Redacted] support. However, the taxpayers did not provide any evidence to show [Redacted] total support or the amount they paid toward his support. The taxpayers have not carried their burden of proving this requirement of a qualifying relative.

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.

THEREFORE, the Notice of Deficiency Determination directed to [Redacted] dated December 15, 2010, is APPROVED, AFFIRMED, and MADE FINAL.

The Notice of Deficiency Determination has been paid in full, therefore, no DEMAND for payment is required or necessary.

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.  
  
\_\_\_\_\_