

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 24343
[Redacted],	)	
	)	
Petitioners.	)	DECISION
_____	)	

On August 4, 2011, the Revenue Operations Division of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayers) reducing the amount of refund claimed for taxable year 2010 in the total amount of \$334.

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

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 taxpayer did not show that [Redacted] principal place of abode was with him for more than one-half of the taxable year. As for meeting the requirements for a qualifying relative of the taxpayer, the taxpayer failed to show that [Redacted] is not the qualifying child of another taxpayer for the taxable year.

As a part of their appeal, the taxpayers provided a copy of [Redacted] divorce decree, dated February 18, 1999, that states [Redacted] shall claim [Redacted] each year as a federal and state tax exemption. However, the mere fact that the state court granted the taxpayer the right to claim the dependency exemption deduction is immaterial because a state court cannot determine issues of federal tax law. Id. See Commissioner v. Tower, 327 U.S. 280 (1946); Kenfield v. United States, 783 F.2d 966 (10th Cir.1986); Nieto v. Commissioner, T.C. Memo.1992-296. Generally, once a child reaches the age of majority they are no longer under the provisions of a divorce decree. [Redacted] turned 18 on June 3, 2010. In addition, according to information provided by [Redacted], he resided part time with each parent for the past 12 years until the summer of 2010 when he began living solely with his mother.

The taxpayers have failed to establish that [Redacted] was either a qualifying child or qualifying relative for the purpose of IRC § 152. Therefore, the Commission finds that the taxpayers are not entitled to a dependency exemption deduction for [Redacted] for taxable year 2010. And, since the taxpayers are not entitled to the dependency exemption, they cannot claim an additional grocery credit for [Redacted] per Idaho Code § 63-3024A.

THEREFORE, the Notice of Deficiency Determination directed to [Redacted] dated August 4, 2011, is AFFIRMED.

Since the taxpayers' refund was only reduced and no additional tax is due, no DEMAND for payment is made 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.  
  
\_\_\_\_\_