

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 24432
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

On August 25, 2011, the Revenue Operations Division of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination to [Redacted] (taxpayers) proposing additional tax and interest in the total amount of \$656.16 for taxable year 2010.

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 their daughter, [Redacted], and their granddaughter, [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, and (5) who has not filed a joint return (other than only for a claim of refund) with the individual’s spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins. 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 that they have either a qualifying child or qualifying relative. In the present case, based on the information provided by the taxpayers, both [Redacted] and [Redacted] more than likely would meet the requirements to be a qualifying child for the taxpayers. However, in taxable year 2010, [Redacted] filed a joint return with her spouse and claimed [Redacted] as a dependent.

Treasury Regulation § 1.151-1(a) and (b) in pertinent part, states:

- (a) *in general*, in computing taxable income, an individual is allowed a deduction for the exemptions specified in section 151. Such exemptions are (i) the exemptions for an individual and spouse...
- (b)...If in any case a joint return is made by the taxpayer and his spouse, no other person is allowed an exemption for such spouse even though such other person would have been entitled to claim an exemption for such spouse as a dependent if such joint return had not been made.

Therefore, because [Redacted] filed a joint return with her spouse, the taxpayers are not entitled to the dependency exemption for [Redacted] for taxable year 2010.

In regards to the dependency exemption for [Redacted], based on the information provided, it appears she would meet the requirements of a qualifying child for both the taxpayers and [Redacted]. IRC § 152(c)(4), special rule relating to two or more who can claim the same qualifying child, states in relevant part:

- (A) In general.--Except as provided in subparagraph (B), if (but for this paragraph) an individual may be and is claimed as a qualifying child by 2 or more taxpayers for a taxable year beginning in the same calendar year, such individual shall be treated as the qualifying child of the taxpayer who is—

(i) a parent of the individual

The taxpayers then, as grandparents, would not be entitled to the dependency exemption for [Redacted] for taxable year 2010.

And, since the taxpayers are not entitled to the dependency exemptions for either [Redacted] or [Redacted], they cannot claim an additional grocery credit for [Redacted] and [Redacted] per Idaho Code § 63-3024A.

THEREFORE, the NODD directed to [Redacted] dated August 25, 2011, is AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2010	\$644	\$30	\$674

Interest is calculated through June 15, 2012.

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the taxpayers' right to appeal this decision is enclosed.

DATED this _____ day of _____ 2012.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2012, 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.
