

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)
[Redacted],) DOCKET NO. 24503
)
)
Petitioners.) DECISION
)
_____)

On August 24, 2011, the Revenue Operations Division of the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayers) proposing additional tax and interest in the total amount of \$305.32 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 [Redacted] son from a previous marriage, [Redacted].

Mr. [Redacted] and [Redacted] mother divorced in 1994. As part of their appeal, the taxpayers provided a copy of some of the pages from Mr. [Redacted] divorce decree along with a Form 8332 signed by the former Mrs. [Redacted] releasing her claim to the dependent exemption. The Form 8332 was signed February 15, 2003, releasing the exemption for taxable year 2002. Part 2, Release of Exemption for Future Years, was also completed. The future years listed were 2003 through 2007 and then the statement, until 19 years of age per divorce decree.

However, once a child reaches the age of 18 they are no longer in the custody of either parent, as the child is now emancipated, and therefore Form 8332 is not applicable. [Redacted] turned 18 on June 11, 2009. The taxpayers, however, still claimed [Redacted] as a dependent on their 2010 income tax return.

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 section 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 the taxable year. As for 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 2010 or that [Redacted] was not the qualifying child of any other taxpayer for taxable year 2010.

Because the taxpayers have 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 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 section 63-3024A.

THEREFORE, the Notice of Deficiency Determination directed to [Redacted] dated August 24, 2011, is AFFIRMED.

It is ordered that the taxpayers pay the following tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL DUE</u>
2010	\$299	\$12.34	\$311.34

Interest is calculated through April 25, 2012.

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

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.
