

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

In the Matter of the Protest of )  
[Redacted], ) DOCKET NO. 24971  
 )  
 )  
Petitioner. ) DECISION  
 )  
\_\_\_\_\_ )

BACKGROUND

[Redacted](Petitioner) protested the Notice of Deficiency Determination (NODD) dated May 11, 2012, asserting additional income tax and interest in the total amount of \$333 for taxable year 2011. The Petitioner disagreed with the adjustment disallowing the dependent exemption deduction for [Redacted] daughter, [Redacted].

DISCUSSION

The Petitioner timely filed his 2011 Idaho individual income tax return. During the processing of income tax returns, Petitioner’s return was identified as one of two returns that claimed dependent exemption deductions [Redacted]. The Taxpayer Accounting Section requested additional information from Petitioner in the form of a questionnaire. Petitioner responded to the questionnaire in support of his claim. Taxpayer Accounting reviewed the information the Petitioner provided and determined that since the Petitioner was the noncustodial parent, the Petitioner was not entitled to the dependent exemption deductions [Redacted]. The Petitioner responded with a written response protesting the NODD. The Petitioner stated his protest was based upon the information previously provided wherein by verbal agreement, his child support payments included compensation to the custodial parent for the exemptions.

Taxpayer Accounting referred the matter for administrative review on May 23, 2012. The Commission sent the Petitioner a letter that discussed the methods available for redetermining a protested NODD. Petitioner did not request a hearing.

### LAW AND ANALYSIS

Deductions are a matter of legislative grace, and taxpayers bear the burden of proving 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). IRC section 151(c) allows a taxpayer a deduction of the exemption amount for each dependent as defined in IRC section 152.

The term “custodial parent” is defined in IRC § 152(e)(4)(A) as the parent having custody for the greater portion of the calendar year. However, IRC § 152(e) does allow the noncustodial parent to claim the dependent exemption if certain conditions are met. One condition is that the custodial parent must sign a written declaration that he or she will not claim the child as a dependent. This written declaration may be on Form 8332 or another document that conforms in substance to Form 8332 and is attached to the noncustodial parents return. Petitioner has not shown [Redacted]met the requirements of a dependent, nor has he provided a release from the custodial parent.

### CONCLUSION

Because [Redacted]did 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 Petitioner is not entitled to the dependent exemption deductions [Redacted] for taxable year 2011. And, since Petitioner is not entitled to the dependent exemption, the Petitioner cannot claim the additional grocery credit [Redacted]as provided for in Idaho Code section 63-3024A.

THEREFORE, the NODD dated May 11, 2012, and directed to the Petitioner is hereby AFFIRMED by this decision.

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
12/31/11	\$ 333	\$ 0	\$ 0	\$ 333
		LESS REDUCED REFUND		<u>(333)</u>
				<u>\$ 0</u>

An explanation of the Petitioner's 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.  
  
\_\_\_\_\_