

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 24917
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

[Redacted] (Petitioners) protested the Notice of Deficiency Determination dated April 5, 2012, proposing additional income tax of \$321, unpaid taxes of \$705, and interest of \$46.76 for taxable year 2010, for a total amount due of \$1,072.76. Petitioners disagreed with the additional income tax asserted on the disallowance of the dependent exemption deduction for [Redacted]. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

Petitioners timely filed their 2010 Idaho individual income tax return. During processing, Petitioners' return was identified as one of two income tax returns on which a dependent exemption deduction was claimed for [Redacted]. The Taxpayer Accounting Section (Taxpayer Accounting) requested additional information from Petitioners in the form of a questionnaire. Petitioners failed to respond.

Taxpayer Accounting determined Petitioners were not entitled to the dependent exemption deduction and sent Petitioners a Notice of Deficiency Determination. Petitioners protested the Notice of Deficiency Determination stating only that they protest the decision. Petitioners provided no argument or additional information for their protest. Since there was nothing to reconsider, Taxpayer Accounting referred the matter for administrative review.

The Tax Commission reviewed the matter and sent Petitioners a letter that discussed Petitioners' hearing rights and the methods available for re-determining a protested Notice of

Deficiency Determination. Petitioners did not respond to the Tax Commission's letter, so the Tax Commission decided the matter based upon the information available.

LAW AND ANALYSIS

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 defines a dependent as either a "qualifying child" or a "qualifying relative." A qualifying child is an individual who 1) bears a certain relationship to the taxpayer, 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, 4) has not provided over one-half of the individual's own support for the taxable year, and 5) has not filed a joint return with the individual's spouse for the taxable year. IRC section 152(c)(1) through (3).

A qualifying relative is an individual 1) who bears a certain relationship to the taxpayer, 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).

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, (1992); New Colonial Ice Co. v. Helvering, 292 U.S. 435, 440, (1934). If a taxpayer fails to provide adequate proof of material fact upon which a deduction depends, no deduction is allowed and that taxpayer must bear the burden of his misfortune. Burnet v. Houston, 283 U.S. 223, 228 (1931).

In Idaho, a State Tax Commission deficiency determination is presumed to be correct and the burden is on the taxpayer to show that the deficiency is erroneous. Parsons v. Idaho State Tax Commission, 110 Idaho 572, 574-575 n.2, 716 P.2d 1344, 1346-1347 n.2 (Ct. App. 1986). Petitioners failed to show that [Redacted] was either a qualifying child or a qualifying relative. They failed to meet their burden of proof.

CONCLUSION

Since Petitioners offered no evidence to show that [Redacted] was their dependent, the presumption is that any evidence provided would not favor Petitioners' claim. Wichita Terminal Elevator Co. v. C.I.R., 6 T.C. 1158 (1946). Therefore, the Tax Commission finds that Petitioners are not entitled to a dependent exemption deduction for [Redacted] for taxable year 2010. As such, Petitioners are also not entitled to claim the additional grocery credit for [Redacted] per Idaho Code section 63-3024A.

THEREFORE, the Notice of Deficiency Determination dated April 5, 2012, and directed to [Redacted] is hereby AFFIRMED.

IT IS ORDERED that Petitioners pay the following tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2010	\$1,026	\$92	\$1,118

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

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

DATED this _____ day of _____ 2013.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2013, 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.
