

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 25182
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

[Redacted] (Petitioner) protested the proposed change to his 2011 Idaho individual income tax return asserting additional income tax and interest in the total amount of \$340.42. Petitioner disagreed with Revenue Operations’ adjustment disallowing the dependent exemption deduction for [Redacted]. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

Petitioner filed his 2011 Idaho individual income tax return claiming a dependent exemption deduction for his son [Redacted]. As the processing of 2011 income tax returns continued, Petitioner’s return was identified as one of two income tax returns that claimed a dependent exemption deduction for [Redacted]. The Taxpayer Accounting Section (Taxpayer Accounting) requested additional information from Petitioner in the form of a questionnaire. Petitioner responded to Taxpayer Accounting’s questionnaire stating that he was [Redacted]father, he had 50 percent custody of [Redacted] that [Redacted] lived with him for 349 days in 2011, and that he provided more than half of [Redacted] total support.

Taxpayer Accounting reviewed the information obtained from Petitioner and the other taxpayer, and ultimately determined Petitioner was not entitled to the dependent exemption. Taxpayer Accounting sent Petitioner a correction notice denying the dependent exemption deduction. Petitioner protested, and asked that the matter be reviewed by the Tax Commission’s

legal department. The Bureau sent Petitioner a Notice of Deficiency Determination and referred the matter for administrative review.

The Tax Commission sent Petitioner a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. Petitioner did not respond, so the Tax Commission sent Petitioner a follow-up letter. Still Petitioner failed to respond. Seeing that Petitioner was given the opportunity to state and defend his position, the Tax Commission decided the matter based upon the information available.

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). 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(a) 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).

In this case, the dependent in question was age 18 for most of calendar year 2011. Consequently, [Redacted] was considered emancipated and therefore, he was not considered in the custody of his parents. As a result, the special rule of IRC section 152(e) for determining whether the custodial parent or non-custodial parent can claim the dependent exemption deduction, is not applicable. *See* Treasury Regulation section 1.152-4(g), Example (6). Therefore, the determination of who can claim Cody as a dependent rests in the general provisions of IRC section 152(c) and (d) as cited above.

The Tax Commission asked Petitioner to provide information to show that [Redacted] met the qualifications of a qualifying child or a qualifying relative. Petitioner failed to provide any additional information. Nevertheless, the Tax Commission did obtain additional information from the other taxpayer [Redacted] as a dependent.

CONCLUSION

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). Petitioner failed to provide documentation or information in support of his position and therefore, he did not meet his burden. If a taxpayer is unable to provide adequate proof of any material fact upon which a deduction depends, no deduction is allowed, and that taxpayer must bear his misfortune. Burnet v. Houston, 283 U.S. 223, 51 S. Ct. 413 (1931). As a result of Petitioner's failure to provide information in support of her position, the Tax Commission based its decision upon the information available from other sources. That information showed

[Redacted] was not a qualifying child for Petitioner, but rather for someone else. That being the case, [Redacted] could not be a qualifying relative for Petitioner. (IRC section 152(d)(1).) Therefore, Petitioner cannot claim [Redacted] as a dependent for taxable year 2011. And, because Petitioner cannot claim the dependent exemption, Petitioner cannot claim the additional grocery credit per Idaho Code section 63-3024A.

THEREFORE, the Notice of Deficiency Determination dated August 16, 2012, and directed to [Redacted] is AFFIRMED.

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2011	\$334	\$15	\$349

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

An explanation of the Petitioner's 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.
