

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 25307
[Redacted],	)	
	)	
Petitioner.	)	DECISION
_____	)	

On June 11, 2012, the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayer) proposing tax and interest in the amount of \$243.85 for taxable year 2011.

The taxpayer filed a timely appeal and provided a copy of a Decree of Divorce, and Order for Child Custody, and Child Support issued by the Seventh Judicial District Court of Idaho on January 30, 2012. The Decree stated the taxpayer would be awarded primary physical custody of the child born during the marriage and that she would be assigned the dependency exemption for the minor child.

The taxpayer did not request a hearing, nor did she provide any information for consideration, other than the Decree. The Commission, having reviewed the file, hereby issues its decision.

The sole issue for this decision is whether the taxpayer is entitled to the dependency exemption deduction for [Redacted], the taxpayer's child from the marriage.

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, 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(c) defines a “qualifying child” 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 not provided over one-half of the individual’s own support for the taxable year. IRC section 152(c)(1) through (3).

IRC section 152(d) defines a “qualifying relative” as an individual (1) who bears a certain relationship to the taxpayer, such as the taxpayer’s child; (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).

To claim a dependent exemption, the taxpayer must show the dependent is either a qualifying child or a qualifying relative. Regarding a qualifying child, the taxpayer has not shown that [Redacted] principal place of abode was with her for more than one-half the taxable year. Consequently, the taxpayer has no qualifying child for 2011. As for meeting the requirements for a qualifying relative of the taxpayer, the taxpayer failed to show that she provided over one-half the support of [Redacted] for the taxable year or that [Redacted] was not a qualifying child of any other taxpayer for the taxable year.

Because the taxpayer has failed to show that [Redacted] meets the requirements for either a qualifying child or a qualifying relative as defined in IRC section 152, the Commission finds that the taxpayer is not entitled to a dependency exemption deduction for [Redacted] for taxable year 2011. And, since the taxpayer is not entitled to the dependency exemption, the taxpayer cannot claim the additional grocery credit for [Redacted] per Idaho Code section 63-3024A.

THEREFORE, the Notice of Deficiency Determination dated June 11, 2012, and directed to [Redacted] is APPROVED and MADE FINAL.

IT IS ORDERED that the taxpayer pays the following tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2011	\$243	\$10	\$253

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

Interest is calculated through May 17, 2013.

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2013.

IDAHO STATE TAX COMMISSION

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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.

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