

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 25855
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On July 19, 2013, the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (taxpayers) denying the additional dependency exemption deduction and grocery credit claimed for taxable year 2012.

The sole issue for this decision is whether the taxpayers are entitled to a dependency exemption deduction for [Redacted] daughter, [Redacted]. In support of their claim, the taxpayers provided an incomplete copy of the Stipulation for Entry of Judgment and Decree of Divorce dated October 27, 1998, issued by the Fourth Judicial District Court of Idaho. The document states that [Redacted] shall be entitled to the dependency exemption for [Redacted].

The taxpayers did not respond to a letter outlining their alternatives for redetermining a protested NODD, nor did they request a hearing. The Commission, having reviewed the file, hereby issues its decision.

Taxpayers may claim dependency exemption deductions for their dependents as defined in Internal Revenue Code (IRC) § 152. Under IRC § 152(a), the term “dependent” means 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 not provided over one-half of the individual’s own support for the taxable year. IRC § 152(c)(1)-(3).

However, the dependency exemption, as a general rule, is limited under IRC § 152(e)(1) as follows: if the child received over one-half of his support during the calendar year from his parents who live apart at all times during the last 6 months of the calendar year and the child is in the custody of one or both parents for more than one-half of the calendar year, then the child is treated as the qualifying child of the noncustodial parent if certain requirements are met. The requirements are met if (1) the custodial parent signs a written declaration (in such manner and form as the Secretary may prescribe) that the custodial parent will not claim the child as a dependent for the taxable year; and (2) the noncustodial parent attaches the written declaration to the noncustodial parent's return for the taxable year. IRC § 152(e)(2).

To claim a dependent exemption under IRC § 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 of the taxable year. As for meeting the requirements for a qualifying relative of the taxpayers, the taxpayers failed to show that [Redacted] is not the qualifying child of another taxpayer for the taxable year.

The court order states that [Redacted] is entitled to the dependency exemption for [Redacted]. However, the mere fact that the State court granted the taxpayer the right to claim the dependency exemption deduction is immaterial because a state court cannot determine issues of [Redacted] tax law. *Id.* See Commissioner v. Tower, 327 U.S. 280 (1946); Kenfield v. United States, 783 F.2d 966 (10th Cir.1986); Nieto v. Commissioner, T.C. Memo.1992-296. Generally, once a child reaches the age of majority, they are no longer under the provisions of a divorce decree. [Redacted] turned 18 on May 12, 2009.

The taxpayers have failed to establish that [Redacted] was either a qualifying child or qualifying relative for purposes of IRC § 152. Therefore, the taxpayers are not entitled to the dependency exemption.

THEREFORE, the Notice of Deficiency Determination dated July 19 2013, and directed to [Redacted], is APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the taxpayer pay the following tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2012	\$602	\$16	\$618

Interest is computed through February 25, 2014.

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

An explanation of the taxpayers' 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.
