

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 25679
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

[Redacted] (Petitioner) protested the Notice of Deficiency Determination dated April 24, 2013, proposing additional income tax and interest for taxable year 2012 in the total amount of \$249.50. Petitioner disagreed that he could not claim the dependent exemption deduction for [Redacted]. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

Petitioner timely filed his 2012 Idaho individual income tax return. During the processing of Petitioner’s return, the return was identified as one of two individual 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 did not respond, so Taxpayer Accounting reviewed the information available, determined Petitioner was not entitled to the dependent exemption, corrected Petitioner’s 2012 Idaho income tax return, and sent Petitioner a notice that his return had been adjusted.

[Redacted] grandmother responded to Taxpayer Accounting’s correction notice stating that she was [Redacted] co-guardian. She stated that Petitioner lives in the home with her and [Redacted] and provides their support. She stated she had custody of [Redacted] for the entire year of 2012. [Redacted] grandmother also provided copies of the court documents to prove her co-guardianship and Taxpayer Accounting’s completed questionnaire. Petitioner’s responses to

Taxpayer Accounting's questionnaire stated that he was a step-grandparent, he was not the custodial parent, that [Redacted] lived with him for 365 days in 2012, and he provided more than half of [Redacted] support.

Taxpayer Accounting reviewed the information, acknowledged the grandmother's response as a protest, sent Petitioner a Notice of Deficiency Determination, and referred the matter for administrative review. The Tax Commission reviewed the matter and sent Petitioner a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. The grandmother contacted the Tax Commission to discuss the matter, but when the Tax Commission found out that the grandmother was not the Petitioner, nor married to Petitioner, and was not authorized to represent Petitioner, did not have a power of attorney, the Tax Commission refused to give her any specifics about Petitioner's case. The grandmother gathered information on dependent exemptions, in general, and stated that she would have Petitioner provide information to show that [Redacted] was a qualifying relative.

A few days later, grandmother dropped off a calendar of days to show when [Redacted] was in the same household as Petitioner. The Tax Commission reviewed the information in conjunction with the information provided by the other party claiming [Redacted] as a dependent and determined Petitioner needed to provide additional documentation showing he provided more than one-half of [Redacted] support. The Tax Commission requested support documentation from Petitioner, but never received any. Therefore, 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 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(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, Petitioner is not blood-related to the dependent, nor does he meet the adoption, foster child, or step-descendent requirements. As a result, [Redacted] cannot be a qualifying child for Petitioner.

Regarding a qualifying relative, Petitioner did not show that he provided over one-half of [Redacted] support for the taxable year. 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). 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); Higgins v. C.I.R., T. C. Memo. 1984-330 (1984). Nothing in the record shows that Petitioner financially supported [Redacted]. Based upon the record, there could be three individuals supporting [Redacted], the co-guardians and Petitioner. Therefore, all things being equal, Petitioner would have, at most, provided only one-third of [Redacted] support. However, it is more likely he provided even less than one-third, since he had no obligation to support [Redacted]. [Redacted] was not a qualifying relative for Petitioner for taxable year 2012.

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 Petitioner is not entitled to the dependent exemption deduction for [Redacted] for taxable year 2012. And, since Petitioner is not entitled to the dependent exemption, Petitioner cannot claim the additional grocery credit for [Redacted] per Idaho Code section 63-3024A.

THEREFORE, the Notice of Deficiency Determination dated April 24, 2013, and directed to [Redacted] is AFFIRMED.

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

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2012	\$247	\$12	\$259

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 _____ 2014.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2014, 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.