

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 26044
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

On July 25, 2013, the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] and [Redacted] (taxpayers) for taxable year 2012, in the total amount of \$537.40. The notice denied the additional dependency exemption deductions and grocery credit claimed for [Redacted]children, [Redacted] and [Redacted], from a prior marriage.

The sole issue for this decision is whether the taxpayers are entitled to dependency exemption deductions for [Redacted] children, [Redacted] and [Redacted], from a prior marriage.

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).

The term "custodial parent" is defined in IRC § 152(e)(4)(A) as the parent having custody for the greater portion of the calendar year. In response to a request for information, the taxpayers stated they are the custodial parents of [Redacted] and [Redacted] and indicated they spent 340 days with them during 2012. Based on this response, the taxpayers would be considered [Redacted] and [Redacted] custodial parents.

An exception to the above rule is provided in IRC section 152(e)(2) in that if the parent having custody elects to release his claim to exemption for the child in his custody for the year in question and supplies a written release to that effect, and if the noncustodial parent receiving the right to claim the dependency exemption attaches such waiver to the tax return, then the waiver will be honored and the noncustodial parent may claim the dependency exemption for the child. This written declaration may be on Form 8332 or another document that conforms, in substance, to Form 8332.

In the present case, [Redacted] executed Form 8332, releasing her claim to the exemption deductions for [Redacted] and [Redacted] for taxable year 2012. She is bound by its terms.

Therefore, the Commission finds that the taxpayers are not entitled to dependency exemption deductions for [Redacted] and [Redacted] for 2012. And, since the taxpayers are not entitled to the dependency exemptions, the taxpayers cannot claim the additional grocery credit for the children per Idaho Code section 63-3024A.

THEREFORE, the Notice of Deficiency Determination dated July 25, 2013 and directed to [Redacted] and [Redacted], is APPROVED, AFFIRMED, and MADE FINAL.

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

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2012	\$537	\$18	\$555

Interest is computed through April 15, 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 _____ 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.
