

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 26212
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

[Redacted] and [Redacted] (taxpayers) submitted a timely protest of the Notice of Deficiency Determination issued February 7, 2014, by the Revenue Operations Division of the Idaho State Tax Commission (Commission) proposing additional tax and interest of \$362 for taxable year 2012. The taxpayers disagreed with the adjustments disallowing the dependent exemption deduction for [Redacted], [Redacted] daughter from a previous marriage. The Commission hereby issues its decision based upon the information contained in the file.

BACKGROUND

The taxpayers amended their 2012 Idaho individual income tax return to claim a dependent exemption deduction for [Redacted] daughter, [Redacted]. The taxpayers' return was identified as one of two returns that claimed a dependent exemption deduction for [Redacted]. The Taxpayer Accounting Section (Taxpayer Accounting) requested additional information from the taxpayers in the form of a questionnaire. The taxpayers responded to the questionnaire, stating that [Redacted] was [Redacted] father, and based on a Judgment issued by the Fourth Judicial District Court on October 19, 2006, [Redacted] was allowed to claim the dependent exemption deduction for [Redacted].

Taxpayer Accounting reviewed the information, determined that the taxpayers were not entitled to the dependency exemption deduction, and issued a Notice of Deficiency Determination denying the deduction. The taxpayers filed a timely protest of the Notice of

Deficiency Determination. The file was referred to the Legal/Tax Policy Division for administrative review. The taxpayers were sent a letter explaining the methods available for redetermining a protested Notice of Deficiency Determination. The taxpayers did not respond.

LAW AND ANALYSIS

The sole issue for decision is whether the taxpayers are entitled to the dependency exemption deduction for [Redacted] daughter, [Redacted]. Deductions are granted by legislative action, and the 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). The 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 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 such taxpayer or of any other taxpayer for the taxable year. IRC section 152(d)(1) and (2).

In this case, the dependent in question attained 18 years of age before the end of calendar year 2011. Being eighteen, [Redacted] was considered emancipated in Idaho, and therefore not in the custody of her parents. As a result, the special rule of IRC section 152(e) for determining whether the custodial parent or the non-custodial parent can claim the dependent exemption deduction is not applicable. See Treasury Regulations section 1.152-4(g), Example 6. This means that neither parent can release the dependency exemption deduction using a Form 8332 or an alternate method of a written declaration. The dependency exemption deduction cannot be released using the Judgment dated October 18, 2006, even if it qualified as a written declaration according to Treasury Regulations section 1.152-4(e)(5). Therefore, the determination of whether the taxpayers may claim [Redacted] as a dependent reverts to the general provisions of IRC section 152(c) and (d), cited above.

CONCLUSION

Since [Redacted] did not graduate from high school until December 2012, she meets the age requirement of a qualifying child as a student under age 24 for her parents. She received all of her support from either one or both parents. The parent who may claim the dependency exemption deduction for [Redacted] is the parent she spent more than half the year with.

According to information provided by the taxpayers, [Redacted] did not spend any days with them in 2012, so it is determined that the taxpayers are not entitled to the dependency exemption deduction.

THEREFORE the Notice of Deficiency Determination directed to [Redacted] and [Redacted] dated February 7, 2014, is AFFIRMED.

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

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2012	\$351	\$16	\$367

Interest is calculated through July 31, 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.