

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 39022
[Redacted],)	
)	
Petitioners.)	DECISION
_____)	

[Redacted] and [Redacted] (taxpayers) submitted a timely protest of the Notice of Deficiency Determination issued July 23, 2014, by the Revenue Operations Division of the Idaho State Tax Commission (Commission) proposing additional tax and interest of \$372.80 for taxable year 2013. The taxpayers disagreed with the adjustments disallowing the dependent exemption deduction for [Redacted], [Redacted] son from a previous marriage. The Commission hereby issues its decision based upon the information contained in the file.

BACKGROUND

The taxpayers filed their 2013 Idaho individual income tax return claiming a dependent exemption deduction for [Redacted] son, [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] mother. She stated that [Redacted] lived with her for eight months in taxable year 2013, before leaving for college in August. She also provided a Judgment and Decree (Judgment) issued by the [Redacted] Judicial District Court on September 25, 1998, and the accompanying Stipulation for Entry of Judgment and Decree (Stipulation), which stated [Redacted] was allowed to claim the dependent exemption deduction for [Redacted] as a minor child.

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] son, [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.

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 the present case, the dependent in question attained 18 years of age before the end of calendar year 2012. Being eighteen, [Redacted] was considered emancipated in Idaho, and therefore not in the custody of his parents. As a result, the special rule of IRC section 152(e) for determining whether the custodial parent or the noncustodial 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 September 26, 1998, or accompanying Stipulation, since they do not qualify as a written declarations according to Treasury Regulations section 1.152-4(e)(5).

Since [Redacted] was eighteen and emancipated before the start of the tax year in question, he can no longer be considered in the custody of either parent. Therefore, the determination of whether the taxpayers may claim the dependency exemption deduction for him reverts to the general provisions of IRC section 152(c), cited above, without regard for the special custodial rules used for divorced or separated parents. The taxpayers stated that [Redacted] lived with his mother 8 months and left for college in August, but did not provide any supporting documentation.

CONCLUSION

The parent who may claim the dependency exemption deduction for [Redacted] is the parent he spent more than half the year with. In this case, it is determined that the statement by

the taxpayers is not sufficient to meet the burden of proof that would allow the taxpayers to claim the dependency exemption deduction for [Redacted].

THEREFORE, the Notice of Deficiency Determination directed to [Redacted] and [Redacted] dated July 23, 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>
2013	\$368	\$14	\$382

Interest is calculated through March 31, 2015.

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.
