

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 39088
[Redacted],	)	
	)	
Petitioners.	)	DECISION
_____	)	

On October 22, 2014, the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] and [Redacted] (taxpayers) for taxable year 2013 denying the additional dependency exemption deduction and grocery credit claimed for their granddaughter, [Redacted].

The sole issue for this decision is whether the taxpayers are entitled to the dependency exemption deduction for [Redacted]. As part of their appeal, the taxpayers stated that they are the grandparents of [Redacted] and have the right to claim her as an exemption because they supported [Redacted] and her mother, [Redacted], for the 2013 tax year.

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). A qualifying relative is defined as an individual

(1) who bears a certain relationship to the taxpayer, such as the taxpayer's child or grandchild, (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 § 152(d)(1) and (2).

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).

In the present case, the taxpayers stated that they are [Redacted] grandparents and that [Redacted] lived with them in 2013. The Commission has no information to the contrary. However, [Redacted] executed Form 8332 releasing her claim to the exemption for [Redacted] for taxable year 2013 and all future years to the noncustodial parent. She is bound by its terms.

Therefore, the Commission finds that the taxpayers are not entitled to the dependency exemption deduction for [Redacted] for 2013. And, since the taxpayers are not entitled to the dependency exemption, the taxpayers cannot claim the additional grocery credit, per Idaho Code section 63-3024A.

THEREFORE, the Notice of Deficiency Determination dated October 22, 2014, and directed to [Redacted] and [Redacted], is APPROVED and MADE FINAL.

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	\$34	\$0	\$34

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 \_\_\_\_\_ 2015.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2015, 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.  
  
\_\_\_\_\_