

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 39228
[Redacted],	)	
	)	
Petitioner.	)	DECISION
_____	)	

[Redacted] (petitioner) protested the Notice of Deficiency Determination dated February 25, 2015, proposing additional tax and interest for taxable year 2013 in the total amount of \$241.82. Petitioner disagreed with Revenue Operations’ adjustment disallowing the dependent exemption deduction for [Redacted]. The Tax Commission, having reviewed the file, hereby issues its decision.

Petitioner filed her 2013 Idaho individual income tax return claiming a dependent exemption deduction for her daughter, [Redacted]. During the processing of petitioner’s income tax return, the Tax Commission identified petitioner’s return as one of two 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 responded to Taxpayer Accounting’s questionnaire, stating that she was [Redacted] mother, that she provided more than half of [Redacted] total support, and that [Redacted] lived with her and her father, in the same house, all of taxable year 2013.

Taxpayer Accounting reviewed the information and ultimately determined petitioner was not entitled to the dependent exemption for [Redacted]. Taxpayer Accounting sent petitioner a Notice of Deficiency Determination denying the dependent exemption deduction. Petitioner protested the Notice of Deficiency Determination, stating that while she and [Redacted] father lived in the same house, he was rarely home and she provided more than half of the financial

support for [Redacted]. Taxpayer Accounting reviewed the information and referred the matter for administrative review.

The Tax Commission sent petitioner a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. Petitioner did not respond to the Tax Commission's letter and has provided no additional documentation for consideration. The Tax Commission, having reviewed the file, hereby issues its decision.

Deductions are a matter of legislative grace, and 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). 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, the dependent in question, according to all information available, appears to have resided equally with both parents, as they resided in the same household. Based on that fact, [Redacted] would be a qualifying child for both her parents.

Fortunately, IRC section 152(c)(4) provides a special rule for situations where two or more individuals can claim the same qualifying child. Generally, a parent takes precedence, but in the case where both parents can claim the same qualifying child, IRC section 152(c)(4)(B) addresses this situation by granting the exemption to the parent with whom the child resided for the longest period of time during the taxable year, or if the child resided equally with both parents, to the parent with the highest adjusted gross income.

In the present case, [Redacted] resided equally with both parents so the Tax Commission looked at the second provision of the tie breaker rule, the parent with the highest adjusted gross income, and finds this factor not in favor of the petitioner.

THEREFORE, the Notice of Deficiency Determination dated February 25, 2015, and directed to [Redacted], is AFFIRMED.

IT IS ORDERED that the petitioner pay the following amount of tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2013	\$230	\$16	\$246

Interest is calculated through October 2, 2015.

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

IDAHO STATE TAX COMMISSION

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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.