

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 39248
[Redacted],)	
)	
Petitioner.)	DECISION
_____)	

On February 27, 2015, the Idaho State Tax Commission (Commission) issued a Notice of Deficiency Determination (NODD) to [Redacted] (petitioner) proposing tax and interest for taxable year 2013 in the total amount of \$311.75. Petitioner disagreed with the amount of income tax assessed and filed a timely appeal.

On March 13, 2015, the case was forwarded to the Tax Policy/Legal Division for administrative review. A hearing rights letter was sent to petitioner on June 3, 2015, and, at the petitioner’s request, the Commission held an informal telephonic hearing on July 24, 2015. Present at the hearing were Tax Policy Specialist [Redacted] and Legal Intern [Redacted]. At the hearing, Petitioner provided additional information that clarified the timing of events in this case.

For the reasons that follow, the Commission hereby issues its decision.

BACKGROUND

The sole issue for this decision is whether the taxpayer is entitled to the dependency exemption deduction for the son of a personal friend, [Redacted]. As part of her appeal, petitioner provided a copy of a signed and notarized “assignment of guardianship” from [Redacted] biological mother giving petitioner physical and legal guardianship; this document was dated October 16, 2013. Petitioner also provided a Power of Attorney signed by [Redacted] biological father that allowed petitioner to enroll [Redacted] in school; this form was dated September 3, 2013.

Information provided by petitioner and by the other party claiming the dependency exemption for [Redacted] indicated that the child resided with his biological father during the period of January through May 2013; [Redacted] resided with his maternal grandparents from June through August. [Redacted] lived with petitioner from September through December 2013.

LAW AND ANALYSIS

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, (4) has not provided over one-half of the individual’s own support for the taxable year, and who has not filed a joint return (other than only for a claim of refund) with the individual’s spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins. IRC § 152(c)(1)-(3). A qualifying relative is an individual (1) who bears a certain relationship to the taxpayer, such as the taxpayer’s child, (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).

(2) Relationship

For purposes of paragraph (1), an individual bears a relationship to the taxpayer described in this paragraph if the individual is any of the following with respect to the taxpayer:

- (A) A child or a descendant of a child.
- (B) A brother, sister, stepbrother, or stepsister.
- (C) The father or mother, or an ancestor of either.
- (D) A stepfather or stepmother.

- (E) A son or daughter of a brother or sister of the taxpayer.
- (F) A brother or sister of the father or mother of the taxpayer.
- (G) A son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law.
- (H) An individual (other than an individual who at any time during the taxable year was the spouse, determined without regard to section 7703, of the taxpayer) who, for the taxable year of the taxpayer, has the same principal place of abode as the taxpayer and is a member of the taxpayer's household.

To claim a dependent exemption, the taxpayer must show the dependent is either a qualifying child or a qualifying relative. Regarding a qualifying child, the petitioner, as legal guardian for just over two months of the taxable year, does not meet the relationship requirement. Consequently, the petitioner has no qualifying child for taxable year 2013. As for meeting the requirements for a qualifying relative of the petitioner, the petitioner failed to show that she provided over one-half the support of [Redacted] for taxable year 2013, or that [Redacted] was not a qualifying child of any other taxpayer for the taxable year. In addition, the petitioner does not meet the relationship test. For the taxable year, [Redacted] did not have the same principal place of abode as the petitioner.

For taxable year 2013, [Redacted] does not meet the requirements for either a qualifying child or a qualifying relative, as defined in IRC section 152. The petitioner is not entitled to the dependency exemption.

CONCLUSION

THEREFORE, the Notice of Deficiency Determination as of February 27, 2015, and directed to [Redacted] is APPROVED and AFFIRMED by this decision.

IT IS ORDERED that Petitioner pay the following tax, penalty, and interest:

<u>YEAR</u>	<u>TAX</u>	<u>PENALTY</u>	<u>INTEREST</u>	<u>TOTAL</u>
2013	\$302	\$0	\$16	\$318

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

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.
