

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

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|---------------------------------|---|------------------|
| In the Matter of the Protest of |) | |
| |) | DOCKET NO. 39249 |
| [Redacted], |) | |
| |) | |
| Petitioner. |) | DECISION |
| _____ |) | |

[Redacted] (petitioner) protested the Notice of Deficiency Determination dated February 27, 2015, proposing additional tax for taxable year 2013 in the total amount of \$211. Petitioner disagreed with Revenue Operations’ adjustment disallowing the dependent exemption deduction for her son, [Redacted]. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

The petitioner filed her 2013 Idaho individual income tax return claiming a dependent exemption deduction for [Redacted]. As the filing of income tax returns continued, the petitioner’s return was identified 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 the petitioner in the form of a questionnaire. The petitioner responded to Taxpayer Accounting’s questionnaire stating that she was [Redacted] custodial parent, she provided more than one-half of [Redacted] support and that [Redacted] lived with her more than half of the year.

Taxpayer Accounting reviewed the information and ultimately determined the petitioner was not entitled to the dependent exemption for [Redacted]. Taxpayer Accounting sent the petitioner a letter showing the tax consequences of removing the dependency exemption. The

petitioner protested the change in tax and Taxpayer Accounting issued a Notice of Deficiency Determination and transferred her file for administrative review.

The Tax Commission sent the petitioner a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination, but she did not respond. The Tax Commission, having reviewed the file, hereby issues its decision.

LAW AND ANALYSIS

Deductions are a matter of legislative grace, and petitioners 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 petitioner 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 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 his parents. Because [Redacted] was emancipated in 2013, 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 Regulation section 1.152-4(g), Example (6). Therefore, the determination of who can claim [Redacted] as a dependent goes back to the general provisions of IRC section 152(c) and (d) as cited above.

The petitioner has at no time during the appeal process provided any documentation to support that [Redacted] resided with her more than one-half of the taxable year, a requirement that must be met in order for [Redacted] to be a qualifying child. (IRC section 152(c)(2).) As for the requirements of a qualifying relative, the petitioner has not shown that she provided over one-half of [Redacted] total support for taxable year 2013 or that [Redacted] was not a qualifying child of any other taxpayer for the taxable year.

CONCLUSION

For taxable year 2013, the petitioner has failed to show that [Redacted] met the requirements of either a qualifying child or qualifying relative. Since [Redacted] was neither a qualifying child nor a qualifying relative for the petitioner in 2013, the petitioner does not get the benefit of the dependent exemption deduction for [Redacted]. And because the petitioner cannot claim the dependent exemption, the petitioner cannot claim the additional grocery credit for [Redacted] per Idaho Code section 63-3024A.

THEREFORE, the Notice of Deficiency Determination dated February 27, 2015, and directed to [Redacted], is AFFIRMED.

The petitioner has paid the Notice of Deficiency in full; no DEMAND for payment is made or necessary.

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.
