

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 0-133-713-920
[Redacted])	
)	
Petitioner.)	DECISION
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[Redacted] (petitioner) protested the Notice of Deficiency Determination dated October 2, 2015, proposing additional tax for taxable year 2014 in the total amount of \$392.36. Petitioner disagreed with Revenue Operations’ adjustment disallowing the dependent exemption deduction for his daughter, ^[Redacted]. The Tax Commission, having reviewed the file, hereby issues its decision.

BACKGROUND

The petitioner filed his 2014 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]. In order to help determine the petitioner’s entitlement to the dependent exemption deduction 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 he was ^[Redacted] father and that he provided more than half of ^[Redacted] support. When asked on the questionnaire if he was ^[Redacted] custodial parent, he replied, “split.” When asked how many days ^[Redacted] lived with him during the tax year, the petitioner replied, N/A. When asked if he was not the custodial parent, did he have a signed federal form 8332 from the custodial parent, the petitioner stated, “Decree provides/mandates custodial parent’s agreement.”

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 the 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 and an informal hearing was held. The petitioner's appointed representative appeared on his behalf and provided additional information for the Commission's consideration. The Tax Commission having reviewed the file, hereby issues its decision.

LAW AND ANALYSIS

Deductions are a matter of legislative grace, and the taxpayer bears 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).

The petitioner in this case was divorced sometime in 2008. According to his Decree of Divorce and Consent Judgment (Decree) he was entitled to claim [Redacted] as his dependent for income tax purposes for tax year 2008 and all years thereafter. The petitioner claims that he and the other parent have consistently followed the language in the decree, allowing him to claim the dependency exemption for [Redacted] and argues that even though [Redacted] reached the age of majority prior to completing high school, it was the intent of the decree to allow him to claim the exemption for [Redacted] through her last year of high school.

While it very well may have been the intent of the decree to allow the petitioner the dependency exemption for [Redacted] up to and including the tax year in which she completed high school, once a child reaches the age of 18 in Idaho, they are considered emancipated and therefore not in the custody of their 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 provided numerous statements, but just one document, a copy of a school record that shows [Redacted] address is the same as his, to substantiate that [Redacted] resided with him 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 [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 Tori 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 October 2, 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>
2014	\$383	\$23	\$406

Interest is calculated through October 3, 2016.

An explanation of the petitioner's right to appeal this decision is enclosed.

DATED this _____ day of _____ 2016.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that on this _____ day of _____ 2016, 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.
