

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of )  
 ) DOCKET NO. 0-266-162-176  
[REDACTED], )  
 )  
Petitioner. ) DECISION  
 )  
\_\_\_\_\_ )

[Redacted] (petitioner) protested the Notice of Deficiency Determination dated October 21, 2015, proposing additional tax and interest for taxable year 2014 in the total amount of \$846.26. Petitioner disagreed with the 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]. 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]’s custodial parent and that he provided more half of [Redacted]’s support. When asked how many days [Redacted] lived with him during the year, the petitioner did not provide a number but rather stated “per divorce decree.”

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, a Notice of Deficiency Determination was issued, and the file transferred to the Legal and Tax Policy division 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 he 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 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) § 151(c) allows a petitioner a deduction of the exemption amount for each dependent as defined in IRC § 152.

IRC § 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 § 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 § 152(d)(1) and (2).

In the present case, to support his claim of the dependent exemption for [Redacted], the petitioner provided a copy of his 2008 decree of divorce and a copy of a letter sent to his address from [Redacted]'s school, dated February 3, 2014. The decree does award the petitioner primary physical custody of [Redacted] and for the years between 2008 and 2014, [Redacted] may have resided with the petitioner more than one-half of the year and he may have met the requirements to claim a dependent exemption for [Redacted]. However, for taxable year 2014, the petitioner has not met his burden of proving his entitlement to the dependency exemption deduction. Additionally, the Commission has evidence that [Redacted] did not have the same principal place of abode as the petitioner for more than one-half of the year, a requirement that must be met in order for [Redacted] to be a qualifying child (IRC § 152(c)(2).) As for the requirements of a qualifying relative, the petitioner has not shown that he provided over one half of [Redacted]'s total support for taxable year 2014 or that [Redacted] was not a qualifying child of any other taxpayer for the taxable year.

### **CONCLUSION**

For taxable year 2014, 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 2014, 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 § 63-3024A, nor is he entitled to the head of household filing status.

THEREFORE, the Notice of Deficiency Determination dated October 21, 2015, and directed to [Redacted], is AFFIRMED.

IT IS ORDERED and THIS DOES ORDER, the petitioner to pay the following amount of tax and interest:

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2014	\$843	\$38	\$881

Interest is calculated through June 1, 2016.

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 \_\_\_\_\_ 2016.

IDAHO STATE TAX COMMISSION

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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.

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