

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 0-943-607-808
[REDACTED],	)	
	)	
Petitioner.	)	DECISION
_____	)	

[Redacted] (Petitioner) protested the Notice of Deficiency Determination issued by the staff of the Revenue Operations Division of the Idaho State Tax Commission dated July 1, 2015, asserting additional income tax for taxable year 2014 in the total amount of \$100. Petitioner disagreed with the disallowance of the dependent exemption deduction claimed for [Redacted]. Petitioner failed to respond to the Tax Commission’s hearing rights letter and has provided nothing further for the Tax Commission to consider. The Tax Commission, having reviewed the file, hereby issues its decision.

**BACKGROUND**

Petitioner timely filed her 2014 Idaho individual income tax return. During the processing of Petitioner’s return the Taxpayer Accounting Section (Taxpayer Accounting) found that Petitioner claimed a dependent exemption that was also claimed on another individual’s income tax return for 2014. Taxpayer Accounting requested additional information from Petitioner in the form of a questionnaire. Petitioner responded with the following information; Petitioner is [Redacted] mother, Petitioner stated she was the custodial parent, [Redacted] lived with Petitioner for nearly all of 2014, Petitioner paid over half of [Redacted] support, and that federal form 8332 was not applicable in this situation.

Taxpayer Accounting reviewed all the information pertaining to this dependent exemption and determined Petitioner was not entitled to the dependent exemption. Taxpayer

Accounting corrected Petitioner's income tax return and sent Petitioner a notice of tax change letter.

Petitioner disagreed with Taxpayer Accounting's determination. Petitioner stated her son ran away in November and was living with her daughter's boyfriend. Petitioner stated her daughter's boyfriend filed for guardianship of [Redacted] but it was not granted until January 4, 2015. Petitioner stated [Redacted] was given back to her, but due to her health she was not able to keep fighting with him and let [Redacted] go back to her daughter's boyfriend just before Christmas 2014. Petitioner stated she provided [Redacted] support for over 95 percent of the year; therefore, she has the right to claim him as a dependent. Taxpayer Accounting reviewed the information, sent Petitioner a Notice of Deficiency Determination, and sent the matter for administrative review.

The Tax Commission reviewed the matter and sent Petitioner a letter that discussed the methods available for redetermining a protested Notice of Deficiency Determination. Petitioner failed to respond. Therefore, the Tax Commission decided the matter based upon the information available.

### **LAW AND ANALYSIS**

Deductions are a matter of legislative grace, and taxpayers bear the burden of proving that 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).

Petitioner stated [Redacted] lived with her for all but the last week of December. Petitioner also stated [Redacted] ran away in November. Other information presented to the Tax Commission indicates [Redacted] did not live with Petitioner from June 1, 2014, through the end of the year. Court documents also show that [Redacted] was appointed a guardian on November 4, 2014.

Looking at the evidence available and considering that Petitioner did not avail herself of the opportunity to defend her position, the Tax Commission is less inclined to believe Petitioner's statements regarding the length of time [Redacted] lived with her. To the contrary, the Tax Commission found the statements/testimony of the other party claiming [Redacted] as a dependent credible and in line with submitted documentation. Petitioner has not proved that [Redacted] met the requirements of either a qualifying child or a qualifying relative to be claimed as a dependent on her income tax return.

## CONCLUSION

IRC section 152 provides specific requirements for an individual to qualify as a dependent for a taxpayer. Petitioner has the burden of proof to show that a claimed dependent meets the requirements of IRC section 152 for a deduction to be allowed. Petitioner failed to provide the information necessary to substantiate the deduction claimed. “The rule is well established that the failure of a party to introduce evidence within his possession and which, if true, would be favorable to him gives rise to the presumption that if produced it would be unfavorable.” Wichita Terminal Elevator Co. v. C.I.R., 6 T.C. 1158 (1946). Because Petitioner did not meet her burden of proof, the Tax Commission finds Petitioner is not entitled to the dependent exemption deduction for [Redacted] for taxable year 2014.

Since Petitioner is not entitled to the dependent exemption, Petitioner is also not entitled to claim an additional grocery credit for [Redacted] per Idaho Code section 63-3024A.

THEREFORE, the Notice of Deficiency Determination dated July 1, 2015, and directed to [Redacted] is AFFIRMED.

Since Petitioner’s return requested a refund and that refund was reduced by the amount of the additional tax on the disallowed exemption deduction, no order for payment or refund of tax is needed.

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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