

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

In the Matter of the Protest of	)	
[Redacted]	)	DOCKET NO. 0-073-881-600
	)	
Petitioner.	)	DECISION
_____	)	

[Redacted] (Petitioner) protested the Notices of Deficiency Determination dated August 24, 2017, for the taxable years 2015 and 2016. Petitioner disagreed with the disallowance of the dependent exemption deductions claimed for [Redacted] The Tax Commission, having reviewed the file, hereby issues its decision upholding the Notices of Deficiency Determination.

**BACKGROUND**

Petitioner filed his 2015 and 2016 Idaho individual income tax returns claiming a dependent exemption deduction for [Redacted] During the processing of Petitioner's returns the Taxpayer Accounting Section (Taxpayer Accounting) found that Petitioner's claimed dependent was also claimed on another income tax return. Taxpayer Accounting requested additional information from Petitioner in the form of a questionnaire. Petitioner responded with the following information; Petitioner is [Redacted] father, Petitioner is not the custodial parent, [Redacted] did not live with Petitioner, Petitioner paid \$313 toward [Redacted] support through child support payments, and Petitioner did not have a signed release from the custodial parent.

Taxpayer Accounting reviewed the information and determined Petitioner was not entitled to the dependent exemption. Taxpayer Accounting corrected Petitioner's income tax returns and sent Petitioner tax correction letters. The tax correction letters were followed by Notices of Deficiency Determination.

Petitioner protested Taxpayer Accounting's determination. Petitioner stated he was awarded the dependent exemption by the court. Petitioner provided a copy of an ESTABLISHMENT COMPLAINT FOR PATERNITY, MEDICAID REIMBURSEMENT, AND CHILD SUPPORT order wherein Petitioner was assigned the dependent exemption for [Redacted]. Petitioner also provided copies of his Internal Revenue Service (IRS) tax return transcripts to show that the IRS did not change the exemption claimed. Taxpayer Accounting reviewed the information 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 to the Tax Commission's letter, so 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. *See 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 (I.R.C.) § 151(c) allows a taxpayer a deduction of the exemption amount for each dependent as defined in I.R.C. § 152.

I.R.C. § 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. *See* I.R.C. § 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. *See* I.R.C. § 152(d)(1) and (2).

Petitioner stated [Redacted] did not live with him. Therefore, [Redacted] cannot be a qualifying child for Petitioner since she did not have the same principal place of abode as Petitioner for over half the year. Since [Redacted] was seven years old in 2015 and she did not live with Petitioner, it is presumed she lived with her mother. This being the case, [Redacted] cannot be a qualifying relative for Petitioner because she is a qualifying child for her mother.

Petitioner argued the court document awarded him the dependent exemption. However, dependent exemptions are not awarded they are allowed by legislative grace and each one must meet the strict requirements of the I.R.C. [Redacted] did not meet the requirements to enable Petitioner to claim her as a dependent.

### CONCLUSION

Petitioner failed to establish that [Redacted] was either a qualifying child or a qualifying relative for purposes of I.R.C. § 152. Therefore, the Tax Commission finds that Petitioner is not entitled to a dependent exemption deduction for [Redacted] for taxable years 2015 and 2016. And since Petitioner is not entitled to the dependent exemption, Petitioner cannot claim an additional grocery credit for [Redacted] per Idaho Code § 63-3024A.

WHEREFORE, the Notices of Deficiency Determination dated August 24, 2017, and directed to [Redacted] are AFFIRMED.

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>
2015	\$873	\$218	\$78	\$1,169
2016	968	39	56	<u>1,063</u>
			TOTAL DUE	\$2,232
			LESS PAYMENTS	(733)
			BALANCE DUE	<u>\$1,499</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2019.

IDAHO STATE TAX COMMISSION

\_\_\_\_\_  
COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2019,  
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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