

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 0-603-489-280
	)	
	)	
Petitioner.	)	DECISION
_____	)	

(Petitioner) protested the Notice of Refund Determination (Notice) dated March 23, 2022. Petitioner disagreed with the changes made to her 2021 Idaho individual income tax return. The Tax Commission reviewed the matter and upholds the Notice.

**Issue**

The sole issue for this decision is whether Petitioner is entitled to the Idaho Child Tax Credits for her dependents. We find she is not.

**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).

Idaho Code section 63-3029L Child Tax Credit states:

1) For taxable years beginning on or after January 1, 2018, and before January 1, 2026, there shall be allowed to a taxpayer a nonrefundable credit against the tax imposed by this chapter in the amount of two hundred five dollars (\$205) with respect to each qualifying child of the taxpayer. For purposes of this section, the term "qualifying child" has the meaning as defined in section 24(c) of the Internal Revenue Code. In no event shall more than one (1) taxpayer be allowed this credit for the same qualifying child. This credit is available only to Idaho residents. Any part-year resident entitled to a credit under this section shall receive a proportional credit reflecting the part of the year in which the part-year resident was domiciled in Idaho.

(2) In the case of divorced parents or parents who do not live together, if the qualifying child is in the custody of one or both of the child’s parents for

more than one-half of a calendar year, such child is the qualifying child of the custodial parent for the taxable year beginning during such calendar year. However, the child may be the qualifying child of the noncustodial parent if either of the following requirements are met:

- (a) A court of competent jurisdiction has unconditionally awarded, in writing, to the noncustodial parent the tax benefits associated with the child pursuant to section 32-706, Idaho Code, and the noncustodial parent attaches a copy of the court order to the noncustodial parent's income tax return for the taxable year;
- or (b) The custodial parent signs a written declaration that such custodial parent will not claim the credit of this section with respect to such child for any taxable year beginning in such calendar year and the noncustodial parent attaches such written declaration to the noncustodial parent's income tax return for the taxable year beginning during such calendar year.

Internal Revenue Code (IRC) section 24(c) states, for purposes of this section— (1) In general: The term “qualifying child” means a qualifying child of the taxpayer (as defined in section 152(c)) who has not attained age 17. However, for tax year 2021, Congress amended the child tax credit rules to provide the following:(a) The definition of a qualifying child has been expanded to include a child who has not attained the age of 18 as of the end of the 2021 taxable year.

IRC section 152 (c) defines qualifying child. For purposes of this section—

(1) In general:

The term “qualifying child” means, with respect to any taxpayer for any taxable year, an individual—

- (A) who bears a relationship to the taxpayer described in paragraph (2),
- (B) who has the same principal place of abode as the taxpayer for more than one-half of such taxable year,
- (C) who meets the age requirements of paragraph (3),
- (D) who has not provided over one-half of such individual's own support for the calendar year in which the taxable year of the taxpayer begins, and
- (E) who has not filed a joint return (other than only for a claim of refund) with the individual's spouse under section 6013 for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

In the present matter, Petitioner claimed two dependent exemptions along with the associated Idaho Child Tax credits. However, her protest only mentions her daughter. Petitioner acknowledges in her protest that her daughter turned 18 in 2021 but she argues her daughter was

still in high school and she fully supported her for 8 months of the year making her an eligible dependent.

There is no question Petitioner's daughter is her "qualifying child". However, the language in the statute regarding age is clear. To qualify for the credit in 2021, the qualifying child must not have attained age 18. Petitioner's daughter was born on April 15, 2003. She attained the age of 18 in tax year 2021.

### Conclusion

Petitioner's qualifying child has attained the age of 18, making her ineligible for the Idaho Child Tax Credit per Idaho Code section 63-3029L.

THEREFORE, the Notice dated March 23, 2022, and directed to \_\_\_\_\_ is APPROVED and MADE FINAL.

IT IS ORDERED that Petitioner pay the following tax:

<u>YEAR</u>	<u>REFUND CLAIMED</u>	<u>REFUND ALLOWED</u>	<u>ADJUSTMENT</u>	<u>TAX DUE</u>
2021	\$388	\$0	\$410	\$22

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 \_\_\_\_\_ 2022.

IDAHO STATE TAX COMMISSION

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2022,  
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:

Receipt No.

---

---