

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 0-701-596-672
	)	
	)	
Petitioner.	)	DECISION
_____	)	

**INTRODUCTION**

This case arises from a timely protest of a Notice of Refund Determination (Notice) issued to (Petitioner) for taxable year 2021. The Idaho State Tax Commission (Commission) after a review of the matter upholds the Notice issued to Petitioner.

THEREFORE, the Notice dated April 18, 2022, and directed to Petitioner is AFFIRMED.

IT IS ORDERED that Petitioner pay the following tax, and interest.

<u>YEAR</u>	<u>TAX</u>	<u>INTEREST</u>	<u>TOTAL</u>
2021	\$200	\$7	\$207

Interest is computed through March 27, 2023.

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

The Commission upholds the Notice for the reasons discussed below.

**BACKGROUND**

The Revenue Operations Division Taxpayer Accounting Section (Revenue Operations) halted the processing of Petitioner’s Idaho individual income tax return due to a suspected error. Revenue Operations reviewed Petitioner’s return and established that it was one of two filed returns that claimed the Idaho Grocery Credit for the same dependents. Revenue Operations sent Petitioner a request for information letter. Petitioner stated in his response, “I have primary and residential custody of both dependents. Both dependents have resided with me for more than 6 months of the year since 2018 and school records will provide extra proof if needed.” Petitioner

also provided copies of two court orders that addressed visitation but not the tax benefit associated with the dependents. Revenue Operations issued Petitioner a Notice denying him the grocery credits for the dependents when he did not provide a court order awarding him the tax benefits associated with the dependents.

Petitioner protested the denial stating: “I do not owe anything to other parent due to non-custodial parent not having proper custody arrangements to claim anything. I have been the custodial parent having both of the children for more than 6 months out of the year of 2021. Attached will be the temporary orders stating this for the tax year of 2021.” Petitioner again included with his protest a court order addressing visitation. Revenue Operations accepted Petitioner’s protest and transferred the matter to the Commission’s Tax Appeals Unit (Appeals) for administrative review.

Appeals reviewed the matter and sent Petitioner a letter providing him with two options for redetermining a protested Notice, but Petitioner did not respond. The Commission decided the matter based on available information.

### **LAW AND ANALYSIS**

Idaho Code section 63-3024A states in part that, any resident individual who is required to file and who has filed an Idaho income tax return shall be allowed a credit against taxes due under the Idaho income tax act for the taxpayer, the taxpayer’s spouse, and each dependent, as defined in section 152 of the Internal Revenue Code, claimed on the taxpayer’s Idaho income tax return, and awarded by the court. No more than one taxpayer is allowed a credit or refund for the same personal exemption.

Idaho Code section 63-3029L states in part that for taxable years beginning on or after January 1, 2018 through December 31, 2025, that the term “qualifying child” has the meaning as

defined in section 24(c) of the Internal Revenue Code. A child may be the qualifying child of the noncustodial parent if 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.

Petitioner does not qualify for the Idaho grocery credit because he does not have a court order from a competent jurisdiction unconditionally awarding him the tax benefits associated with the dependents in question or a signed Internal Revenue Form 8332 from the other parent. Petitioner instead provided copies of court orders that addressed issues of custody and visitation regarding the dependents in question.

### **CONCLUSION**

Petitioner did not provide a court order from a competent jurisdiction that awarded him the right to claim the dependent exemptions; therefore, he is not allowed the grocery credits. Petitioner's claim for the Idaho grocery credit of \$300 was reduced to \$100. The Commission requires Petitioner to prove the amount asserted in the Notice is incorrect. Here, Petitioner did not prove the Notice is incorrect. Therefore, Petitioner is not allowed the Idaho grocery credits for the claimed dependents.

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

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2023.

IDAHO STATE TAX COMMISSION

**CERTIFICATE OF SERVICE**

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_ 2023, a copy of the within and foregoing DECISION was served by sending the same by United States Postal Service, postage prepaid, in an envelope addressed to:

Receipt No.

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