

the grocery credit. Petitioner provided a copy of her Idaho state identification card to prove she is a resident of Idaho.

Taxpayer Accounting acknowledged Petitioner's protest and referred the matter to the Tax Commission's Appeals Unit (Appeals). Appeals sent Petitioner a letter explaining the options available for redetermining a Notice of Deficiency Determination. Petitioner contacted Appeals and it was explained that she needed to provide documents to show that her dependents were in the United States legally. Petitioner did not request a hearing and made no further contact with the Tax Commission.

Seeing that Petitioner had the opportunity to provide the necessary information but failed to provide it, the Tax Commission decided the matter based on the information available.

LAW AND ANALYSIS

Idaho Code section 63-3024A provides for a food tax credit (grocery credit) for each allowable dependent reported on an Idaho individual income tax return. However, subsection (8) of Idaho Code section 63-3024A provides that no credit or refund shall be paid that is attributable to an individual that is residing illegally in the United States.

Petitioner filed her Idaho income tax return showing ITINs for her dependents. Petitioner started filing Idaho individual income tax returns beginning with tax year 2014. On Petitioner's 2014 return she claimed four individuals, including herself, for the grocery credit. Petitioner was asked to verify all the individuals' immigration statuses. Petitioner did not respond. Consequently, the Tax Commission did not allow her the grocery credits. On Petitioner's 2015 through 2018 returns, Petitioner only claimed a grocery credit for herself, but she reported between three and five dependents each year. The Tax Commission allowed the grocery credit for Petitioner.

Beginning with tax year 2019, Petitioner began claiming the grocery credit for her dependents. Each year starting with 2019, the Tax Commission asked Petitioner to document her dependents' immigration status in the United States. Each year Petitioner has failed to provide any documentation. Consequently, each year beginning with 2019, the Tax Commission disallowed the grocery credit for Petitioner's dependents.

Tax year 2021 is no exception. Taxpayer Accounting asked Petitioner to document her dependents' immigration status. Petitioner did not respond, so Taxpayer Accounting disallowed the grocery credit and sent Petitioner a Notice of Deficiency Determination.

The Idaho Code is clear in that to receive the grocery credit, an individual must be legally residing in the United States. Considering Petitioner's history with the Tax Commission, the Tax Commission finds no reason to change its past treatment of Petitioner's claimed dependents' grocery credits. When and if Petitioner provides the necessary documentation showing her dependents are legally in the United States, Petitioner may be granted the grocery credit. But until then, the Tax Commission upholds the Notice of Deficiency Determination.

CONCLUSION

Petitioner filed her 2021 Idaho income tax return claiming the grocery tax credit for herself and her dependents. Petitioner did not establish that her dependents met the requirements for receiving the grocery credit. Because Petitioner did not provide documentation showing her dependents were in the United States legally, the Tax Commission finds the Notice of Deficiency Determination should be upheld.

THEREFORE, the Tax Commission AFFIRMS the Notice of Deficiency Determination dated November 16, 2022, directed to

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	\$14	\$214

Interest is calculated to December 15, 2023.

An explanation of Petitioners' 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
mail, postage prepaid, in an envelope addressed to:

Receipt No.
