

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

In the Matter of the Protest of	)	
	)	DOCKET NO. 0-428-082-176
,	)	
	)	
Petitioner.	)	DECISION
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(Petitioner) protested the Notice of Refund Determination (Notice) dated April 12, 2022. Petitioner disagreed with the changes made to her 2021 Idaho individual income tax return. The Tax Commission reviewed the matter and hereby upholds the Notice. This means Petitioner’s 2021 refund is reduced by \$200.

**Issue**

The sole issue for this decision is whether Petitioner is entitled to the additional grocery credits claimed on her return. 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 63-3024A Food Tax Credits and Refunds states, in relevant part:

(1) 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 under section 32-706 Idaho Code, if applicable. For tax years 2015 and after, the credit is one hundred dollars (\$100). If taxes due are less than the total credit allowed, the taxpayer shall be paid a refund equal to the balance of the unused credit. (Emphasis added)

Section 32-706, Idaho Code, in relevant part, states:

(6) If the court awards one (1) parent the right to claim tax benefits associated with his child or children, the court order need not list every applicable tax benefit. The parent who was awarded the tax benefits for the child or children shall attach a copy of the court order to his income tax return. The state tax commission shall recognize the award of tax benefits with respect to the child or children as applying to the child tax credit under section 63-3029L, Idaho Code, **the food tax credit under section 63-3024A, Idaho Code**, and any and all other state and federal tax deductions, exemptions, and credits for which the parent qualifies, unless the court order specifies otherwise. (Emphasis added)

Petitioner argues because she has primary physical custody of her children, the return she filed for 2021 is correct and she is entitled to the additional grocery credits. Petitioner provided a copy of her decree which does state she is to have primary physical custody of the children. However, the decree also states the children's father will claim them as dependents for federal and state income tax purposes.

In the present matter, Petitioner claimed on her 2021 Idaho individual income tax return, two additional grocery credits. However, Petitioner did not identify any dependents on her return. Idaho Code section 63-3024A allows an additional grocery credit for each *dependent claimed on a taxpayer's return*. Petitioner did not list a dependent on her return. Therefore, she is not entitled to the additional grocery credits.

Additionally, even if Petitioner's return identified a dependent, the Tax Commission would be required to follow the statutory language of Idaho Code section 32-706, and that in the court order, which states the children's father is assigned the dependency exemptions and tax credits for the minor children.

### **Conclusion**

Petitioner claimed additional grocery credits on her 2021 Idaho income tax return, but the return does not identify a dependent; she cannot claim additional grocery credits for her two children per Idaho Code section 63-3024A.

THEREFORE, the Notice dated April 12, 2022, and directed to \_\_\_\_\_ is  
APPROVED and MADE FINAL.

The Notice reduced Petitioner's refund, therefore, no demand for payment is made or necessary.

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.

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