

IN THE OREGON TAX COURT
MAGISTRATE DIVISION
Income Tax

LORRIE PARROTT,)	
)	
Plaintiff,)	TC-MD 040914B
)	
v.)	
)	
DEPARTMENT OF REVENUE,)	
State of Oregon,)	
)	
Defendant.)	DECISION

Plaintiff appeals Defendant’s determination that she does not qualify for the Working Family Credit for 2003. A case management conference was convened on September 14, 2004. Lorrie Parrott participated on her own behalf. Laurie Fery, Auditor, appeared for Defendant. The parties agreed the appeal would be decided based on written submissions. The record closed November 15, 2004.

I. STATEMENT OF FACTS

Plaintiff has provided full-time care to her granddaughter since September 2000. After the tax year in question, Plaintiff was granted certain legal rights. On June 24, 2004, the Deschutes County Circuit Court awarded Plaintiff “sole care, custody and control” of her granddaughter. (Ptf’s Compl, Stipulated Supplemental Judgment Awarding Custody and Child Support (Custody Judgment) at 2.) Weekend and holiday parenting time were specified for the biological parents. Those parents are able to provide input as to decision-making and information sharing. (Custody Judgment at 2 and 3) There has been no formal adoption by Plaintiff.

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On her 2003 income tax return, Plaintiff claimed \$1,850 for the Working Family Credit. On April 6, 2004, Defendant notified Plaintiff that it was denying the credit and adjusting her return accordingly. Plaintiff submitted a written objection to Defendant’s denial of the credit. On May 28, 2004, Defendant affirmed its denial of the credit. Plaintiff now appeals Defendant’s ruling. She claims those costs incurred for her granddaughter should qualify under the statute because she has been granted full legal and physical custody of her granddaughter.

II. ANALYSIS

ORS 315.262¹ allows certain low-income taxpayers a refundable credit against their Oregon income taxes for the purpose of partially offsetting the taxpayer’s childcare costs. The statute provides, in pertinent part:

“A qualified taxpayer shall be allowed a credit against the taxes otherwise due under ORS chapter 316 equal to the applicable percentage of the qualified taxpayer’s child care expenses * * *.”

ORS 315.262(2).

The legislature provided definitions for the terms “qualified taxpayer” and “child care expenses.” *See* ORS 315.262(1). Broadly speaking, a “qualified taxpayer” is a taxpayer who meets the income requirements specified in ORS 315.262(1)(d). “Child care expenses” are defined as “costs associated with providing child care to a qualifying child of a qualified taxpayer.” ORS 315.262(1)(b).

It is clear that the legislature intended the Working Family Credit to be available in limited circumstances. First, the credit is available only to a “qualified taxpayer.” If a taxpayer

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¹ All references to the Oregon Revised Statutes (ORS) are to 2001.

fails to satisfy the income requirements specified in ORS 315.262(1)(d), the Working Family Credit is unavailable. Second, the credit is available to offset only those costs specifically identified in the statute. Because the definition of the term “child care expenses” includes only those costs incurred in providing childcare to a **qualifying** child, the costs of providing childcare to a nonqualifying child are not creditable under ORS 315.262(2).

The critical issue is whether Plaintiff’s granddaughter is a “qualifying child” for purposes of ORS 315.262(2). The statute defines the term “qualifying child” as “**a child of the taxpayer** who is under 13 years of age, or who is a disabled child, as that term is defined in ORS 316.099.” ORS 315.262(1)(e) (emphasis added).

Plaintiff acknowledges that she has not adopted her granddaughter. The circuit court did not terminate the parental rights of the child’s mother or father, instead providing for definite and specific parenting time and other rights.

Oregon’s statutory provisions for the Working Family Credit limit the definition and application to **children** of a taxpayer. The legislature did not expand the definition to include descendants of those children. Furthermore, other cases presented to this court with similar facts have upheld Defendant’s interpretation of ORS 315.262. *See, e.g., Petty v. Dept. of Rev.*, TC-MD 040982E (Dec 14, 2004).

III. CONCLUSION

The grant of “sole care, custody and control” of a grandchild to a grandparent does not give rise to a valid claim for the Working Family Credit. A grandchild does not meet the definition of a “qualifying child” under ORS 315.262(1)(e) because a grandchild is not a “child

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of the taxpayer.” As a result, Plaintiff’s claim that she is entitled to the Working Family Credit for expenses incurred for the care of her granddaughter must be denied. Now, therefore,

IT IS THE DECISION OF THIS COURT that Plaintiff’s appeal is denied.

Dated this _____ day of January 2005.

JEFF MATTSON
MAGISTRATE

IF YOU WANT TO APPEAL THIS DECISION, FILE A COMPLAINT IN THE REGULAR DIVISION OF THE OREGON TAX COURT, BY MAILING TO: 1163 STATE STREET, SALEM, OR 97301-2563; OR BY HAND DELIVERY TO: FOURTH FLOOR, 1241 STATE STREET, SALEM, OR. YOUR COMPLAINT MUST BE SUBMITTED WITHIN 60 DAYS AFTER THE DATE OF THE DECISION OR THIS DECISION BECOMES FINAL AND CANNOT BE CHANGED.

THIS DOCUMENT WAS SIGNED BY MAGISTRATE JEFF MATTSON JANUARY 13, 2005. THE COURT FILED AND ENTERED THIS DOCUMENT JANUARY 13, 2005.