

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15581
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

This case arises from a timely protest of a State Tax Commission decision adjusting property tax reduction benefits for 1999 and 2000. This matter was submitted for decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision thereon.

[Redacted] (petitioner) filed an application for property tax reduction benefits for each of the two years in question. In those applications, which were signed by the petitioner, the qualifying status of "Recognized Disabled" by Civil Service was checked. The information contained in that application allowed the petitioner to receive property tax reduction benefits based on the household income.

However, during a routine audit of the application, it was determined that the Federal Civil Service did not recognize the petitioner as disabled. In fact, the petitioner did not meet any of the qualifications that would entitle her to receive the benefits.

Idaho Code § 63-708 provides:

63-708. Recovery of erroneous claims. Within three (3) years of payment, the state tax commission may recover any erroneous or incorrect payment made under sections 63-701 through 63-710, Idaho Code, from any "claimant" as defined in section 63-701(1), Idaho Code. The deficiency determination, collection, and enforcement procedures provided by the Idaho income tax act, sections 63-3039, 63-3042, 63-3043 through 63-3064, Idaho Code, shall apply and be available to the commission for enforcement and collection under sections 63-701 through 63-710, Idaho Code, and such sections shall, for this purpose, be considered part of sections 63-701 through

63-710, Idaho Code. Wherever liens or any other proceedings are defined as income tax liens or proceedings, they shall, when applied in enforcement or collection under sections 63-701 through 63-710, Idaho Code, be described as tax relief liens and proceedings. In connection with such sections, a deficiency shall consist of any amount erroneously claimed by or paid to a claimant under sections 63-701 through 63-710, Idaho Code.

A Notice of Deficiency Determination was issued asking the petitioner to reimburse the state of Idaho the amount of the benefit and accrued interest in the total amount of \$347.21. The petitioner paid the total amount shown in the notice and filed a protest. The petitioner's file was transferred to the Legal/Tax Policy Division for administrative review.

Idaho Code § 63-701(1) states:

63-701. Definitions. As used in this chapter:

(1) "Claimant" means a person who has filed a claim under the provisions of sections 63-701 through 63-710, Idaho Code. Except as provided in section 63-702(2), Idaho Code, on January 1 of the year in which the claim was filed a claimant must be an owner of a homestead and be:

- (a) Not less than sixty-five (65) years old; or
- (b) A fatherless or motherless child under the age of eighteen (18) years of age; or
- (c) A widow or widower; or
- (d) A disabled person who is recognized as disabled by the social security administration pursuant to title 42 of the United States Code, or by the railroad retirement board pursuant to title 45 of the United States Code, or by the office of management and budget pursuant to title 5 of the United States Code;** or
- (e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administered by the United States veterans administration; or
- (f) A person as specified in 42 USC 1701, who was or is entitled to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage or otherwise; or
- (g) Blind. (Emphasis added.)

In her letter appealing the determination, the petitioner explained that she was recognized as disabled by the City of Los Angeles. She said she could not qualify for recognition by the Social Security Administration because she did not have social security benefits coming to her. She said the City of Los Angeles is self-insured and does not pay into the federal social security fund. She stated her belief that all government workers are civil service employees regardless of whether they work for the federal government or the state government.

On May 29, 2001, the Tax Appeals Specialist talked with the petitioner on the telephone. During that conversation, the petitioner stated her belief that she should be allowed the benefit because she would have been recognized as disabled by the Social Security Administration if she had paid enough into the Social Security fund to qualify for benefits.

The Tax Appeals Specialist followed up the telephone conference by sending an unofficial copy of Idaho Code § 63-701 to the petitioner. On July 12, 2001, the petitioner telephoned the Tax Appeals Specialist to ask the Tax Commission to render a decision based on the contents of her file.

Idaho statute allows for the recovery of benefits paid in error. The portion of Idaho code defining property tax reduction benefits is very specific when it describes persons who qualify as claimants. The benefit amount is then determined by the amount of income a claimant received during the prior year. A disabled person must have been recognized as disabled by certain federal agencies in order to qualify as a claimant. After careful review of all documents contained in the petitioner's file, the Tax Commission finds the petitioner did not meet any of the status requirements to qualify for property tax reduction benefits for the years 1999 and 2000. The deficiency determination is appropriate.

WHEREFORE, the Notice of Deficiency Determination dated April 16, 2001, is hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pays the following property tax benefit reimbursement and interest.

<u>BENEFIT</u>	<u>INTEREST</u>	<u>TOTAL</u>
\$340.90	\$6.31	\$347.21
	Payment Received	< <u>347.21</u> >
	TOTAL DUE	<u>\$ 0</u>

The petitioner has paid the full amount. Therefore, no demand for payment is made.

An explanation of the petitioner's right to appeal this decision is enclosed with this decision.

DATED this _____ day of _____, 2001.

IDAHO STATE TAX COMMISSION

COMMISSIONER

CERTIFICATE OF SERVICE

I hereby certify that I have on this _____ day of _____, 2001, served a copy of the within and foregoing DECISION by sending the same by United States mail, postage prepaid, in an envelope addressed to:
[Redacted]

ADMINISTRATIVE ASSISTANT 1