

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15648
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

This case arises from a timely protest of a State Tax Commission staff (staff) decision adjusting property tax reduction benefits for 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 on or about April 14, 2000. The petitioner was approved for benefits based on the household income.

Since that time, the petitioner's application has been reviewed as a part of routine audit procedures. Because the total amount of income the petitioner listed in her application was less than the income she reported in her state and federal income tax returns, a Notice of Deficiency Determination was issued. The petitioner was asked to reimburse the state of Idaho \$275, which represented the overpaid benefit amount and the accrued interest.

The petitioner filed a protest to that determination and her file was transferred to the Legal/Tax Policy Division for administrative review.

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.

When the petitioner completed her application for benefits, she had not filed either her state or federal income tax returns. Rather, she had filed requests for extensions of the time to file her tax returns. Therefore, in her application, she does not have an amount next to “Federal Adjusted Gross Income.” She has listed her income as if she would not be filing an income tax return.

Idaho Code § 63-701(5) states:

(5) **"Income" means the sum of federal adjusted gross income** as defined in the internal revenue code, as defined in section 63-3004, Idaho Code, and **to the extent not already included in federal adjusted gross income**, alimony, support money, income from inheritances, nontaxable strike benefits, the nontaxable amount of any individual retirement account, pension or annuity, (including railroad retirement benefits, all payments received under the federal social security act, state unemployment insurance laws, and veterans disability pensions and compensation, excluding rollovers as provided in section 402 or 403 of the internal revenue code), nontaxable interest received from the federal government or any of its instrumentalities or a state government or any of its instrumentalities, worker's compensation and the gross amount of loss of earnings insurance. It does not include capital gains, gifts from nongovernmental sources or inheritances. To the extent not reimbursed, cost of medical care as defined in section 213(d) of the internal revenue code, incurred by the household may be deducted from income. "Income" does not include veterans disability pensions received by a person described in subsection (1)(e) who is a claimant or a claimant's spouse, provided however, that the disability pension is received pursuant to a service-connected disability of a degree of forty percent (40%) or more. "Income" does not include lump sum death benefits made by the social security administration pursuant to 42 U.S.C. section 402(i). Documentation of medical expenses may be required by the county assessor, board of equalization and state tax commission. "Income" shall be that received in the calendar year immediately preceding the year in which a claim is filed. Where a claimant does not file a federal tax return the claimant's federal adjusted

gross income, for purposes of this section, shall be an income equivalent to federal adjusted gross income had the claimant filed a federal tax return. (Emphasis added.)

In the definition of income for property tax reduction benefits purposes, Idaho Code directs an applicant to begin with federal adjusted gross income or its equivalent, then, add certain other monies to that figure. The petitioner was correct in using the amounts that would be reported in her tax return instead of the amount of federal adjusted income because her return had not been prepared. However, when the petitioner completed her tax return, some of the income was different.

The petitioner's application listed the following:

Social Security Income	\$ 5,304
IRA	6,000
Wages	639
Alimony	7,200
Medical Expenses	< 980 >
TOTAL NET HOUSEHOLD INCOME	\$18,163

The staff recalculated the petitioner's benefit using the following amounts taken from the 1999 federal income tax return filed by the petitioner:

Federal Adjusted Gross Income	\$18,876
Social Security Income	<u>5,850</u>
Subtotal	\$24,726
Capital gains	< 2,501 >
Medical Expenses	< 1,081 >
TOTAL NET HOUSEHOLD INCOME	\$21,144

The petitioner wrote about various expenses and costs associated with the splitting of assets with her former husband. She sounded unsure of the source of the additional income to be included in the total income for circuit breaker purposes.

Idaho Code directs an applicant to begin with federal adjusted gross income and add certain other income to that amount including the nontaxable portion of social security benefits. However, an applicant is allowed to subtract both capital gains and medical expenses. The petitioner had not

reported the correct amount of federal adjusted gross income or social security. She did not deduct the capital gains shown in her tax return or the correct amount of medical expenses reported in Schedule A of her tax return.

Idaho statute allows for the recovery of benefits paid in error. The Tax Commission finds 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.

BENEFIT	INTEREST	TOTAL
\$270	\$5	\$275

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

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