

the income tax code. Income for property tax reduction benefits purposes is defined in Idaho Code § 63-701(5) as follows:

(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. . . . (Emphasis added.)

The calculation of income starts with federal adjusted gross income and, thereafter, makes certain additions and deductions. The nontaxable portion of annuities is specifically required to be included in income. The only exception is if an annuity is "rolled over" as provided in section 402 or 403 of the Internal Revenue Code. The value of an annuity that is transferred from one financial vehicle to another does not qualify as a rollover according to Internal Revenue Code. The income total is used to establish the benefit amount to be paid on behalf of a qualified applicant.

The staff determined the petitioner received gross distribution of annuities in the amount of \$32,688. The petitioner's stepson wrote that, based on poor advice from their bank, his father and stepmother withdrew most of their life savings and invested it in an annuity that would not mature until his father had reached the age of 89. He explained that, upon the death of his father in June 2000, he was able to convince the bank to allow the petitioner to cash the annuity and put the funds in a Certificate of Deposit so the petitioner would have the interest income. He said he could

understand including the \$2,688 of interest but not the \$30,000 that was saved by the petitioner and his father. All income taxes had been paid when the money was earned.

However, property tax reduction benefits are not federal or state income taxes – they are payment of property taxes based on certain qualifying factors including income. Pursuant to the definition of income as stated in Idaho Code § 63-701(5), the nontaxable portion of the annuity the petitioner liquidated during 2000, although not included in her income for tax purposes, must be included in her income for property tax reduction purposes. As a result, the petitioner’s income for property tax reduction benefits exceeds the amount allowed for her to qualify to receive benefits for 2001. The petitioner’s application must be denied.

The State Tax Commission is aware there is some potential this decision could cause a hardship to the property tax reduction applicant in certain circumstances. The proper jurisdiction to handle such hardship situations falls with the county commissioners pursuant to Idaho Code § 63-711.

WHEREFORE, the decision of the State Tax Commission's staff to deny property tax reduction benefits for 2001 is APPROVED, AFFIRMED, and MADE FINAL.

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