

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15939
[Redacted])	
Petitioners.)	DECISION
)	
)	
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)	

This case arises from a timely protest of a State Tax Commission staff (staff) decision adjusting property tax reduction benefits for 2001. 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 based on the file.

The amount of property tax reduction benefits depends on the household income--the greater the income, the smaller the benefit. The staff notified the petitioners of the intent to deny their benefits for 2001 because the amount of income identified as received by the petitioners during 2000 appeared to be incomplete.

[Redacted] (petitioners) filed a property tax reduction application on or about April 12, 2001. [Redacted] signed the application. In a letter dated September 4, 2001, the staff advised the petitioners of the intent to deny their benefit, and [Redacted] protested.

The staff routinely audits the applications that have been submitted to the county where the petitioners live. During this process, the staff examined the petitioners' application and the attached documents. The petitioners had not filed a 2000 federal income tax return. No income was listed on line 1 next to "Federal Adjusted Gross Income as shown on Form 1040." Examination of income records identified income received by [Redacted] but no income relating to [Redacted]. The staff sent the letter advising the petitioners of the intent to deny their application because the income

information appeared to be incomplete.

In her letter of protest, [Redacted] explained that [Redacted] had disappeared in 1984 and she had no contact with him since that time. She said they had owned a business together prior to his departure. Therefore, very little had been set aside for retirement.

Idaho Code § 63-701 uses a series of definitions to state the requirements for qualifying to receive property tax reduction benefits. The benefit amount is determined by the total income received by the claimant and the members of the claimant's household during the prior year.

In Idaho Code § 63-701(1), a claimant is described as a person who has filed a claim under the provisions of Idaho Code §§ 63-701 through 63-710 and, on January 1 of the year in which the claim was filed, owned a homestead. In the present case, [Redacted] filed the claim for benefits. She represented the property interest of herself and her husband.

Owner is defined as a person holding title in fee simple or holding a certificate of motor vehicle title. [Redacted] County records show [Redacted], husband and wife, as the “person” holding title to the subject property by virtue of a Warranty Deed that was executed on or about September 2, 1997.

The petitioners’ file was transferred to the Legal/Tax Policy Division for administrative review. In response to a letter to the petitioners wherein they were advised of their appeal rights, [Redacted] telephoned the Tax Appeals Specialist.

During that conversation, the petitioner said [Redacted] lives and works in California and has, in fact, built a new home there. She said the subject property was a part of a swap of properties that took place in 1997. She said an attorney that her husband knew in California wanted the bare land property that she and [Redacted] owned in [Redacted]. So, a trade was arranged. She said [Redacted] kept his name on the house because his name was on the original property and because

they are still married.

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.)

Pursuant to Idaho Code § 63-701, an applicant's federal adjusted gross income is the starting point of determining the total household income. The application did not list [Redacted] income. The Tax Commission's efforts to obtain that information have been unsuccessful. [Redacted] stated that she does not know how to contact her husband and has not been in contact with him since 1984; yet the property in question was not deeded to [Redacted] and [Redacted] until 1997. [Redacted]

was unwilling to disclose Harold's current address.

Idaho is a community property state, which means the assets and liabilities of a married couple belong to the marriage community. The petitioner and her spouse both signed a deed and other documents to trade for the real property in question and both became the owners in title of that homestead. When the petitioner filed a claim for property tax reduction benefits, as joint owner with her spouse, they jointly became claimants. The property taxes on that homestead are their equal responsibility. The benefit of a property tax reduction on that property is their equal gain.

The petitioner signed an application for a property tax reduction benefit on property she owns jointly with her spouse. Their joint income must be included in the total household income for the property tax reduction benefits on that property.

Without complete income information, the Tax Commission has little choice but to deny the property tax reduction benefits for 2000.

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 staff is hereby APPROVED, AFFIRMED, and MADE FINAL.

An explanation of the petitioners' 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]

[Redacted]

ADMINISTRATIVE ASSISTANT 1