

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15948
[Redacted],)	
)	DECISION
Petitioners.)	
_____)	

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 greater than the amount shown in their application.

[Redacted] (petitioners) filed a property tax reduction application on or about January 26, 2001. In a letter dated September 4, 2001, the staff advised the petitioners of the intent to deny their benefit. The petitioners protested any reduction of their benefits.

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 did not meet the filing requirements for filing a 2000 federal income tax return. Therefore, no income was listed on line 1 next to "Federal Adjusted Gross Income as shown on Form 1040." On line 12 next to "Capital gains only if included on line 1," the petitioners wrote "Loss on Contract" and subtracted \$3,000.

In his letter of protest, [Redacted] explained that he is aware that up to \$3,000 per year may

be deducted from income as capital losses of past years until that loss amount is exhausted when filing a federal tax return. It was the petitioners' position that \$3,000 of losses should be allowed to offset each year's income shown in the application for property tax reduction benefits until all contract losses were exhausted.

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 applicant and the members of the applicant's household during the prior year.

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 can use an amount equal to federal adjusted gross income if an applicant is not required to file a federal income tax return. From the petitioners' application, one must determine what the federal adjusted gross income would be. The method the petitioners have used of just subtracting \$3,000 because the Internal Revenue Service (IRS) allows a deduction of losses up to \$3,000 is incorrect.

Gross income as defined in section 61 of the Internal Revenue Code means all income from whatever source. A capital loss is not income; it is a deduction from income. Some of the losses the petitioners have deducted are the result of loans secured by property. Loans secured by property are complicated by the method of determining the loss. When the debtor defaults, the lender (in this case the petitioners) gets the property back. Under the Internal Revenue Code, the balance on the contract enters into the basis when the property is eventually sold. It is not a deduction against adjusted gross income. It is another item included in the basis of the property. Other losses showing in the petitioners' prior years' returns show gains and losses that conceivably could be seen as gifts by the IRS.

Material provided indicates the losses the petitioners deducted from their income for property tax reduction benefits purposes are the types of losses that would be used to compute basis in property rather than direct deductions from income. The Internal Revenue Code does not allow such deductions.

Pursuant to the definition of income as stated in Idaho Code § 63-701(5), the petitioners' property tax reduction benefits for 2001 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 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] Receipt No. [Redacted]
[Redacted] [Redacted]

ADMINISTRATIVE ASSISTANT 1