

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15950
[Redacted],)	
)	DECISION
Petitioner.)	
_____)	

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 petitioner of the intent to deny her benefits for 2001 because the income information was not sufficient to determine her eligibility.

[Redacted] (petitioner) filed a property tax reduction application on or about April 12, 2001. In a letter dated September 4, 2001, the staff advised the petitioner of the intent to deny her the benefits. The petitioner's son responded with a letter of protest. He explained about his mother having a beauty shop in 5% of her home and his mother hosting foreign students in her home.

Idaho Code § 63-701 uses a series of definitions to state the qualifications an applicant must have in order to qualify for property tax reduction. 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 as stated in Idaho Code § 63-701(5):

(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. 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.)

The staff routinely audits the applications that have been submitted to the county where the petitioners live. During this process, the staff examined the copy of the front page of the petitioner's federal income tax form. The staff questioned the income and the method of reporting that income in the petitioner's income tax return. The staff sent the petitioner a letter advising her of the intent to deny her the property tax reduction benefits until additional income information was received.

The petitioner's file was transferred to the Legal/Tax Policy Division for administrative review. Neither the petitioner nor her son responded to a letter from the Tax Appeals Specialist advising the petitioner of her rights regarding her appeal.

The Tax Appeals Specialist retrieved a copy of the petitioner's 2000 individual income tax return from Tax Commission records. Examination of the attached completed federal return verified

that the petitioner used 5% of her home for the business of running a beauty shop. She had completed a federal Form 8829, Expenses for Business Use of Your Home, and a Schedule SE, Self-Employment Tax. The expenses shown in Form 8829 were carried over to the Schedule C and the Self-Employment tax was carried over to the front of the Form 1040.

A Form Schedule E, Supplemental Income and Loss (From rental real estate, royalties, partnerships, S corporations, estates, trusts, REMICs, etc.), was also attached to the federal return. The information shown in that form conflicted with the information provided by the petitioner and the expenses shown in the Form 8829. The form showed the petitioner's home as a rental property. The address of the rental house was the subject property. Section 2 of the form asked the question, did you or your family use it (referring to the rental property) during the tax year for personal purposes? "No" was marked. The expenses that were subtracted from the \$5988 of rent that was received were the same expense amounts that were deducted in the Form 8829 that reported the 5% use of the home for a beauty shop. After the expenses for insurance, mortgage interest, repairs, and taxes were subtracted from the rents, a \$39 loss was shown. However, the loss was not carried over to line 17 of the Form 1040; zero was shown on line 17 as rental income.

Further investigation by the Appeals Specialist identified the petitioner's participation in a program to host foreign students attending [Redacted] College. The school was contacted, and [Redacted] Schools sent a letter which said the petitioner was paid \$5,987.51 during 2000 in conjunction with her host family responsibilities. In addition, the letter explained the payment represented 61 student weeks. Clearly, the petitioner did not rent her home out to the students. She lived in the home. She was the host.

The Internal Revenue Code does not allow the same expenses to be deducted twice in the same tax year. The expenses that were deducted in connection with the petitioner's beauty shop

cannot be deducted again to reduce the “rent” received for hosting foreign students.

Pursuant to the definition of income as stated in Idaho Code § 63-701(5), the petitioner’s property tax reduction benefits for 2001 must include the income she received as a host for foreign students during 2000. The petitioner qualifies for a 2001 property tax reduction benefit not to exceed \$510 instead of the \$1,020 benefit shown in her application.

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 MODIFIED and, as so modified, is APPROVED, AFFIRMED and MADE FINAL.

An explanation of the petitioner’s right to appeal this decision, if it is adverse to the petitioner, 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