

BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO

In the Matter of the Protest of)	
)	DOCKET NO. 15998
[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 a 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 depends on the household income--the greater the income, the smaller the benefit. The staff adjusted the petitioner's eligibility for property tax reduction benefits by denying the petitioner benefits for 2001. The petitioner submitted a timely appeal.

[Redacted] (petitioner) filed a property tax reduction application on or about April 1, 2001. In that application, the petitioner listed only himself as living in the household. Only his income was listed in the household income section of the application.

Idaho Code § 63-707(5) provides: "The state tax commission may audit each and every claim submitted to it," During this audit process, the staff examined the petitioner's application and the attached documents as well as other information available to the Tax Commission. The research indicated the petitioner's daughter and her husband, [Redacted] (the [Redacted]), occupied the residence as household members for the entire year prior to the application.

When the staff identified income received by the other household members during 2000, the staff sent the petitioner a letter advising him of the intent to include that income in the total 2000

household income. The resulting household income exceeded \$20,050, the maximum income allowed for an applicant to qualify to receive benefits.

The petitioner no longer qualified to receive the benefits. The petitioner appealed that determination and his file was transferred to the Legal/Tax Policy Division for administrative review.

The property tax reduction program is a benefit program for certain qualifying applicants based on certain criteria, one of which is income. The household, household income, and income for property tax reduction purposes are defined in Idaho Code § 63-701 as follows:

(3) **"Household" means the claimant and any person or persons who live in the same dwelling,** and share its furnishings, facilities, accommodations or expenses. The term includes any person owing a duty of support to the applicant pursuant to section 32-1002, Idaho Code, unless the person qualifies as a "nonhousehold member" pursuant to subsection (6) of this section. The term does not include bona fide lessees, tenants, or roomers and boarders on contract. "Household" includes persons described in subsection (9)(b) of this section.

(4) **"Household income" means all income received by all persons of a household** in a calendar year while members of the household.

(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 a telephone conversation with the staff, the petitioner said the [Redacted] do not live in his home all the time. He said they move in and out. He said sometimes they live in a travel trailer. However, when asked, he did not give another address for the [Redacted].

The records of the Tax Commission, Department of Motor Vehicles, Transportation Department and the Bankruptcy Court show the [Redacted]' residence as the petitioner's home. In addition, a sworn statement on file with Bankruptcy Court shows the [Redacted] declared the petitioner's address as their residential address for at least two years prior to the filing of their Chapter 13 Bankruptcy in June 2001. Neither the petitioner nor the [Redacted] have a travel trailer registered with the State of Idaho according to Department of Motor Vehicle records.

Idaho Code § 63-701 requires all income received by all members of a household during the prior year to be included in the calculation of total household income. Because the records show the [Redacted] as household members of the petitioner's homestead, the [Redacted]' income must be included in household income for the property tax reduction benefits for 2001.

Pursuant to the definition of income as stated in Idaho Code § 63-701(5), the petitioner's 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 to deny property tax reduction benefits 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