

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 16554
[REDACTED],	)	
	)	DECISION
Petitioner.	)	
_____	)	

This case arises from a timely protest of a State Tax Commission staff's (staff) decision adjusting property tax reduction benefits for 2000 and 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.

[Redacted] (petitioner) filed a property reduction benefits application for the year 2000 on or about March 3, 2000, and an application for benefits for the year 2001 on or about February 13, 2001. The petitioner was approved for benefits both years based on the information shown in the applications.

Since that time, both of the petitioner's applications have been reviewed as a part of routine audit procedures. In the 2000 application, [Redacted] and [Redacted] are written in as owners. The application indicated they were husband and wife. [Redacted] and [Redacted] signed the application. In the 2001 application, the name of the owner of the property was printed from county records. It showed [Redacted] as the owner of the property. [Redacted] is shown as her husband. Only [Redacted] signed that application.

In both applications, the qualifying factor is shown as recognized as disabled by the Social Security Administration. The staff contacted the Social Security Administration for verification of the disability. The records showed [Redacted] was recognized as disabled by Social Security both years. [Redacted] was not recognized as disabled and was not receiving benefits.

When the staff discovered the Shoshone County records did not show [Redacted] as an owner of the property, the Staff issued a Notice of Deficiency Determination to [Redacted] asking her to reimburse the state of Idaho \$485.80 for the year 2000 and \$457.08 for the year 2001. The reimbursements represented the overpaid benefit amount and the accrued interest for each year. The petitioner filed a protest to that determination and her file was transferred to the Legal/Tax Policy Division for administrative review.

Idaho Code § 63-701 describes the conditions that must exist for an applicant to qualify to receive circuit breaker benefits:

**Idaho Code § 63-701. Definitions.** As used in this chapter:

(1) "Claimant" means a person who has filed a claim under the provisions of sections 63-701 through 63-710, Idaho Code. Except as provided in section 63-702(2), Idaho Code, on January 1 of the year in which the claim was filed **a claimant must be an owner of a homestead and be:**

- (a) Not less than sixty-five (65) years old; or
- (b) A fatherless or motherless child under the age of eighteen (18) years of age; or
- (c) A widow or widower; or
- (d) A disabled person who is recognized as disabled by the social security administration pursuant to title 42 of the United States Code, or by the railroad retirement pursuant to title 45 of the United States Code, or by the office of management and budget pursuant to title 5 of the United States Code; or
- (e) A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administered by the United States veterans administration; or
- (f) A person as specified in 42 USC 1701, who was or is entitled to receive benefits because he is known to have been taken by a hostile force as a prisoner, hostage or otherwise; or
- (g) Blind.

(2) "Homestead" means the dwelling, owner-occupied by the claimant and used as the primary dwelling place of the claimant and occupied by any members of the household as their home, and so much of the land surrounding it, not exceeding one (1) acre, as is reasonably necessary for the use of the dwelling as a home. It may consist of a part of a multidwelling or multipurpose building and part of the land upon which it is built. Homestead does not

include personal property such as furniture, furnishings or appliances, but a manufactured home may be a homestead.

...

(8) **"Owner" means a person holding title in fee simple** or holding a certificate of motor vehicle title (either of which may be subject to mortgage, deed of trust or other lien) or who has retained or been granted a life estate or who is a person entitled to file a claim under section 63-702, Idaho Code. (Emphasis added.)

To qualify as a claimant for property tax reduction benefits purposes, the applicant must be the owner of a homestead on January 1 of the year in which the claim was filed. The records show the owner of the subject property on January 1, 2000 and 2001, was “[Redacted], a single person.” As owner of the homestead, the applicant must meet one of several conditions to receive benefits.

On January 1, 2000, and January 1, 2001, the owner of the property, [Redacted], was not 65 or older, blind, a prisoner of war, a widow or widower, a fatherless or motherless child under the age of 18, and was not recognized as disabled by the Social Security Administration, the Railroad Retirement Board, the Veterans' Administration, or Federal Civil Service. [Redacted] does not qualify to receive circuit breaker benefits.

In her letter protesting the determination, [Redacted] said: “I didn’t realize approvals could be ‘taken back.’ The government system would fall apart if approvals for different things could be ‘taken back’ at random.”

Idaho Code § 63-708 provides a method for the state to recover property taxes that have been paid on behalf of claimants who did not actually qualify to receive the benefits:

**63-708. Recovery of erroneous claims.** Within three (3) years of payment, the state tax commission may recover any erroneous or incorrect payment made under sections 63-701 through 63-710, Idaho Code, from any "claimant" as defined in section 63-701(1), Idaho Code. The deficiency determination, collection, and enforcement procedures provided by the Idaho income tax act, sections 63-3039, 63-3042, 63-3043 through 63-3064, Idaho Code, shall apply and be available to the commission for enforcement

and collection under sections 63-701 through 63-710, Idaho Code, and such sections shall, for this purpose, be considered part of sections 63-701 through 63-710, Idaho Code. Wherever liens or any other proceedings are defined as income tax liens or proceedings, they shall, when applied in enforcement or collection under sections 63-701 through 63-710, Idaho Code, be described as tax relief liens and proceedings. In connection with such sections, a deficiency shall consist of any amount erroneously claimed by or paid to a claimant under sections 63-701 through 63-710, Idaho Code.

The circuit breaker benefits program is a benefit for certain individuals based on their qualifications as outlined in Idaho law. One of the specific requirements for consideration to receive the benefits is to own a homestead. The owner of a property is then described in detail to identify who will be considered owner for property tax reduction purposes. [Redacted] is the sole owner holding title. [Redacted] did not qualify to receive the benefits for either 2000 or 2001. The Tax Commission finds the Notice of Deficiency Determination to be appropriate.

The 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.

WHEREFORE, the Notices of Deficiency Determination issued on May 3, 2002, are hereby APPROVED, AFFIRMED, and MADE FINAL.

IT IS ORDERED and THIS DOES ORDER that the petitioner pays the following property tax benefit reimbursement and interest.

<u>YEAR</u>	<u>BENEFIT</u>	<u>INTEREST</u>	<u>TOTAL</u>
2000	\$478.28	\$7.52	\$485.80
2001	450.00	7.08	<u>457.08</u>
		TOTAL DUE	<u>\$942.88</u>

DEMAND for immediate payment of the foregoing amount is hereby made and given.

An explanation of the petitioner's right to appeal this decision, if it is adverse to the petitioners, is enclosed with this decision.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

**CERTIFICATE OF SERVICE**

I hereby certify that I have on this \_\_\_\_\_ day of \_\_\_\_\_, 2002, 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]  
[REDACTED][REDACTED]

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ADMINISTRATIVE ASSISTANT 1